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0225 Committee on Health, Environment, Welfare, and Institutions

Report to the Colorado General Assembly

**RECOMMENDATIONS FOR 1978
COMMITTEE ON:**

**Health,
Environment,
Welfare,
and Institutions**



VOLUME IV

COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 225

December, 1977

LEGISLATIVE COUNCIL
OF THE
COLORADO GENERAL ASSEMBLY

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The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

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COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS

Legislative Council,
Report To The
Colorado General Assembly

Research Publication No. 225
December, 1977

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December 8, 1977

To Members of the Fifty-first Colorado General Assembly:

Submitted herewith is the final report of the Legislative Council Committee on Health, Environment, Welfare, and Institutions for 1977. The report of the Health, Environment, Welfare, and Institution Committee is one of a series of seven volumes containing the reports of all of the Legislative Council committees.

Reports of nine other committees are consolidated in two volumes (Volume I and Volume II). The reports of the Committees on Insurance, the Committee on Health, Environment, Welfare, and Institutions, the Committee on Corrections, the Committee on School Finance and the Committee on Fire and Police Pensions are contained in separate reports.

Respectfully submitted,

/s/ Representative Carl Gustafson
Chairman
Colorado Legislative Council

CG/vjk

FOREWORD

The recommendations of the Colorado Legislative Council for 1978 appear in two consolidated volumes and five separate reports. Seven topics were assigned to the Health, Environment, Welfare, and Institution Committee this year, by action of the General Assembly or at the direction of the Legislative Council.

Sunset reviews were conducted of three licensing boards -- (Board of Examiners of Institutions for Aged Persons (at the direction of the Legislative Council); Board of Examiners of Nursing Home Administrators (Legislative Council direction); Board of Mortuary Science (H.J.R. 1046).

The other topics assigned were the review of the implementation of the Colorado Dental Care Act of 1977, as required under S.B. 473; medical co-insurance; (H.J.R. 1046) the possible acquisition by the state of Denver General Hospital (H.J.R. 1046); and methods of improving primary health care in underserved areas of the state, with specific reference to prenatal and perinatal care and the prevention and treatment of prematurity (H.J.R. 1046).

The Legislative Council reviewed this report and recommendations at its meeting on November 28, 1977, and transmits the four bills included herein with favorable recommendation to the Governor and the 1978 session of the General Assembly.

The committees and staff of the Legislative Council were assisted by Sue Burch of the Legislative Drafting Office in the preparation of bills contained in this report.

December, 1977

Lyle C. Kyle
Director

CG/vjk

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COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS

The Committee on Health, Environment, Welfare, and Institutions was assigned the following study topics, directed under H.J.R. 1046 of the 1977 legislative session and by action of the Legislative Council:

- I. Sunset Review of:
 - A. The Board of Examiners of Institutions for Aged Persons,
 - B. The Board of Examiners of Nursing Home Administrators,
and
 - C. The Board of Mortuary Science;
- II. Methods to improve the delivery of primary health care in underserved areas, particularly prenatal and perinatal care and the prevention and treatment of prematurity;
- III. Possible state acquisition of Denver General Hospital;
- IV. Advantages and feasibility of instituting a system of medical co-insurance; and
- V. Review of the "Colorado Dental Care Act of 1977" as directed under S.B. 473 (1977 session).

Sunset Reviews

The Committee on Health, Environment, Welfare, and Institutions recommends legislation to continue the three boards which were assigned to the committee for Sunset review: the Board of Examiners of Institutions for Aged Persons; the Board of Examiners of Nursing Home Administrators; and the Board of Mortuary Science.

Before discussing the specific legislative recommendations for these boards, however, the committee found a common problem shared by these boards was lack of funding to carry out their responsibilities. These boards have substantial responsibilities for protecting the interests of the public. The state relies on these and other boards by asking private citizens to give their time, advice, and experience in regulating those segments of the private sector that legislative policy has determined as being necessary for regulation. It is important to note that lack of funding for a board can result in a board being ineffective in carrying out its functions.

Institutions for Aged Persons -- Bill 1

There are at present six institutions in Colorado subject to the jurisdiction of this board, based on the following statutory description:

"... Any institution, home, or other place offering life care or care of aged persons, where the care is conditioned upon an agreement to furnish life care or care for a period of more than one year...."

Since the term used to describe these institutions is "life care," the committee recommends that the board be renamed as the Board of Examiners of Life Care Institutions. These institutions sell apartments for substantial amounts of money, for the purchaser to use for the remainder of his life, with nursing care in a licensed facility also assured if needed. The cost of the apartments may range between \$17,000 and \$40,000 depending on the size, number of rooms, location, and other factors. The monthly fees may also vary, but \$200 to \$300 per month would be typical.

Given the amount of money committed to a retirement facility, the committee concluded that licensing of life care institutions needs to be continued. The process of licensing should help ensure that existing institutions remain financially viable to continue to serve their clientele and that members of the public who are interested in investing money in an institution can have some assurance that the institution is likely to meet its contract obligations.

The committee submits a bill to continue the state's regulatory activity in regard to life care centers, including several amendments which will strengthen the present regulatory activity. Other changes include the consolidation of several statutory sections which are duplicated in the existing law and the deletion of some meaningless language in several sections. Below is a summary of Bill 1.

Board organization (12-13-102). The bill, as recommended, will establish the life care board as a Type 2 transfer in the Department of Regulatory Agencies. The board will consist of five members, three from industry and two from the general public. Disclosure of possible conflicts of interest will be required of board members and members will be reimbursed for their expenses in serving on the board.

Provisional certificates (12-13-104). The board will issue provisional certificates to new life care institutions upon a satisfactory showing that the institution meets standards for financial reserves and services set by the board. Provisional certificates will permit the sale of contracts for life care prior to the construction, acquisition, or actual operation of a facility.

The board will have power to approve the standard agreements entered into between the purchaser of the life care contract and the institution. The monthly service fee and whether the fee is subject

to adjustment will be required to be written in the contract. (12-13-106).

Audits (12-13-113). Changes in the requirements for filing audits with the board will make this information more useful to the board in reviewing the financial strength of life care institutions. The audits will be required within 90 days after the end of the institution's fiscal year in order to allow time for board review prior to recertification. Certificate renewal will be required on the basis of the institution's fiscal year.

Fees (12-13-104). The board will set the fee structure for licenses, rather than establishing the fees in the statutes. This board has been underfunded for the responsibilities assigned to it, but hopefully this situation will change if the present fee schedule is increased. With the limited number of institutions subject to this act, fees may need to be raised substantially in order to cover the board's increased activity.

Consolidation of sections. Approximately 14 separate sections or provisions in the present law have been consolidated or combined in five sections of the draft bill. Few substantive changes were made in these sections, but needless duplication in the statutes will be eliminated.

Nursing Home Administrators -- Bill 2

There are two primary reasons for recommending continuation of the Board of Examiners for Nursing Home Administrators. First, federal law mandates that states, in order to receive federal Medicaid funding, shall establish a licensing board for nursing home administrators. Colorado currently receives over \$28 million annually in federal funding, which amounts to approximately 56 percent of the state's Medicaid appropriation. Abolishment of the board would jeopardize federal Medicaid moneys.

The second reason for continuing the board is that the public interest can be served by an active board which will continually improve standards for nursing home administrators. The formality of issuing a license has little to do with assuring quality of care, unless the board assumes responsibility for upgrading the profession. The committee recommends amendments to the statutes governing the board which will correct some of the board's previous limitations in strengthening this profession.

Administration of the board. It is recommended that the board continue as a Type 1 agency in the Department of Regulatory Agencies. Recommendations considered during the hearings on this board included the proposed transfer of the board from the Department of Regulatory Agencies (DORA) to the Department of Health, with a change in the administrative relationship from a Type 1 to a Type 2 agency. Two primary arguments against this recommendation were that the board's

independence of action would be maintained in DORA with a Type 1 transfer, and that the change to the Department of Health might not conform with the federal statutes, which could possibly result in the loss of federal Medicaid funds.

An argument in favor of placing the board in the Department of Health is that the board would then be in the mainstream of other nursing home regulatory activity. This change, it was stated, would improve coordination between the board and the Department of Health in matters involving complaints and disciplinary actions taken in regard to nursing homes. The position of the committee, however, is that the present statute establishing the board should be amended in several other important respects, rather than in the board's placement in the administrative structure of the state.

Composition of the board (12-39-104). Minor changes are submitted concerning board membership. In order to give greater independence to the nursing home members of the board, an administrator could complete his term even though dismissed as an administrator of a nursing home. Other changes are recommended which will strike language concerning the Governor receiving suggestions for board appointments from interested organizations.

Complaints and investigators (12-39-105). The board will be permitted to investigate informal complaints, not only those which are in written form and notarized. Members of the board, and its duly appointed investigators, will have the power to investigate a complaint and have free access to any nursing home under this section. The address and phone number of the board will be required to be posted in nursing homes for purposes of public information as to where complaints can be filed.

License fees (12-39-105). An increase in license fees from \$25 per year to \$200 for a two-year license is suggested. Renewals will be based on six-month cycles to reduce the board's present peak workload period when all license renewals are filed.

Qualifications for examination (12-39-106). A requirement of a baccalaureate degree for nursing home administrators will be effective January 1, 1980. Continuing education requirements for administrators will include standards for a distribution of courses in all fields of importance to an administrator.

National board examinations approved by the board could be used under 12-39-107.

Provisional and conditional licenses (12-39-108). References to provisional licenses will be deleted since this type of license has not been issued in some years. Conditional licenses will be authorized to permit an administrator in another state, otherwise qualified in Colorado, to act as a licensed administrator in this state for up to 60 days prior to being interviewed by the board. There will be no renewal of this license.

Administrator in training (12-39-111). The board will be permitted to waive up to six months of the one-year period for the "administrator in training program" if the board finds that the applicant has prior experience or training sufficient to meet established requirements of the board.

Board of Mortuary Science -- Bill 3

Certainly the most debated topic assigned to the committee was the question of continuation of the Board of Mortuary Science. This topic, however, involved not only continuation of the board but also concerned the extent to which consumer protection and industry regulation should be included in a bill to be submitted for legislative consideration. After three meetings in which these questions were discussed, the committee voted to recommend continuance of the board and to submit its mortuary science draft bill with favorable recommendation.

Since the committee was divided on the question of continuance, the arguments used both for and against continuing the board are briefly noted.

Major reasons for continuance:

- Consumer complaints can be handled best through the mechanism of a board which is responsible for licensing and discipline of members of the profession.
- Licensing of practitioners assures that the profession will maintain basic standards of performance throughout the industry by permitting entry into the field of only qualified applicants. Further, continuing education requirements set by the state are a means of upgrading the performance of persons already licensed.
- Funeral directors must be able to conduct themselves in a manner considerate of the family when a death occurs. Professional standards, statutory requirements, and board licensing are important in maintaining professional standards.

Major arguments against continuance:

- The board has not been active in establishing procedures for the recording and handling of complaints received from the general public.
- Inspections of funeral establishments, although required in present statutes, are of questionable value since the health dangers for the general public mortuary science practices are minimal. However, sanitary requirements in mortuaries are not needed for the safety of employees,

but enforcement could be conducted through the Department of Labor and Employment.

- The present statutes are lacking in several respects, including consumer representation on the board, requirements for providing lists of itemized costs for funeral services, and requirements for continuing education for relicensure.

Below is an outline of major provisions in the bill:

Board composition - per diem (12-54-104). The board will consist of twelve members -- five licensed practitioners, two clergy, and five public members who have no relation to the profession or the clergy. Geographic representation will be required for practitioners appointed to the board. Per diem salary for board members will be increased from \$25 to \$35 (12-54-107).

Board meetings will be held at least three times a year and special meetings could be held only after full and timely notice to the public (12-54-105).

Complaints (12-54-106). It will be the duty of the board secretary to keep a complete record of complaints. An annual report will be required to be submitted to the Governor and this report is to include a list and disposition of all complaints. The board's record of complaints is to be open for inspection for any valid reason (12-54-108).

Requirements for a funeral establishment (12-54-109). The bill contains the following new requirements for the operation of a funeral establishment:

- The facility will be required to have a certificate of registration issued by the board. (Under proposed section 12-54-113, the practice of mortuary science shall be conducted in a fixed place or establishment, and a license may be issued for a specific location only).
- No certificate is to be issued unless the person in charge of the operation is a full-time licensed practitioner.
- New language will require a funeral establishment to contain an office, and a preparation room having certain physical specifications, supplies, and equipment necessary for embalming procedures.
- A broad selection of caskets, from the cheapest to the most expensive, sufficient to meet the needs of the clientele of that establishment, will be required of funeral establishments.

Qualifications of applicants for license (12-54-110). The subjects of the examinations for applicants are specified as follows: "Embalming and the related subject areas of restorative art; microbiology; pathology; anatomy; and the laws and regulations of this state applicable to the practice of mortuary science."

Mortuary science trainees (12-54-111). More detailed provisions than in existing law are included concerning mortuary science trainees. A trainee will need to obtain a practitioner's license within five years after entry into the program. There is no similar time limit under present law.

Licenses (12-54-113). As noted previously, the bill states that the practice of mortuary science is to be conducted in a fixed place or establishment, and a license shall be issued for a specific location only. The board may approve a change in the location of an establishment. A license for the practice of mortuary science could be used only at the address specified in the application, unless granted permission for a change by the board.

Licenses will be valid for a three-year period, and 30 contract hours (three credit hours) of continuing education will be required during that period.

Section 12-54-113 also contains provisions to suspend or revoke a license or other certificate issued or to reprimand licensees. The term "unprofessional conduct" is also defined in this section and board action may be taken against a person who has been found guilty of unprofessional conduct.

Fees (12-54-115). The board will set the fees for reciprocity and for the license renewals for mortuary science practitioners, embalmers and funeral directors. Certain other fees, however, are specified in this section.

Unlawful acts (12-54-118). The present listing of unlawful acts will be retained and the following actions added to the list of violations

- For persons holding certain professional positions, such as a medical or hospital position, or a person in a professional relationship with a decedent, to send the remains of a deceased person to a practitioner without first making inquiry of the desires of the next of kin or of the persons who may be charged with the funeral expenses.
- For any company, corporation, or association, such as an insurance company which would pay the funeral expenses, to deprive the next of kin from procuring the services which the family would desire.

- For a licensed practitioner to interfere with the public's freedom of choice to choose a funeral establishment.
- To transport by common carrier any dead human body within or out of the state unless the body has been prepared by a mortuary science practitioner licensed in Colorado.

Implementation of the Colorado Dental Care Act of 1977

The "Colorado Dental Care Act of 1977" directed the Legislative Council to appoint an interim committee to "review the dental care program and rules implemented pursuant to this article and to evaluate the cost containment mechanisms, quality control and performance of the program".

This act establishes a pilot program to assist Old Age Pension (OAP) recipients in obtaining dental appliances and related services for the period between October 1, 1977, and March 31, 1978. The program is administered by the Department of Health and by local dental subcommittees of the area agencies on aging in the state's planning and management regions. The state pays up to 80 percent of denture charges, with the recipient and local sources responsible for the balance of the charges.

The development of the program was reviewed by the committee but an evaluation of the effect of the program was not possible since the effective date for the act was October 1. During the interim, progress reports were received on such matters as the extent of participation of dentists in the program; establishment of local subcommittees; delineation of the duties of the state department and local agencies; development of eligibility and reporting forms by the department; and state technical assistance and funding allocations to local agencies.

The committee found the department's efforts in implementing the program to be commendable. As an example of one successful aspect of the program, over 500 dentists statewide have agreed to provide services under the act. Along with the department, major credit for this number of participating dentists should also be given to the Colorado Dental Society, local dental societies, and to individual dentists.

Advice was given to the department on two aspects of program administration. Under the department's original approach, it was to review and approve the patient treatment plans of the participating dentists. The committee recommended that this responsibility be delegated to the local subcommittees and this transfer was subsequently accomplished. In addition, the committee urged that the administrative eligibility and reporting forms be kept simple and brief. The final eligibility forms for applicants are now one page in length.

While the department was methodical in developing a time schedule for implementing the program by October 1, some of the local councils of governments (COGS), of which the area agencies on aging are a part, were not aware of their responsibilities under the act until some months after its passage. Some COGS were reluctant to assume responsibility for this program because of unforeseen administrative and staffing problems. The Department of Health has assisted the COGS by allocating \$600.00 for administrative expenses to each area agency.

Another factor which might have delayed the provision of services was the appointment of the dental subcommittees of the area agencies on aging. The dental subcommittees, which serve at the pleasure of the governor under the act, have primary responsibility for program implementation, but some appointments were not made until after the effective date of the act.

However, although implementation has been delayed, it is now apparently proceeding smoothly. As of November 17, 1977, the Department of Health reported the following numbers of applications and inquiries regarding services available under the program:

<u>Region</u>	<u>No. of Applications</u>	<u>No. of Inquiries</u>
1	---	28
2	115	250
3	725	800
4	92	107
5	36	50
6	86	137
7	350	220
8	117	145
9	---	46
10, 11, 12	---	135
13	---	100
TOTAL	1,521	2,018

Most of the local subcommittees had not made formal eligibility determinations on applications as of the date the data was reported. However, reportedly, most of the persons making inquiries have been OAP recipients who are eligible to receive services under the act. Approximately two to five percent of the inquiries have come from persons who are not on the OAP rolls.

Committee recommendation. The committee was unanimous in recommending that the dental program be continued and that a bill title for continuation of the program be recommended to the governor for inclusion on the call to the 1978 session. If action is not taken to continue the program, it will end on March 31, 1978.

No action was taken on a proposal of the Department of Health to expand the program to: (1) provide services for all medically

indigent persons in need of denture services, not only OAP recipients as presently authorized; and (2) include explicit coverage for X-ray, examination and diagnosis, and related prophylaxis and preventative services, along with services now authorized under the act.

Action was not taken on this proposal since more time and information is needed to assess the program. Further data should be available after the beginning of the session for a more complete evaluation of this pilot project.

Medical Co-insurance

The committee considered the feasibility of requiring that all health insurance carriers offer medical co-insurance but does not recommend a bill on this topic. Coinsurance is one form of cost sharing whereby the insured and the insurer both pay a portion (a percentage rather than a fixed amount) of the cost of each service.

Colorado Blue Cross-Blue Shield, for example, now offers a combined co-insurance and deductible plan. Under this plan, the consumer pays 20 percent of the cost of covered services up to a maximum out-of-pocket expense of \$2,000. Blue Cross pays 80 percent of the cost of each service and the full cost after the consumer has paid \$2,000 during the benefit period. Under a "pure" co-insurance policy, the consumer would pay only a percentage of the first-dollar costs, without having a set dollar amount of a deductible policy.

Deductibles are also considered a form of cost-sharing. A deductible policy would set the amount which a person must pay before an insurer will assume any liability for all or part of the remaining cost of covered services. Under the Blues' existing combined co-insurance and deductible plan, consumers may select the size of the deductible for which they will be responsible, ranging from \$100.00 to \$1,000.00

Copayments are a third form of cost sharing. The term "copayment" usually refers to a fixed amount to be paid for each service, rather than payment of some percentage of cost, as under co-insurance. 1/

1/ "A Discursive Dictionary of Health Care," prepared for the subcommittee on Health and Environment of the U.S. House of Representatives Committee on Interstate and Foreign Commerce (February, 1976).

These cost-sharing methods are in contrast with the so-called "first-dollar" health insurance coverage under which the insurer pays the first dollar of expense incurred by the insured for the covered benefits. Such coverage, therefore, has no deductibles although it may have copayments or coinsurance. 2/

Testimony was received from representatives of Blue Cross-Blue Shield, the Division of Insurance, and Representative Paul Swalm. The major arguments for and against medical co-insurance are briefly summarized. Basically, proponents view medical co-insurance as an effective cost containment mechanism because it provides individuals, who would be required to pay a greater part of their health bills, with incentives to act as consumers in comparative shopping for health services based on price. Medical co-insurance would discourage individuals from overutilizing health services and to become more sensitive to rising health care costs.

It is also argued that co-insurance is preferable to other cost containment mechanisms because it does not add to the bureaucracy, as does the operation of a rate review commission, for example. Finally, medical co-insurance can substantially lower the cost of health insurance premiums.

A major argument against medical co-insurance is that it may financially block lower income persons from access to needed health care services. It also may have the effect of discouraging preventative medicine. Co-insurance may transfer responsibility to the consumer for cost containment, but it has little effect on the physician who significantly influences the type and amount of health services purchased by the consumer.

Opponents also noted that co-insurance could not be uniformly required of all insurance companies operating in the state because any insurance company, having its principal place of business outside the state, does not need to conform with Colorado insurance laws. Finally, the public has not responded favorably by purchasing medical co-insurance voluntarily in many locales where it has been offered.

The committee does not recommend legislation on co-insurance because members were of the opinion that co-insurance should be allowed to operate on a voluntary basis within the marketplace. After further experience, Blue Cross-Blue Shield co-insurance plan may provide the legislature with more information to assess its effect.

2/ Ibid.

Perinatal Care for Medically Indigent
and Denver General Hospital

A proposed bill to establish a perinatal health care program for the medically indigent is recommended as the result of two of the committees study assignments of improving the delivery of primary underserved areas of the state, particularly, prenatal and perinatal care and the prevention and treatment of prematurity, and the question of possible state acquisition of Denver General Hospital. The term "perinatal" is defined as the period of time from conception through 28 days after delivery.

Primary Health Care in Underserved Areas -- Prenatal and Perinatal Care

Testimony was received from representatives of various medical and community groups and state departments on the need for a state program to assist low income mothers in obtaining adequate prenatal and perinatal health care. In general, the committee was informed that inadequate funding mechanisms exist to provide financial assistance to low income mothers who are unable to qualify for Medicaid. A representative of the state Department of Health estimated that only 2,000 of the 8,587 low income pregnant women were eligible for Medicaid last year. 3/

Spokesmen of groups such as the Perinatal Resource Group in Boulder and the Child Health Council, which is an advisory group to the health department, informed the committee that adequate resources are not available for low income women in their communities. Consequently, many indigent women are forced to travel to Denver General Hospital or Colorado General Hospital which accept medically indigent patients.

Representatives of the Department of Health stated that twelve percent of the low income mothers in Colorado have premature births, as compared with eight percent of higher income women. Premature infants are defined by the department as infants born before 40 weeks of gestation, usually weighing less than five and one-half pounds. While the causes of prematurity are recognized to be multiple, one of the contributing factors may be lack of adequate prenatal care. Data from the department indicate that 53.2 percent of low income women in Colorado received prenatal care in the early months of pregnancy, as compared with 80 percent of the higher income groups.

3/ Testimony by Dr. Jan McDaniels to the Health, Environment, Welfare, and Institutions Committee meeting October 4, 1977.

Other data indicated that, if the low income mothers would have experienced the same birth rate as other income mothers, there would have been a savings of nearly \$2,000,000 in hospital costs alone because of the longer hospitalization of premature infants. This calculation is based on an average hospital stay for an infant weighing between three and five pounds of 20 days, and an average hospital stay for infants weighing less than three pounds of 46 days. Hospital costs for these infants may range from \$50.00 to \$420.00 per day, depending on the type of care needed.

Health department data also showed that "children born prematurely have a greater risk of special problems such as mental retardation, cerebral palsy, developmental disabilities and blindness". 4/ For example, it was estimated, conservatively, that four percent of the babies weighing less than three pounds, and one percent of the babies weighing between three and five and one-half pounds, will require institutional care. A substantial portion of the institutional and special education costs for these children will probably be borne by the state. The department estimates that the additional premature births of low income women over the premature births to other income women (i.e., 12 percent prematurity versus 8 percent prematurity) could cost the state as much as \$3.8 million.

Finally, the health department and other community groups testified that one of the reasons for the increasing number of home births is due to the high cost of hospital and obstetric care and the inability for low income families to purchase health insurance.

The efforts of the Colorado Perinatal Care Council in advising and coordinating activities related to perinatal care were outlined for the committee. A regional system of perinatal care has been developed which includes elements of outreach educations, staff training, communications, screening for high-risk conditions, transportation, intensive care, early intervention, and planning and development.

Representing the council, Dr. Joseph Butterfield, M.D., of Children's Hospital, Denver, said that this system has contributed to an equalization of newborn mortality in Colorado. For example, in 19 counties with no maternal or newborn services, there has been a 43 percent decrease in newborn mortality since 1972. This figure contrasts with those counties with increased levels of medical resources and services available (primary, intermediate, and tertiary care) showed decreases of newborn mortality of 33, 27, and 17 percent, respectively. Many factors have contributed to the improvement in the infant mortality rate in underserved areas, but more rational funding, including state support, was urged. Dr. Butterfield stated that cost savings will result from a perinatal program which can decrease the length of hospitalization, utilize the most appropriate medical facility, identify the high-risk cases, and plan in advance for special transportation and facility needs.

4/ Ibid.

Possible State Acquisition of Denver General Hospital

The committee was informed by the city and county of Denver that a primary financial problem for Denver General Hospital (DGH) is the medically indigent (MI) program. The MI program, established and funded by a long bill footnote, provides state funding at public hospitals which choose to participate for medically indigent patients, i.e. patients with low incomes who do not qualify for Medicaid or Medicare. However, DGH representatives said the state only pays approximately 40 percent of the total cost to Denver General for providing services to MI patients.

In response to this testimony, the committee voted unanimously to focus on the problem of funding the medically indigent program, rather than possible state acquisition of Denver General Hospital. The committee further combined its concern for expanding the MI program with its concern for developing a prenatal-perinatal program. The prenatal-perinatal program for the low income is in part recommended in order to mitigate the financial burden of the existing MI program on DGH and other hospitals participating in the MI program. Funding for the prenatal-perinatal program would be in addition to the existing MI program and, therefore, would not decrease current state MI funding. In addition, the program will permit low income pregnant women to obtain services in their own communities which may lessen the burden on MI services at DGH.

Perinatal Care Program -- Bill 4

The following is a brief review of each section of the bill.

Legislative declaration (26-4.1-101). The bill will provide state assistance to make prenatal and perinatal care available to medically indigent persons who do not qualify for Medicaid but whose incomes are at or below the poverty level. The major objectives of the bill are to: 1) encourage early prenatal care, thereby preventing health problems from occurring later in pregnancy and lessening the financial burden of high risk pregnancy and excess prematurity; 2) provide such services at the most appropriate level of care, including minimum care facilities and home health services to maximize cost containment; 3) enable patients to obtain services near their place of residence whenever possible, particularly in rural areas; and 4) promote coordination and maximum use of existing local health resources for prenatal-perinatal care.

Definitions (26-4.1-102). The definition of "medically indigent", as drafted, will be based on the ability to pay schedule currently used at Colorado General Hospital, excluding those persons eligible for medical assistance or third party coverage.

"Perinatal" will refer to the time period from conception through 28 days after birth.

The Department of Health will provide administrative oversight and local supervisory committees would implement the program.

Services available under the program - Department of Health to regulate (26-4.11-103). Services to be provided will include prenatal examinations, lab work and tests (excluding routine tests available through the health department) hospitalization of the mother and infant, visits to the newborn by a physician, the postpartum visit (six weeks after delivery) for the mother, and up to 50 percent of the state's share of emergency transportation costs and interhospital transfers.

Transportation, board, and lodging may be provided to women in outstate areas diagnosed as high risk patients to enable them to come to Denver prior to delivery. This would prevent an emergency from occurring in which such a patient would need to be flown to a Denver hospital by air ambulance and would require more intensive hospital services than if preventative treatment was provided. Such patients could stay in minimal care facilities, perhaps assisted by home health care providers.

The Department of Health would promulgate rules and regulations for payment based on the type of pregnancy -- low risk, uncomplicated, with adjustments made for high-risk pregnancies (complications of the mother, fetus, and newborn). The rules and regulations would be based on standards established by the Professional Standards Review Organization (PSRO) in Colorado.

Eligibility determination - change of circumstances - appeal (26-1-104). This section will authorize the county supervisory committees to select a local agency, such as the local health department or social services department, to determine the eligibility of applicants under the program. Applicants would be required to pay a fee to cover the administrative costs of verifying the application. If an application was not acted upon within two weeks after the filing, or was denied by the local agency, then the applicant would be entitled to appeal to the state health department. This section also includes a procedure for the removal of persons from the program in the event of a change in their financial circumstances.

Charges - payment - administration of state payment - limitation (26-4.1-105). Vendor payment rates will be based on the Medicaid reimbursement rates. Vendor payments will be made to all health care providers, including physicians, paraprofessionals, hospitals, and other health care facilities who wish to participate in the program.

Eligible recipients will pay a portion of the cost for services in accordance with their ability to pay as determined by income. Of the remaining charges not attributable to the recipient, the state will pay no more than 80 percent and local governments would pay at least 20 percent.

Local supervisory committee - duties and responsibilities (26-4.1-106). County supervisory committees will be established to oversee, insure coordination of services, and to monitor the program. These committees will also take an inventory of resources for prenatal and perinatal care in their area. The committees will consist of health providers, certain local government elected officials and administrators, private citizens and representatives of the local public health agency and social services department.

Information to be provided (26-1-107). The local public health agency is to provide public information concerning family planning, birth control, availability of resources, and Medicaid eligibility.

Powers and duties of the department (25-1-107). The Department of Health would be empowered to promulgate rules and regulations concerning standards of prenatal and perinatal care for the medically indigent determining payment for service under this program (see 26-4.1-103).

Appropriation. This section leaves the appropriation amount blank, to be determined by the General Assembly. The Department of Health would be responsible for implementing the program, to begin July 1, 1978.

Preliminary cost estimates for this program are approximately \$3.5 million, based on medicaid reimbursement rates for prenatal physician visits, lab tests, physician charges for delivery and pediatrician visits, hospitalization, and the postpartum examination. This estimate also includes moneys for the transportation component of the draft bill.

COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS

BILL NO. 1

A BILL FOR AN ACT

1 CONCERNING THE REGULATION OF LIFE CARE INSTITUTIONS, AND
2 PROVIDING FOR CONTINUATION OF THE BOARD ADMINISTERING SUCH
3 REGULATION.

Bill Summary

4 (NOTE: This summary applies to this bill as introduced and
5 does not necessarily reflect any amendments which may be
6 subsequently adopted.)

7 Changes the board's name from examiners of institutions for
8 aged persons to board of examiners of life care institutions,
9 provides for continuation of the board, and revises the statutes
10 governing life care institutions, eliminating repetitive and
11 duplicative provisions.

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

13 SECTION 1. Article 13 of title 12, Colorado Revised
14 Statutes 1973, as amended, is REPEALED AND REENACTED, WITH
15 AMENDMENTS, to read:

16 ARTICLE 13

17 Life Care Institutions

18 12-13-101. Definitions. As used in this article, unless
19 the context otherwise requires:

20 (1) "Aged person" means any person sixty-two years of age

1 or older.

2 (2) "Board" means the board of examiners of life care
3 institutions.

4 (3) "Department" means the department of regulatory
5 agencies.

6 (4) "Executive director" means the executive director of
7 the department of regulatory agencies.

8 (5) "Life care" means care provided, pursuant to contract,
9 for the life of an aged person, including but not limited to
10 services such as health care, board, room, or other necessities.

11 (6) "Provisional certificate" means a certificate for an
12 institution proposing to offer life care or to enter into
13 contracts for life care prior to the construction or actual
14 operation of such institution.

15 12-13-102. Board of examiners - membership - terms -
16 subject to termination. (1) There is hereby created a board of
17 examiners of life care institutions in the division of
18 registrations of the department of regulatory agencies, which
19 board shall be composed of five members who are residents of this
20 state, three of whom shall be selected from professions,
21 agencies, and institutions concerned with life care and two of
22 whom are public members knowledgeable in areas relating to life
23 care who are not so affiliated.

24 (2) The terms of members serving on July 1, 1978, shall
25 expire on said date. Of the members of the board appointed to
26 take office on July 1, 1978, one member shall be appointed for a
27 two-year term, two members shall be appointed for three-year

1 terms, and two members shall be appointed for four-year terms.
2 Thereafter, the term of office for each member of the board shall
3 be four years and no member shall serve for more than two
4 consecutive terms.

5 (3) (a) Appointments to the board shall be made by the
6 governor. Dismissals shall be by the governor, for cause, and an
7 appointment to fill a vacancy shall be for the remainder of the
8 unexpired term.

9 (b) Each member of the board, before he enters upon the
10 duties of his office, shall take an oath or affirmation to
11 support the constitution of the United States and of the state of
12 Colorado and to faithfully perform the duties of the office upon
13 which he is about to enter, and members shall be subject to
14 department standards relating to conflict of interest.

15 (c) Members of the board shall be entitled to reimbursement
16 for necessary expenses incurred in the actual performance of
17 their duties.

18 (4) The board shall elect annually from its membership a
19 chairman and vice-chairman. The board shall hold one or more
20 meetings each year. At any meeting a majority of the members of
21 the board shall constitute a quorum.

22 (5) The board shall exercise its powers and perform its
23 duties and functions specified by this article under the division
24 of registrations in the department of regulatory agencies, as if
25 the same were transferred to the department by a type 2 transfer,
26 as such transfer is defined in article 1 of title 24, C.R.S.
27 1973.

1 (6) The director of registrations may appoint, subject to
2 section 13 of article XII of the state constitution, an executive
3 secretary to the board. He shall be the executive officer to the
4 board but shall not be a member of the board. He shall have such
5 powers and shall perform such duties as are prescribed by law and
6 the rules of the board. Clerical and professional staff as may
7 be necessary to adequately assist the board and the executive
8 secretary in the keeping of the records and in the performance of
9 their duties under this article may be appointed and shall serve
10 in accordance with the provisions of section 13 of article XII of
11 the state constitution.

12 (7) The provisions of section 24-34-104, C.R.S. 1973,
13 concerning the termination schedule for regulatory bodies of the
14 state unless extended as provided in that section, are applicable
15 to the board of examiners of life care institutions created by
16 this section.

17 12-13-103. Powers and duties of board. (1) The board
18 shall have the following powers and duties:

19 (a) Review and approve applications for and renewals of
20 certificates;

21 (b) Establish criteria and guidelines for and issue
22 provisional certificates;

23 (c) Revoke and suspend certificates and provisional
24 certificates;

25 (d) Contract with the division of insurance or any other
26 competent entity for actuarial and economic studies of life care
27 institutions;

1 (e) Ensure that the department of health inspections of
2 life care institutions are made;

3 (f) Inspect and examine life care institutions, their books
4 and records, and the performance of life care services provided
5 under contract at least once each year;

6 (g) Investigate complaints concerning life care
7 institutions;

8 (h) Promulgate rules and regulations concerning life care
9 institutions.

10 (2) All proceedings of the board shall be conducted in
11 accordance with article 4 of title 24, C.R.S. 1973.

12 12-13-104. Certificate - term - renewal - fee. (1) No
13 person, association, or corporation shall construct or acquire a
14 facility for the purpose of offering life care or shall enter
15 into contracts for life care without first having obtained a
16 provisional certificate from the board pursuant to this article.
17 No person, association, or corporation shall maintain or conduct
18 any institution offering life care without first having obtained
19 a written certificate therefor from the board pursuant to this
20 article. The provisions of this article shall not apply to any
21 hospital or other facility which the department of health is
22 authorized to license pursuant to part 1 of article 1 and part 1
23 of article 3 of title 25, C.R.S. 1973.

24 (2) No certificate or provisional certificate shall be
25 transferred. Neither the location of any life care institution
26 nor the place of performance of any service specified in the
27 written agreement shall be changed without the written consent of

1 the board. No certificate or provisional certificate issued
2 pursuant to this article shall be deemed to have value for sale
3 or exchange as property, and no holder of a certificate or
4 provisional certificate shall sell or transfer ownership of the
5 institution to another party unless the board approves such
6 transfer.

7 (3) A certificate or provisional certificate issued pursuant
8 to this article shall expire one year from the date of its
9 issuance. A certificate shall be renewed by making application
10 for renewal at least forty-five days prior to the expiration date
11 of the certificate, and a provisional certificate may be renewed
12 in the discretion of the board. Original certificates shall be
13 issued for a term commencing ninety days after the close of the
14 proposed fiscal year and thereafter certificates shall be renewed
15 for a period of one year commencing ninety days after the close
16 of the fiscal year. Persons having valid licenses or permits on
17 July 1, 1978, shall be deemed to hold valid certificates which
18 shall be renewed in accordance with this subsection (3). If any
19 certificate holder changes his fiscal year, he shall notify the
20 board of such change and the board, in its discretion, may extend
21 the term of the certificate to accord with the changed fiscal
22 year.

23 (4) The fee for initial issuance of a certificate is
24 _____ dollars. Thereafter the fee for renewal shall be one
25 hundred fifty dollars or two dollars for each resident of a life
26 care institution, under contract, whichever is greater. The fee
27 for a provisional certificate shall be determined by the board

1 but shall not exceed _____ dollars.

2 12-13-105. Certificate - suspension or revocation - grounds
3 - appeal. (1) Certificates may be suspended or revoked by the
4 board for violation of any of the provisions of this article or
5 any rule or regulation promulgated by the board pursuant to this
6 article.

7 (2) Failure of the life care institution to meet the
8 reserve requirements of section 12-13-112 shall constitute cause
9 for suspension or revocation of the certificate.

10 (3) Any institution whose certificate is suspended or
11 revoked by the board may appeal such decision to the executive
12 director. Any final decision by the executive director may be
13 appealed as provided in article 4 of title 24, C.R.S. 1973.

14 12-13-106. Agreement - contents - filing. (1) Each
15 agreement signed by a prospective resident of an institution
16 offering life care shall:

17 (a) Show the value of all property transferred, including
18 but not limited to donations, subscriptions, fees, and any other
19 amounts initially paid or payable by or on behalf of the
20 prospective resident;

21 (b) Show all the services which are to be provided by the
22 person or organization to the prospective resident, including, in
23 detail, all items which the prospective resident will receive,
24 such as board, room, clothing, incidentals, medical care, and
25 burial, and whether the items will be provided for a designated
26 time period or for life and the monthly charge for such services;

27 (c) Be accompanied by a financial statement showing in

1 reasonable detail the financial condition of the certificate
2 holder, which shall be furnished to the prospective resident;

3 (d) Specify the monthly service fee and whether such fee is
4 subject to adjustment.

5 (2) A copy of the standard agreement entered into between
6 the certificate holder and prospective residents shall be
7 approved by the board and a current copy of each such agreement
8 shall be filed with the board. All agreements entered into
9 between the certificate holder and the prospective resident shall
10 be in writing and shall contain all information required by
11 subsection (1) of this section. The board may contract with the
12 division of insurance, on such terms as may be mutually
13 agreeable, for any assistance which the board may require in
14 evaluating any such agreement.

15 12-13-107. Register. (1) Every holder of a certificate
16 issued pursuant to the provisions of this article shall maintain
17 a register setting forth the following facts concerning each
18 person residing in the life care institution:

19 (a) Name;

20 (b) Last previous address;

21 (c) Age;

22 (d) Nearest of kin, if any;

23 (e) Mother's maiden name;

24 (f) The person responsible for his care and maintenance;

25 (g) Such other data as the board may reasonably require.

26 12-13-108. Dismissal or discharge of person - refund. (1)
27 If the agreement permits withdrawal or discharge of the aged

1 person from the life care institution prior to the expiration of
2 the agreement, with or without cause, an amount equal to the
3 difference between the amount paid in and the amount used for the
4 care of the aged person during the time he remained in the
5 institution, based upon the per capita cost to the institution,
6 shall be refunded to the aged person; but in cases where a
7 consideration greater than the minimum charge has been paid for
8 accommodations above standard, a sum equal to the difference
9 between the amount paid in and the ratio of the amount paid to
10 the minimum consideration for standard accommodations times the
11 current per capita cost to the institution applied to the period
12 the aged person remained in the institution shall be refunded to
13 the aged person. If the per capita cost to the institution
14 during the period cannot be established otherwise, the cost
15 during the period shall be deemed to be the cost at the time of
16 the dismissal or discharge. For refund purposes "cost" shall
17 include a reasonable profit to the operator.

18 (2) If the certificate holder is an organization described
19 in Section 501 (c) (3) of the Internal Revenue Code and exempt
20 from income taxation under Section 501 (a) of the Internal
21 Revenue Code, it shall be entitled to make refund according to a
22 schedule provided in its agreement with the aged person so long
23 as such schedule provides for amortization of the amount paid by
24 such aged person over a period of not less than sixty months or
25 over the life expectancy of the aged person if such expectancy is
26 less than sixty months. In such case, the refund may be delayed
27 for a reasonable period thereafter until the securing by the

1 certificate holder of a substitute fee from another transferor.
2 The certificate holder may also deduct from any such refund
3 amounts due it from the aged person for damage done or for any
4 other legitimate offsetting item.

5 12-13-109. Notices - death of aged person. Upon the death
6 of an aged person residing in a life care institution, the holder
7 of the certificate shall notify the board, within seventy-two
8 hours after such death.

9 12-13-110. Bond for handling money - right of action -
10 revocation of license - exemption. (1) The board shall require,
11 if the operator of a life care institution handles or will handle
12 money of aged persons received or cared for therein, that such
13 operator file or have on file with the board a bond issued by a
14 company admitted to do business in this state, in a sum to be
15 fixed by the board, based upon the magnitude of the operations of
16 the applicant, but which sum shall not be less than one thousand
17 dollars, running in favor of the state of Colorado and
18 conditioned upon the faithful and honest handling of money of
19 aged persons received or cared for in such life care institution.

20 (2) Every person injured as a result of any improper or
21 unlawful handling of the money of an aged person in a life care
22 institution may bring an action in a court of competent
23 jurisdiction on the bond required to be posted by the operator of
24 a life care institution pursuant to this section for the amount
25 of damage he suffered as a result thereof to the extent covered
26 by the bond.

27 (3) Whenever the board determines that the amount of any

1 bond filed with it pursuant to this section is inadequate to
2 protect the money of the aged persons which is being handled by
3 the operator of the life care institution or whenever the amount
4 of any such bond is impaired by any recovery against the bond,
5 the board may require the operator to file an additional bond in
6 such amount as the board determines is necessary to adequately
7 protect the money of the aged persons which is being handled by
8 the operator.

9 (4) The failure of the operator of any life care
10 institution which has a certificate issued pursuant to this
11 article to maintain on file with the board a bond in the amount
12 prescribed pursuant to this section is a ground for the
13 revocation of the certificate of the life care institution.

14 (5) The provisions of this section shall not apply if the
15 operator of the life care institution handles in any month less
16 than twenty-five dollars per resident and less than five hundred
17 dollars for all residents in the life care institution.

18 (6) The board shall require that any agent or employee of a
19 life care institution, who in the course of his agency or
20 employment has access to any substantial amount of funds, furnish
21 and maintain in effect during the period that the certificate is
22 in force a surety bond in such form and penal sum as the board
23 finds necessary to protect all persons from loss of the funds.

24 12-13-111. Surety bond. Before issuing a certificate, the
25 board, if it deems it necessary to safeguard the interests of
26 aged persons in life care institutions, shall require any
27 applicant for a certificate to file with the board and maintain

1 in effect during the period that the certificate is in force a
2 bond executed by an admitted surety insurer, in an amount
3 satisfactory to the board, not to exceed _____ dollars,
4 conditioned upon the faithful performance by the principal of all
5 obligations undertaken by him pursuant to the certificate, to and
6 for the use and benefit of all persons who may be injured or
7 aggrieved by the failure of the principal to perform any such
8 obligation, and any person so injured or aggrieved may bring suit
9 on such bond, in his own name, without an assignment thereof.

10 *12-13-112. Reserve requirements. (1) Any organization or
11 person receiving a certificate to enter into life care agreements
12 shall maintain reserves covering obligations under all such
13 agreements entered into and maintained. The reserves shall be
14 equivalent to sixty-five percent of the amount of any advance
15 deposit, entrance fee, or other lump sum initial payment made by
16 each resident of the life care institution. The deposit shall
17 then be amortized for the purposes of these reserves over the
18 first five-year period of each such resident's residency, on a
19 straight-line basis.

20 (2) The reserves shall consist of the following:

21 (a) Deposits in commercial and savings accounts with banks
22 which are members of the federal deposit insurance corporation;

23 (b) Investments in certificates issued by savings and loan
24 associations which are members of the federal savings and loan
25 insurance corporation;

26 (c) Notes receivable secured by first deeds of trust and
27 first mortgages;

1 (d) Bonds and stocks selected from an approved list, as
2 determined by the board in consultation with the division of
3 insurance and the state treasurer. If stocks, bonds, and
4 securities that are not on the approved list are part of the
5 reserves, and if they are to be retained as part of the reserves,
6 it shall not be necessary that such unapproved stocks, bonds, and
7 securities be disposed of immediately, but they shall be disposed
8 of in accordance with rules promulgated pursuant to this article,
9 which disposal shall be accomplished in a gradual manner so as to
10 avoid loss to certificate holders. Securities which, although
11 not on the approved list, should be retained in the reserve for
12 reasons acceptable to the board may be retained with the specific
13 approval of the board.

14 (e) Real estate used to provide care and housing for
15 holders of life care contracts, or equities therein, owned by the
16 certificate holder, to the extent of one hundred percent of the
17 net value thereof; except that beginning January 1, 1974, such
18 percentage shall be reduced by two percent per year to a minimum
19 of fifty percent of the net value thereof. Values shall be fixed
20 by an appraiser or appraisers approved by the board, or by such
21 other method as may be approved by the board.

22 (f) Furniture and equipment situated in property used to
23 provide care and housing for holders of life care contracts, to
24 the extent of one hundred percent of the net value thereof;
25 except that, beginning January 1, 1974, such percentage shall be
26 reduced by two percent per year to a minimum of twenty-five
27 percent of the net value thereof. Values shall be fixed by an

1 appraiser or appraisers approved by the board, or by such other
2 method as may be approved by the board.

3 (g) Real estate or equities therein owned by the
4 organization or person as an investment, the rents from which are
5 used to discharge obligations to the holders of life care
6 contracts or to reinvest as a part of the reserves;

7 (h) Investment certificates or shares in open-end
8 investment trusts whose management has been managing a mutual
9 fund registered under the federal "Investment Company Act of
10 1940" or whose management has been registered as an investment
11 adviser under the federal "Investment Advisers Act of 1940", and
12 in either case currently has at least one hundred million
13 dollars under its supervision, is qualified for sale in Colorado,
14 has at least forty percent of its directors or trustees not
15 affiliated with the fund's management company or principal
16 underwriter or any of their affiliates, is registered under the
17 federal "Investment Company Act of 1940", and is a fund listed as
18 qualifying under rules maintained by the secretary of state in
19 cooperation with the division of insurance;

20 (i) Any other asset or equity therein owned by the
21 organization or person which would be available to discharge
22 obligations to the holders of life care contracts or to reinvest
23 as a part of the reserves. Such assets or equities therein shall
24 be valued at their realizable fair market value pursuant to
25 regulations to be adopted by the board.

26 (3) At least ten percent of the reserves necessary to
27 maintain all life care agreements shall consist of listed bonds,

1 stocks, commercial and savings accounts, and certificates of
2 deposit of savings and loan associations. Any person or
3 organization holding a certificate to enter into life care
4 agreements, which is in operation on January 1, 1974, and which
5 is unable to meet the reserve requirements of this subsection
6 (3), may petition the board for a modification of the percentage
7 in the reserve requirement.

8 (4) Any person or organization which entered into life care
9 agreements prior to January 1, 1974, but which was not required
10 prior to such date to obtain a license, is not required to
11 maintain reserves covering obligations assumed under any such
12 agreement entered into prior to January 1, 1974.

13 (5) For the failure of any organization or person to
14 establish and maintain reserves as provided in this article, the
15 board, after due notice, may revoke its certificate. The board
16 may request the division of insurance to aid in the determination
17 as to whether or not sufficient reserves are established and
18 maintained.

19 12-13-113. Annual audit. The board shall require an annual
20 audit of the records of the life care institution made by a
21 certified public accountant, which shall include a certification,
22 if such is the case, that the life care institution is
23 maintaining reserves in accordance with the requirements of
24 section 12-13-112, as of the close of its fiscal year. The audit
25 shall include full details on per capita costs of operation. A
26 copy of the audit shall be filed with the board. Funds and
27 property received as advance payments for maintenance of the aged

1 persons residing in the life care institution shall be reported
2 separately from membership fees, donations, or other funds
3 available for capital expansion.

4 12-13-114. Agreements as preferred claims on liquidation -
5 liens - computation of reserve. (1) Life care agreements
6 executed by a certificate holder shall be deemed a preferred
7 claim against all assets owned by the certificate holder in the
8 event of liquidation. Said claim shall be subordinate to any
9 lien or encumbrance secured by any of said assets if such lien or
10 encumbrance is outstanding at the time of liquidation.

11 (2) When necessary to secure the performance of all
12 obligations of the certificate holders, the board may record with
13 the county clerk and recorder of the county in which property
14 subject to the lien is located a notice of lien on behalf of aged
15 persons residing in a life care institution. From the time of
16 recording, there shall exist a lien on all the property of the
17 certificate holder, real and personal, not exempt from execution,
18 owned by him at the time or which he may afterward acquire before
19 the release of the lien, and located within the county where such
20 notice is recorded. Said lien shall not be prior to any then
21 existing lien or encumbrance against said real or personal
22 property appearing of record at the time of said recording. The
23 board shall file a release of the lien upon proof of complete
24 performance of all obligations to aged persons residing in the
25 life care institution, or upon the filing of a bond meeting the
26 conditions set forth in section 12-13-111. The board may file a
27 release of the lien if it deems the lien no longer necessary to

1 secure the performance of all obligations of the certificate
2 holder to the aged persons residing in the life care institution.
3 The certificate holder may appeal to the executive director from
4 a refusal by the board of a request for release of the lien. The
5 decision of the executive director is subject to judicial review
6 pursuant to section 24-4-106, C.R.S. 1973, upon petition of the
7 certificate holder filed within sixty days after service of the
8 decision.

9 (3) For purposes of computing the reserve, the liens
10 required under subsection (2) of this section shall not be
11 deducted from the value of real or personal property.

12 12-13-115. Advertisements and solicitations of life care
13 contracts - requirements - violations - offense. (1) Any report,
14 circular, public announcement, certificate, or financial
15 statement, or any other printed matter or advertising material
16 which is designed for or used to solicit or induce persons to
17 enter into any agreement providing for the transfer of property,
18 conditioned upon an agreement to furnish life care, and which
19 lists or refers to the name of any individual or organization as
20 being interested in or connected with the person, association, or
21 corporation to perform the agreement, shall clearly state the
22 extent of financial responsibility assumed by that individual or
23 organization for the person, association, or corporation and the
24 fulfillment of its agreements.

25 (2) Any person, association, or corporation that issues,
26 delivers, or publishes or, as manager or officer or in any other
27 administrative capacity, assists in the issuance, delivery, or

1 publication of any printed matter or advertising material which
2 does not conform to the requirements of subsection (1) of this
3 section is guilty of a misdemeanor and, upon conviction thereof,
4 shall be punished by a fine of not more than one thousand
5 dollars, or by imprisonment in the county jail for a period of
6 not more than six months, or by both such fine and imprisonment.

7 12-13-116. Injunction against violations - notice of
8 deficiencies - prosecution. (1) The board may bring an action to
9 enjoin the threatened violation or continued violation of the
10 provisions of this article, including the operation of a life
11 care institution without a certificate, or of any of the rules
12 promulgated pursuant to this article, in the district court for
13 the county in which the violation occurred or is about to occur.
14 Any proceeding under the provisions of this section shall be
15 subject to the Colorado rules of civil procedure; except that the
16 executive director shall not be required to allege facts
17 necessary to show or tending to show the lack of an adequate
18 remedy at law or to show or tending to show irreparable damage or
19 loss.

20 (2) At least thirty days prior to the filing of an action
21 against a certificate holder under subsection (1) of this
22 section, the board shall serve the certificate holder with a
23 written notice specifying each deficiency in the life care
24 institution and the violation or continued violation by such
25 institution of this article or any of the rules and regulations
26 promulgated pursuant thereto. No restraining order shall be
27 issued in such action.

1 (3) Upon application by the board, the attorney general or
2 the district attorney of any judicial district in this state
3 shall institute and prosecute an action for the criminal
4 violation of any provision of this article.

5 12-13-117. Violations - offense. (1) Any person,
6 association, or corporation that maintains, conducts, or, as
7 manager or officer or in any other administrative capacity,
8 assists in maintaining or conducting any life care institution or
9 performs any life care service specified in a written life care
10 agreement without first having secured a certificate therefor or
11 that, without good cause, refuses to permit or interferes with
12 the inspection authorized in section 12-13-103 (1) (e) is guilty
13 of a misdemeanor and, upon conviction thereof, shall be punished
14 by a fine of not more than one thousand dollars, or by
15 imprisonment in the county jail for not more than six months, or
16 by both such fine and imprisonment.

17 (2) Any person who, whether acting as principal, agent,
18 broker, or otherwise, sells or attempts to sell or otherwise
19 trade or deal with any certificate for commercial purposes is
20 guilty of a misdemeanor and, upon conviction thereof, shall be
21 punished by a fine or not more than one thousand dollars, or by
22 imprisonment in the county jail for not more than six months, or
23 by both such fine and imprisonment.

24 12-13-118. Local regulations. The provisions of this
25 article shall not prevent local authorities of any county, city,
26 town, or city and county, within the reasonable exercise of the
27 police power, from adopting rules, by ordinance or resolution,

1 prescribing standards of sanitation, health, and hygiene for
2 institutions offering life care which are not in conflict with
3 the provisions of this article or the rules and minimum standards
4 adopted by the board pursuant thereto, and requiring a local
5 health permit for the maintenance or conduct of any such
6 institution within such county, city, town, or city and county.

7 SECTION 2. 23-2-103, Colorado Revised Statutes 1973, as
8 amended, is amended to read:

9 23-2-103. Awarding degrees. Notwithstanding the provisions
10 of section 7-50-105, C.R.S. 1973, or any other law to the
11 contrary, no person, partnership, corporation, company, society,
12 or association doing business in the state of Colorado shall
13 award, bestow, confer, give, grant, convey, or sell to any other
14 person a degree or honorary degree upon which is inscribed, in
15 any language, the word "associate", "bachelor", "baccalaureate",
16 "master", or "doctor" or any abbreviation thereof, except a state
17 college or university, a private college or university, or a
18 seminary or bible college and except a school, college, or
19 university which offers courses of instruction or study in
20 compliance with standards prescribed by articles 13, 30 to 34,
21 36, and 39 to 41 of title 12, C.R.S. 1973.

22 SECTION 3. 24-1-122 (4), Colorado Revised Statutes 1973, as
23 amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24 24-1-122. Department of regulatory agencies - creation.
25 (4) (e) Board of examiners of life care institutions, created by
26 article 13 of title 12, C.R.S. 1973.

27 SECTION 4. 24-34-104 (4) (b), Colorado Revised Statutes

1 1973, as amended, and as further amended by Session Laws of
2 Colorado 1977, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH
3 to read:

4 24-34-104. General assembly review of regulatory agencies
5 for termination, continuation, or reestablishment.

6 (4) (b) (XIII) Board of examiners of life care institutions,
7 created by article 13 of title 12, C.R.S. 1973.

8 SECTION 5. Repeal. 24-1-122 (3) (bb) and 24-34-104 (2) (b)
9 (IX), Colorado Revised Statutes 1973, as amended, are repealed.

10 SECTION 6. Effective date. This act shall take effect July
11 1, 1978.

12 SECTION 7. Safety clause. The general assembly hereby
13 finds, determines, and declares that this act is necessary for
14 the immediate preservation of the public peace, health, and
15 safety.

COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS

BILL NO. 2

A BILL FOR AN ACT

1 CONCERNING THE REGULATION OF NURSING HOME ADMINISTRATORS, AND
2 PROVIDING FOR THE CONTINUATION OF THE BOARD OF EXAMINERS OF
3 NURSING HOME ADMINISTRATORS.

Bill Summary

4 (NOTE: This summary applies to this bill as introduced and
5 does not necessarily reflect any amendments which may be
subsequently adopted.)

6 Provides for continuation of the board of nursing home
7 examiners and revises the statutes governing the regulation of
8 nursing home administrators without substantial change.

9
10 Be it enacted by the General Assembly of the State of Colorado:

11 SECTION 1. Article 39 of title 12, Colorado Revised
12 Statutes 1973, as amended, and as further amended by Session Laws
13 of Colorado 1977, is REPEALED AND REENACTED, WITH AMENDMENTS, to
14 read:

15 ARTICLE 39

16 Nursing Home Administrators

17 12-39-101. Legislative declaration. The general assembly
18 declares that the intent of this article is to provide a measure
19 of protection to the aged and handicapped residents of nursing

1 homes in this state by providing a means of regulation of nursing
2 home administrators to insure quality administration and sound
3 management of nursing homes. It is also the intent of the
4 general assembly that the board of examiners of nursing home
5 administrators be adequately funded to carry out the duties and
6 functions specified by this article as well as the legislative
7 intent expressed in this section.

8 12-39-102. Administrator license required. No nursing home
9 in this state shall be operated unless it is under the
10 supervision of an administrator who holds a currently valid
11 nursing home administrator's license and registration issued
12 pursuant to this article. No person shall practice or offer to
13 practice nursing home administration in this state or use any
14 title, sign, card, or device to indicate that he is a nursing
15 home administrator unless such person has been duly licensed and
16 registered as a nursing home administrator as required by this
17 article.

18 12-39-103. Definitions. As used in this article, unless
19 the context otherwise requires:

20 (1) "Board" means the board of examiners of nursing home
21 administrators.

22 (2) "Conditional license" means a license issued by the
23 board, for a period not to exceed sixty days, to an applicant for
24 a license who meets all the requirements of reciprocity
25 established by the board but has not been interviewed by the
26 board.

27 (3) "Executive secretary" means the secretary of the board

1 of examiners of nursing home administrators.

2 (4) "Nursing home" means any institution or facility
3 defined as such for licensing purposes under state law or
4 pursuant to the rules for nursing homes of the department of
5 health, whether proprietary or nonprofit, and includes but is not
6 limited to nursing homes owned or administered by the state
7 government or any agency or political subdivision thereof.

8 (5) "Nursing home administrator" means any individual
9 responsible for planning, organizing, directing, and controlling
10 the operation of a nursing home or who in fact performs such
11 functions, whether or not such functions are shared by one or
12 more other persons.

13 (6) "Nursing home administrator-in-training" means an
14 individual registered as such pursuant to the provisions of this
15 article.

16 (7) "Practice of nursing home administration" means the
17 planning, organizing, directing, and control of the operation of
18 a nursing home.

19 12-39-104. Board of examiners of nursing home
20 administrators - subject to termination. (1) There is hereby
21 created a board of examiners of nursing home administrators in
22 the division of registrations in the department of regulatory
23 agencies, which board shall be composed of nine members as
24 follows: Four members shall be practicing nursing home
25 administrators duly licensed and registered under this article,
26 one of whom shall be an administrator of a nonprofit nursing
27 home; four members, without a direct financial interest in any

1 nursing home, who have expertise in financial management and
2 budgeting, health administration education, geriatrics and
3 medicine, and patients' rights laws, including section 25-1-120,
4 C.R.S. 1973, shall be selected from other professions, agencies,
5 and institutions concerned with the care of the chronically ill
6 and infirm patients; and one member, without a direct financial
7 interest in any nursing home, shall be representative of the
8 public at large; but no more than two of the members of the board
9 shall be officials or full-time employees of state government or
10 local governments. All members of the board shall be residents
11 of this state.

12 (2) Three members of the initial board shall be appointed
13 for one-year terms of office; three members of the initial board
14 shall be appointed for two-year terms of office; and three
15 members of the initial board shall be appointed for three-year
16 terms of office. Thereafter, the term of office for each member
17 of the board shall be three years. No member of the board shall
18 serve more than two consecutive terms.

19 (3) Appointments to the board shall be made by the
20 governor. Dismissals shall be by the governor for cause.
21 Appointments to fill vacancies shall be made for the remainder of
22 the unexpired term. A member who is a practicing nursing home
23 administrator shall serve for the term for which he was appointed
24 even if, during such term, he ceases being a practicing nursing
25 home administrator.

26 (4) Each member of the board, before he enters upon the
27 duties of his office, shall take an oath or affirmation to

1 support the constitution of the United States and of the state of
2 Colorado and to faithfully perform the duties of the office upon
3 which he is about to enter.

4 (5) Members of the board shall be reimbursed for their
5 actual and necessary traveling and subsistence expenses when
6 absent from their places of residence in attendance at meetings
7 or in other performance of their duties under this article.

8 (6) The board shall elect annually from its membership a
9 chairman and vice-chairman. The board shall hold two or more
10 meetings each year. At any meeting a majority shall constitute a
11 quorum.

12 (7) The board shall exercise its powers and perform its
13 duties and functions specified by this article under the
14 department of regulatory agencies and the executive director
15 thereof and the division of registrations as if the same were
16 transferred to the department by a type 1 transfer, as such
17 transfer is defined in the "Administrative Organization Act of
18 1968", being article 1 of title 24, C.R.S. 1973.

19 (8) The executive director of the department of regulatory
20 agencies may appoint, subject to section 13 of article XII of the
21 state constitution, an executive secretary to the board. He
22 shall be the executive officer to the board but shall not be a
23 member of the board. He shall have such powers and shall perform
24 such duties as are prescribed by law and the rules and
25 regulations of the board. A clerk and sufficient deputy clerks
26 to adequately assist the board and the executive secretary in the
27 keeping of the records and in the performance of their duties may

1 be appointed by the executive director of the department of
2 regulatory agencies. All employees of the board shall be
3 appointed and serve in accordance with section 13 of article XII
4 of the state constitution.

5 (9) The provisions of section 24-34-104, C.R.S. 1973,
6 concerning the termination schedule for regulatory bodies of the
7 state unless extended as provided in that section, are applicable
8 to the board of examiners of nursing home administrators created
9 by this section.

10 12-39-105. Duties of the board - fee. (1) The board has
11 the following duties:

12 (a) To develop, impose, and enforce standards consistent
13 with this article which shall be met by individuals in order to
14 receive and retain a license as a nursing home administrator,
15 including distributional standards for continuing education,
16 which standards shall be designed to insure that nursing home
17 administrators will be individuals who are of good character and
18 are otherwise suitable and who, by training or experience in the
19 field of institutional administration, are qualified to serve as
20 nursing home administrators;

21 (b) To develop and apply appropriate techniques, including
22 examinations and investigations, for determining whether an
23 individual meets such standards;

24 (c) To issue licenses and registrations to individuals
25 determined, after application of such techniques, to meet such
26 standards and to revoke or suspend licenses and registrations
27 previously issued by the board in any case where the individual

1 holding any such license and registration is determined
2 substantially to have failed to conform to the requirements of
3 such standards;

4 (d) To establish and carry out procedures designed to
5 insure that individuals licensed as nursing home administrators
6 will, during any period that they serve as such, comply with the
7 requirements of such standards, including provision of a
8 statement of nursing home administrators' responsibilities and
9 duties;

10 (e) To receive, investigate, and take appropriate action
11 with respect to any charge or complaint charging that any
12 individual licensed as a nursing home administrator has failed to
13 comply with the requirements of such standards by itself or
14 through any duly appointed investigator and to establish
15 procedures therefor;

16 (f) To conduct a continuing study and investigation of
17 administrators of nursing homes within this state with a view to
18 the improvement of the standards imposed for the licensing of
19 such administrators and of procedures and methods for the
20 enforcement of such standards with respect to administrators of
21 nursing homes who have been licensed as such;

22 (g) To insure that there is posted in each nursing home, in
23 a conspicuous place and in clearly legible type, a notice giving
24 the address and telephone number of the board and stating that
25 complaints may be made to the board.

26 (2) The fee to be paid by applicants for licenses and
27 recertification of registration and by applicants seeking a

1 reciprocal endorsement of a license issued by the proper
2 authorities in another state shall be no more than two hundred
3 dollars.

4 (3) The board or any committee or member thereof or any
5 hearing officer designated by such board acting in an official
6 capacity has the powers and duties as set forth in article 4 of
7 title 24, C.R.S. 1973. Any hearing officer shall be appointed
8 pursuant to part 10 of article 30 of title 24, C.R.S. 1973.

9 (4) The board also has the authority to make rules not
10 inconsistent with law as may be necessary for the proper
11 performance of its duties and to take such other actions as may
12 be necessary to enable the state to meet the requirements set
13 forth in section 1908 of the "Social Security Act", the federal
14 rules promulgated thereunder, and other pertinent federal
15 requirements.

16 (5) The board shall issue an annual report accounting for
17 the performance of its statutory duties. All publications
18 circulated in quantity outside the executive branch of state
19 government shall be issued in accordance with fiscal rules
20 promulgated by the controller pursuant to the provisions of
21 section 24-30-208, C.R.S. 1973.

22 12-39-106. Qualifications for admission to examination.

23 (1) The board shall admit to examination for licensure as a
24 nursing home administrator any applicant who pays a fee as
25 determined by the board, who submits evidence of good moral
26 character and suitability prescribed by the board, and who is at
27 least twenty-one years old; except that:

1 (a) On and after July 1, 1970, no applicant for a license
2 as a nursing home administrator shall be admitted to such
3 licensing examination, nor shall such applicant be entitled to or
4 be granted a license as a nursing home administrator, unless such
5 applicant submits written evidence, on forms provided for such
6 purpose by the board, that he has successfully completed a course
7 of study and has been graduated from a high school approved and
8 recognized by the educational authorities of the state in which
9 such school is located, or a political division thereof, or has
10 submitted a certificate indicating that he has obtained high
11 school or secondary school equivalency, such certificate being
12 duly certified by a state educational authority, or a political
13 division thereof, but such applicant shall have complied with the
14 provisions of subsection (2) of this section.

15 (b) On and after January 1, 1975, no applicant for a
16 license as a nursing home administrator shall be admitted to such
17 licensing examination, nor shall such applicant be entitled to or
18 be granted a license as a nursing home administrator, unless such
19 applicant submits written evidence, on forms provided for such
20 purpose by the board, that he has successfully completed two
21 years of college-level study after high school study in an
22 accredited institution of higher education in areas relating to
23 nursing home administration, but such applicant shall have
24 complied with the provisions of subsection (2) of this section.

25 (c) On and after January 1, 1980, no applicant for a
26 license as a nursing home administrator shall be admitted to such
27 licensing examination, nor shall such applicant be entitled to or

1 be granted a license as a nursing home administrator, unless such
2 applicant submits written evidence, on forms provided for such
3 purpose by the board, that he has successfully completed a course
4 of study for a baccalaureate degree and has been awarded such
5 degree from an accredited institution of higher education in
6 areas relating to nursing home administration, but such applicant
7 shall have complied with the provisions of subsection (2) of this
8 section.

9 (2) On and after July 1, 1970, each applicant who has not
10 completed a regular course of study or program in an accredited
11 institution of higher education, which course of study or program
12 has been approved by the board as being adequate academic
13 preparation for nursing home administration, shall, in addition
14 to meeting the requirements of paragraph (a) of subsection (1) of
15 this section, submit evidence satisfactory to the board that he
16 has successfully completed specialized courses or a program of
17 study in the area of nursing home administration, as required and
18 approved by the rules of the board.

19 (3) Any person who applies for examination pursuant to
20 paragraph (b) or (c) of subsection (1) of this section, in lieu
21 of the educational requirements provided for therein, may submit
22 evidence satisfactory to the board that such applicant has
23 obtained two years of satisfactory practical experience in
24 nursing home administration or in a related health administration
25 area for each year of required post-high school education. In
26 determining an applicant's moral character, as required by the
27 introductory portion to subsection (1) of this section, the board

1 shall be governed by the provisions of section 24-5-101, C.R.S.
2 1973.

3 12-39-107. Examinations. (1) The board shall determine the
4 subjects of examination for applicants for licensure as nursing
5 home administrators and the scope, content, and format of such
6 examinations which, in any examination, shall be the same for all
7 candidates; except that such examinations shall include
8 examination of the applicant to demonstrate his proficiency in
9 the practice and knowledge of applicable rules of health and
10 safety within this state.

11 (2) Examinations shall be held at least semiannually at
12 such times and places as the board shall designate. Any
13 examination shall be prepared or approved by the board.

14 12-39-108. Licenses. (1) An applicant for licensure as a
15 nursing home administrator who has successfully complied with the
16 requirements of section 12-39-106 and the standards provided for
17 therein, has passed the examination provided for in section
18 12-39-107, and, where applicable, has complied with the
19 requirements of section 12-39-111 shall be issued a license, on a
20 form provided for that purpose by the board, certifying that the
21 applicant has met the requirements of the laws and rules
22 entitling him to serve, act, practice, and otherwise hold himself
23 out as a duly licensed nursing home administrator; but nothing in
24 this article or the rules and regulations promulgated pursuant to
25 this article shall be construed to require an applicant for
26 licensure as a nursing home administrator, who is certified by a
27 recognized church or religious denomination which teaches

1 reliance on spiritual means alone for healing, as having been
2 approved to administer institutions certified by such church or
3 denomination for the care and treatment of the sick in accordance
4 with its teachings, to demonstrate proficiency in any medical
5 techniques or to meet any medical educational qualifications or
6 medical standards not in accord with the remedial care and
7 treatment provided in such institutions.

8 (2) The board may issue a conditional license for a period
9 not to exceed sixty days to an applicant for a nursing home
10 administrator's license who meets all the requirements for
11 reciprocity established by the board but who has not been
12 interviewed by the board. No conditional license may be renewed.
13 No additional license fee shall be charged the holder of a
14 conditional license upon issuance of a nursing home
15 administrator's license.

16 (3) Any license issued by the board pursuant to the
17 provisions of this section shall be under the hand and seal of
18 the chairman and executive secretary of the board.

19 (4) If the board finds that programs of training and
20 instruction conducted within the state are not sufficient in
21 number or content to enable applicants for nursing home
22 administrators' licenses and nursing home administrators to meet
23 requirements established pursuant to this article, it shall
24 institute and conduct or arrange with others to conduct one or
25 more such programs and shall make provision for their
26 accessibility to appropriate residents of this state. The board
27 may approve programs conducted within and without this state as

1 sufficient to meet education and training requirements
2 established pursuant to this article. For purposes of this
3 subsection (4), the board has the authority to receive and
4 disburse federal funds received pursuant to requirements of the
5 "Social Security Act".

6 (5) On and after July 1, 1978, until July 1, 1980, the
7 board may adjust the term for a license in order to provide that
8 approximately one-half of all licenses expire during each of the
9 next two calendar years. The fee for such adjusted license shall
10 be prorated accordingly. Thereafter all licenses shall be issued
11 for a term of two years.

12 12-39-109. Registration. (1) Every individual who holds a
13 valid license as a nursing home administrator issued by the board
14 pursuant to section 12-39-107 shall immediately upon issuance
15 thereof be deemed registered with the board and be issued a
16 certificate of registration. Thereafter, such individual shall
17 biennially be required to apply to the board for a new
18 recertification of registration and report any facts requested by
19 the board on forms provided for such purpose.

20 (2) Upon making an application for a recertification of
21 registration, such individual shall pay a biennial registration
22 fee to be determined by the board, but not to exceed two hundred
23 dollars, and at the same time shall submit evidence satisfactory
24 to the board that during the twelve-month period immediately
25 preceding such application for recertification of registration he
26 has successfully completed a continuing education program or
27 course of study as may be provided by the rules of the board.

1 (3) Upon receipt of such application for recertification of
2 registration, the registration fee, and the evidence required
3 with respect to continuing education, the board shall issue a
4 recertification of registration to such nursing home
5 administrator.

6 (4) The license of a nursing home administrator who fails
7 to comply with the provisions of this section and who continues
8 to act as a nursing home administrator shall be suspended or
9 revoked by the board in accordance with the provisions of this
10 article.

11 (5) A nursing home administrator who has been duly licensed
12 and registered in this state, whose license has not been revoked
13 or suspended, and whose registration has expired for a period of
14 not longer than eighteen months may reregister within this state
15 upon complying with the provisions of this section for
16 recertification of registration and also filing with the board an
17 affidavit in accordance with the rules of the board.

18 (6) Only an individual who has qualified as a licensed and
19 registered nursing home administrator under the provisions of
20 this article and who holds a valid current registration
21 certificate pursuant to the provisions of this section for the
22 current annual registration period has the right and the
23 privilege of using the title "nursing home administrator" and the
24 right and the privilege of using the abbreviation "N.H.A." after
25 his name. No other person shall use or shall be designated by
26 such title or such abbreviation or any other words, letters,
27 sign, card, or device tending to or intended to indicate that

1 such person is a licensed and registered nursing home
2 administrator.

3 (7) The board shall maintain a register of all applications
4 for licensing and registration of nursing home administrators,
5 which register shall show: The place of residence, name, and age
6 of each applicant, the name and address of the employer or
7 business connection of each applicant, the date of application,
8 complete information of educational and experience
9 qualifications, the action taken by the board, the serial number
10 of the license and of registration certificates issued to the
11 applicant, the date on which the board reviewed and acted upon
12 the application, and such other pertinent information as the
13 board may deem necessary.

14 12-39-110. Reciprocity. The board, in its discretion and
15 otherwise subject to the provisions of this article and the rules
16 of the board promulgated pursuant to this article prescribing the
17 qualifications for a nursing home administrator license, may
18 endorse a nursing home administrator license issued by the proper
19 authorities of any other state upon payment of a fee and upon
20 submission of evidence satisfactory to the board that such other
21 state maintained a system and standard of qualifications and
22 examinations for a nursing home administrator license which were
23 substantially equivalent to those required in this state at the
24 time such other license was issued by such other state.

25 12-39-111. Nursing home administrator - temporary permit.

26 (1) Every applicant for a nursing home administrator license who
27 has otherwise qualified under the provisions of section 12-39-106

1 shall be granted a temporary permit upon application to the board
2 and shall serve for a one-year period under the supervision of a
3 duly licensed and registered nursing home administrator in
4 accordance with the rules of the board. At the expiration of the
5 one-year in-training period, said applicant shall be eligible to
6 take the examination.

7 (2) The nursing home administrator-in-training shall submit
8 quarterly reports on forms provided therefor by the board.

9 (3) This section shall not apply to any individual who has
10 successfully completed a course of study for a master's degree in
11 health administration or in a related health care field and who
12 has been awarded such degree from an accredited institution of
13 higher education.

14 (4) Every nursing home administrator-in-training shall
15 register the fact of such training with the board in accordance
16 with the rules and on forms provided therefor by the board.

17 (5) The board may waive up to six months of the one-year
18 period required by subsection (1) of this section if it finds
19 that the applicant has prior experience or training sufficient to
20 satisfy requirements established by rule or regulation of the
21 board.

22 12-39-112. Disciplinary proceedings - immunity in
23 professional review. (1) The license or registration of any
24 person practicing or offering to practice nursing home
25 administration may be revoked or suspended or such licensee may
26 be reprimanded, censured, or otherwise disciplined in accordance
27 with the provisions of this section upon decision and after due

1 hearing in any of the following cases:

2 (a) Upon proof that such licensee is unfit or incompetent
3 by reason of negligence, habits, or other causes;

4 (b) Upon proof that such licensee has violated any of the
5 provisions of this article or the rules enacted pursuant thereto
6 or acted in a manner inconsistent with the health and safety of
7 the patients of the home in which he is the administrator;

8 (c) Upon proof that such licensee is guilty of fraud or
9 deceit in the practice of nursing home administration or related
10 activities or in his admission to such practice;

11 (d) Upon proof that such licensee has been convicted of
12 violating any provision of section 26-4-114, C.R.S. 1973.

13 (2) The board or a hearing officer designated by it has
14 jurisdiction to hear all charges brought under the provisions of
15 this section against persons licensed and registered as nursing
16 home administrators and upon such hearings shall determine the
17 charges upon their merits. If the board determines that such
18 person is guilty of the charges, the board may revoke his license
19 and registration, suspend him from practice, or reprimand,
20 censure, or otherwise discipline such licensee.

21 (3) Proceedings under this section shall be conducted
22 pursuant to the provisions of article 4 of title 24, C.R.S. 1973.

23 (4) (a) If a professional review committee is established
24 pursuant to this section to investigate the quality of care being
25 given by a person licensed pursuant to this article, it shall
26 include in its membership at least three persons licensed under
27 this article, but such committee may be authorized to act only

1 by:

2 (I) The board; or

3 (II) A society or an association of persons licensed
4 pursuant to this article whose membership includes not less than
5 one-third of the persons licensed pursuant to this article
6 residing in this state if the licensee whose services are the
7 subject of review is a member of such society or association.

8 (b) Any member of the board or a professional review
9 committee authorized by the board and any witness appearing
10 before the board or such professional review committee shall be
11 immune from suit in any civil action brought by a licensee who is
12 the subject of a professional review proceeding if such member or
13 witness acts in good faith within the scope of the function of
14 the board or such committee, has made a reasonable effort to
15 obtain the facts of the matter as to which he acts, and acts in
16 the reasonable belief that the action taken by him is warranted
17 by the facts. The immunity provided by this paragraph (b) shall
18 extend to the members of an authorized professional review
19 committee of a society or an association of persons licensed
20 pursuant to this article and witnesses appearing before such
21 committee if such committee is authorized to act pursuant to
22 subparagraph (II) of paragraph (a) of this subsection (4).

23 12-39-113. Penalties. (1) It is a misdemeanor for any
24 person to:

25 (a) Sell or fraudulently obtain or attempt to obtain or
26 furnish any license or aid or abet therein; or

27 (b) Practice as a nursing home administrator under cover of

1 any license or registration illegally or fraudulently obtained
2 or unlawfully issued; or

3 (c) Practice as a nursing home administrator or use in
4 connection with his name any designation tending to imply that he
5 is a nursing home administrator unless duly licensed and
6 registered to so practice under the provisions of this article;
7 or

8 (d) Practice as a nursing home administrator during the
9 time his license or registration issued under the provisions of
10 this article is suspended or revoked or has otherwise expired.

11 (2) Such misdemeanor shall be punishable by a fine of not
12 more than five hundred dollars, or by imprisonment in the county
13 jail for not more than ninety days, or by both such fine and
14 imprisonment.

15 12-39-114. Restoration of licenses or registrations. (1)
16 The board, in its discretion, may reissue a license or
17 registration to any person whose license or registration has been
18 revoked.

19 (2) Application for the reissuance of a license or
20 registration shall be made in such manner as the board may direct
21 in accordance with its rules.

22 12-39-115. Disposition of fees. All fees prescribed in
23 this article shall be collected by the board and transmitted to
24 the state treasurer, who shall credit the same to the general
25 fund. The general assembly shall make annual appropriations from
26 the general fund for expenditures of the board incurred in the
27 performance of its duties and under this article, which

1 expenditures shall be made out of such appropriations upon
2 vouchers and warrants drawn pursuant to law.

3 SECTION 2. 24-34-104 (4.1) (b), Colorado Revised Statutes
4 1973, as enacted by chapter 354, Session Laws of Colorado 1977,
5 is amended to read:

6 24-34-104. General assembly review of regulatory agencies
7 for termination, continuation, or reestablishment. (4.1) (b)
8 The following boards and agencies in the division of
9 registrations shall terminate on July 1, 1983:

10 (I) Passenger tramway safety board, created by part 7, of
11 article 5 of title 25, C.R.S. 1973;

12 (II) BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS,
13 CREATED BY ARTICLE 39 OF TITLE 12, C.R.S. 1973.

14 SECTION 3. Repeal. 24-34-104 (2) (b) (VIII), Colorado
15 Revised Statutes 1973, as amended, is repealed.

16 SECTION 4. Effective date. This act shall take effect July
17 1, 1978.

18 SECTION 5. Safety clause. The general assembly hereby
19 finds, determines, and declares that this act is necessary for
20 the immediate preservation of the public peace, health, and
21 safety.

COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS
BILL NO. 3

A BILL FOR AN ACT

1 CONCERNING REGULATION OF THE PRACTICE OF MORTUARY SCIENCE.

Bill Summary

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

Continues the board of mortuary science under the provisions of the "sunset act" and makes various amendments to the statutes governing the practice of mortuary science.

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

3 SECTION 1. Part 1 of article 54 of title 12, Colorado
4 Revised Statutes 1973, as amended, and as further amended by
5 Session Laws of Colorado 1977, is REPEALED AND REENACTED, WITH
6 AMENDMENTS, to read:

7 PART 1

8 MORTUARY SCIENCE CODE

9 12-54-101. Short title. This part 1 shall be known and may
10 be cited as the "Mortuary Science Code".

11 12-54-102. Legislative declaration. The general assembly
12 hereby finds and declares that it is the intent of this part 1 to
13 ensure the competency of those who practice mortuary science

1 through the licensing of practitioners, to provide to consumers
2 adequate information regarding the price of funerals and
3 sufficient information to ensure informed consumer decisions, to
4 establish a means of regulating unfair and deceptive
5 merchandising techniques, and to regulate activities which
6 severely restrict consumer choices regarding funerals. The
7 provisions of this part 1 and regulations authorized pursuant to
8 this part 1 are enacted to prevent the spread of infectious and
9 contagious diseases and to establish sanitary and safe mortuary
10 science practices, and this part 1 is enacted under the police
11 powers of this state for the purpose of protecting the general
12 welfare of the people of this state.

13 12-54-103. Definitions. As used in this part 1, unless the
14 context otherwise requires:

15 (1) "Board" means the board of mortuary science created by
16 section 12-54-104.

17 (2) "Funeral establishment", "mortuary", "funeral home", or
18 other recognized term means the building where the conduct of the
19 practice of mortuary science is carried on.

20 (3) "Licensed practitioner" means one engaged in or holding
21 himself out as being engaged in or conducting mortuary science
22 and who has qualified and has been issued a valid license by the
23 board.

24 (4) "Mortuary science" means disinfection or preservation
25 and final disposition of dead human bodies in a manner approved
26 by the board.

27 (5) "Mortuary science trainee" means a person engaged in

1 learning the practice of embalming, funeral directing, or the
2 profession of mortuary science under the instruction and personal
3 supervision of a licensed practitioner, subject to rules and
4 regulations prescribed by the board.

5 12-54-104. Board of mortuary science - subject to
6 termination. (1) (a) There is hereby created the board of
7 mortuary science, with the powers and duties provided in this
8 part 1. The board shall be under the division of registrations
9 of the department of regulatory agencies and shall consist of
10 twelve members, to be appointed by the governor. Five of the
11 members so appointed shall be licensed practitioners actively
12 engaged in mortuary science who have been licensed for five years
13 or have had five years' consecutive experience as funeral
14 directors or embalmers, one of whom shall be from each
15 congressional district, and at least one member shall be from
16 west of the continental divide. Two members of the board shall
17 be persons who have been duly ordained or are otherwise
18 officially designated or selected as clergymen of a church or
19 other organization operated exclusively for religious purposes in
20 accordance with the disciplines of such church or organization
21 and who, at the time of their appointment, are engaged as
22 clergymen on a full-time basis, and five members shall be public
23 members having no relation to the mortuary science business or
24 the clergy.

25 (b) Members of the board shall hold office for a term of
26 four years or until their successors are appointed and qualify.
27 Vacancies shall be filled by appointment by the governor for the

1 unexpired portion of the term. Members of the board may be
2 removed by the governor for incompetence or for improper or
3 unethical conduct. Appointments shall be made in accordance with
4 section 24-1-135, C.R.S. 1973.

5 (2) The provisions of section 24-34-104, C.R.S. 1973,
6 concerning the termination schedule for regulatory bodies of the
7 state unless extended as provided in that section, are applicable
8 to the board of mortuary science created by this section.

9 12-54-105. Meetings and organization of the board. (1) The
10 board shall meet at least three times each year, and special
11 meetings may be called whenever necessary by the secretary or
12 shall be called by the secretary upon the request of the
13 president or upon the written request of any two members of the
14 board. Full and timely prior public notice shall be given of any
15 meeting of the board.

16 (2) At the first meeting in each year, the board shall
17 elect from its members, each for a term of one year, a president,
18 a vice-president, and a secretary.

19 (3) The examination of all applicants for registration or
20 license under this part 1 shall be conducted at regular meetings
21 of the board, and may be conducted at such other meetings as may
22 be designated by the board.

23 (4) Offices of the board shall be maintained in Denver, and
24 meetings shall be held at the offices of the board, but special
25 meetings may be held at any place within the state designated by
26 the president. The director of the office of state planning and
27 budgeting is authorized and directed to provide suitable

1 accommodations for the business of the board.

2 12-54-106. Duties of the secretary. (1) It is the duty of
3 the secretary of the board:

4 (a) To keep minutes of the proceedings at all meetings of
5 the board;

6 (b) To keep a complete and accurate record of the name,
7 residence, and business address of all practitioners in mortuary
8 science, funeral directors, embalmers, funeral establishments,
9 and mortuary science trainees duly registered under the
10 provisions of this part 1, and the number and date of each
11 registration and license;

12 (c) To deposit all funds with the state treasurer as
13 required by law;

14 (d) To receive and keep a record of all complaints;

15 (e) To carry out such other functions as may be directed by
16 the board.

17 12-54-107. Compensation of members of the board. Members
18 of the board shall serve without compensation other than a per
19 diem of thirty-five dollars per day of actual service, together
20 with the actual and necessary expenses incurred while engaged
21 upon the business of the board. The board, with the approval of
22 the governor and pursuant to section 13 of article XII of the
23 state constitution, shall employ and appoint all employees
24 necessary to properly administer the provisions of this part 1.
25 All expenditures shall be paid from the available appropriations
26 received pursuant to section 12-54-116.

27 12-54-108. Powers and duties of the board. (1) The board

1 has the following powers and duties:

2 (a) To make reasonable rules and regulations not
3 inconsistent with the law, for the:

4 (I) Transaction of business of the board;

5 (II) Practice of mortuary science in order to properly
6 preserve the body and protect public health, but nothing in this
7 section shall limit the powers of the department of health;

8 (III) Examining, registering, and licensing of persons
9 making application therefor;

10 (b) To cause the inspection of funeral establishments,
11 mortuaries, or funeral homes registered under this part 1 at such
12 times as may be directed by the board to determine compliance
13 with sanitary and other health standards as prescribed by the
14 terms of this part 1 and the rules and regulations of the board;

15 (c) After hearing, as provided in this part 1, to suspend
16 the certificate of registration of such establishment that does
17 not comply with sanitary and other health standards, as
18 prescribed by the terms and provisions of this part 1 or the
19 rules and regulations of the board, until such time as compliance
20 has been made;

21 (d) To register and license all persons qualified to
22 practice mortuary science in this state, including the
23 preparation of examination questions and the examination of all
24 applicants for registration and licensing on matters relating to:
25 Embalming, sanitation, disinfection of bodies of deceased
26 persons, and in case of death from infectious or contagious
27 disease, disinfection of living quarters, bedding, and clothing,

1 and such other subjects as the board may deem proper;

2 (e) To refuse to grant a license and to suspend or revoke
3 the registration or license in accordance with the provisions of
4 section 12-54-117;

5 (f) To investigate and report any and all violations of
6 this part 1 and violations of the rules and regulations of the
7 board to the proper public officials and authorities and to
8 initiate prosecution of any person for any violation of this part
9 1;

10 (g) To conduct hearings concerning the business of the
11 board and to administer oaths and take testimony concerning
12 matters within its jurisdiction. The board may apply to any
13 court of record without the payment of any fees for the issuance
14 of subpoenas to compel the attendance of witnesses at such
15 hearings, and such court, upon such application, shall issue the
16 requested subpoenas.

17 (h) To submit an annual report to the governor, including
18 but not limited to a list of all complaints received by the
19 board, their origin and nature, how processed, and their outcome;
20 inspections; receipts and expenditures; and other board
21 activities. All complaints, both formal and informal, and the
22 disposition made thereof shall be dated, compiled, and open for
23 inspection for any valid reason.

24 (2) Whenever the board is required to determine a person's
25 character or to consider the conviction of a crime, the board
26 shall be governed by the provisions of section 24-5-101, C.R.S.
27 1973.

(1) It is unlawful to operate any funeral establishment within this state unless:

(a) A certificate of registration for such establishment has been issued by the board and is conspicuously displayed in such funeral establishment. In case of funeral services held in any private residence, church, or lodge hall, no such certificate shall be required. No certificate of registration shall be issued by the board unless such funeral establishment has in charge thereof a full-time licensed practitioner. No operator of a funeral establishment shall allow any person to operate out of such funeral establishment unless such person is the operator or an employee of a funeral establishment which has been granted a certificate of registration by the board.

(b) The owner, whether an individual, partnership, association, or corporation, has been issued a certificate of registration of such funeral establishment by the board in accordance with the provisions of this part 1 and the rules and regulations of the board;

(c) Such funeral establishment is under the personal supervision, direction, management, and control of a licensed practitioner who shall be designated as manager of such establishment and who shall be responsible for all obligations or liabilities imposed by this part 1.

(2) When more than one person proposes to engage in the operation of a funeral establishment as a partnership or as a corporation, it is necessary for one or more of such partners or

1 corporation officers to secure a license under this part 1 to
2 operate as a practitioner of mortuary science and be registered
3 by the board as the manager of such funeral establishment. No
4 partner or corporate officer shall hold himself out through
5 advertising or otherwise as being a licensee unless so licensed.
6 It is unlawful for any person, partnership, corporation, or
7 association not licensed or registered as specified in this part
8 1 to transact, practice, or hold itself out as transacting or
9 practicing the business or profession of mortuary science or to
10 operate or maintain a funeral establishment within this state.

11 (3) (a) A funeral establishment, mortuary, or funeral home
12 shall be a building maintained at a fixed location reported to
13 the board and approved by the board and maintained in full
14 compliance with the standards established by the board so as to
15 provide a complete facility for the practice of mortuary science.

16 (b) (I) A funeral establishment shall contain at least an
17 office, a preparation room equipped with tile, cement, or
18 composition floor, necessary drainage, and ventilation, and
19 necessary instruments and supplies for the preparation and
20 embalming of dead human bodies for burial, transportation, or
21 other disposition. In addition, a funeral establishment shall
22 contain a broad selection of caskets, from the least to the most
23 expensive, sufficient to meet the needs of the clientele of that
24 establishment.

25 (II) The board may adopt such rules and regulations as may
26 be reasonable, sufficient, and proper to implement this paragraph
27 (b).

2 (1) (a) In order to qualify for a license to practice mortuary
3 science in Colorado, the applicant shall be a resident of the
4 state of Colorado, at least twenty-one years of age, of good
5 moral character, and a graduate of a college of mortuary science,
6 approved and accredited by the board, with academic college
7 credits in an approved accredited college showing the completion
8 of at least sixty semester hours or ninety quarter hours of
9 curriculum, as prescribed by regulation of the board. A
10 three-year course in mortuary science in a college or university
11 approved and accredited academically shall be considered the same
12 as the two years of academic college and graduation from a
13 mortuary college. The board shall maintain a current list of
14 approved accredited colleges.

15 (b) In addition to the educational requirements provided in
16 paragraph (a) of this subsection (1), the applicant shall have
17 served at least one year as a mortuary science trainee in
18 Colorado, under at least one licensed practitioner, and shall
19 have assisted in the preservation or disinfection of at least
20 twenty-five bodies for final disposition and in conducting at
21 least twenty-five funerals.

22 (2) Each applicant for a license to practice mortuary
23 science shall be examined orally and in writing on the following
24 subjects: Embalming and the related subject areas of restorative
25 art; microbiology; pathology; anatomy; and the laws and
26 regulations of this state applicable to the practice of mortuary
27 science.

1 (3) All licensees who on December 31, 1967, held licenses
2 as embalmers only, may continue to renew such licenses annually.
3 All licensees who on December 31, 1967, held licenses as funeral
4 directors only, may continue to renew such licenses annually. On
5 and after December 31, 1967, separate licenses as embalmer or
6 funeral director shall not be issued, except as provided in this
7 section and except that a license for each shall be issued to
8 those trainees who have been registered under regulations and
9 have met all other requirements in effect prior to July 1, 1967.

10 (4) When required to determine the character of an
11 applicant under this section, the board shall be governed by the
12 provisions of section 24-5-101, C.R.S. 1973.

13 12-54-111. Mortuary science trainees. (1) Any person
14 desiring to become a mortuary science trainee shall make
15 application on a form provided for that purpose which shall be
16 subject to review by the entire board. The application shall
17 state that the applicant is at least eighteen years of age and
18 possesses a high school diploma or its equivalent. Said
19 application shall be sustained by the oath of the applicant and
20 be accompanied by the fee prescribed by this part 1. When the
21 board is satisfied as to the qualifications of an applicant, it
22 shall instruct the secretary to issue a certificate of
23 traineeship.

24 (2) When a trainee wishes to receive training from a
25 licensed practitioner, a request shall be submitted to the
26 secretary of the board therefor. If such permission is granted
27 and at any time thereafter such trainee leaves the preceptorship

1 of the licensee whose service he has entered, said licensee shall
2 give such trainee an affidavit showing the length of time served
3 with him which shall be filed with the secretary of the board and
4 made a matter of record in that office. If such trainee
5 subsequently seeks permission to continue training in this state,
6 a request for permission to do so shall be submitted to the
7 secretary.

8 (3) A certificate of traineeship shall be signed by the
9 mortuary science trainee, the preceptor, and the owner of the
10 establishment in which the preceptorship was served and shall be
11 renewed upon the payment on July 1 of each year of the prescribed
12 renewal fee, but such certificate may not be renewed more than
13 four times. The board shall mail, during the month of June of
14 each year, to each registered trainee at his last known address a
15 notice that the renewal fee is due and that, if not paid by the
16 first day of August, the penalty for the lapse in renewal will be
17 five dollars in addition to said renewal. The registration of
18 any trainee who is actually engaged in the military service of
19 the United States may be held in abeyance for the duration of
20 such service, and such person may be relieved of such renewal
21 fees and penalties as the board may deem justifiable and
22 expedient.

23 (4) All mortuary science trainees certified as provided in
24 this section shall be required to report to the board annually
25 upon forms provided by the board showing the work which has been
26 completed during the preceding year. The data contained in said
27 report shall be certified to as correct by the licensed

1 practitioner under whom he has served during such period and by
2 the licensed practitioner owning the funeral establishment.

3 (5) Before such trainee is eligible to receive a license
4 for the practice of mortuary science, evidence shall be presented
5 along with an affidavit from the licensee under whom the trainee
6 worked showing that he has assisted in the preservation or
7 disinfection of at least twenty-five bodies and has assisted in
8 conducting at least twenty-five funerals during traineeship. In
9 all applications of trainees for licenses for the practice of
10 mortuary science under this part 1, the eligibility of the
11 applicant shall be determined by the records filed with the
12 board.

13 (6) The board has the power to suspend or revoke a
14 certificate of a mortuary science trainee for violation of any
15 provision of this part 1.

16 (7) A mortuary science trainee who has allowed a
17 certificate of traineeship to lapse or who has had a resident
18 traineeship suspended or revoked may make application, within one
19 year after such lapse, suspension, or revocation, for
20 reregistration, but no more than two such reregistrations shall
21 be allowed by the board.

22 (8) Each preceptor for a mortuary science trainee shall be
23 actively connected with a funeral establishment.

24 (9) Any person who holds a mortuary science trainee
25 certificate shall be deemed to hold a certificate of traineeship
26 and shall receive credit for the obtaining of a license for the
27 practice of mortuary science for all of the time spent by such

1 person as an apprentice or trainee prior to July 1, 1978.

2 12-54-112. Authority and responsibility of licensee. (1)

3 Any licensed practitioner has the right to disinfect or preserve
4 a dead human body in any approved method which shall be one
5 generally recognized by members of the trade as being effective.
6 He shall also direct the final disposition of dead human bodies
7 and may maintain a funeral establishment for the preparation and
8 disposition or for the care of dead human bodies and, in
9 connection with his name or the name of his funeral
10 establishment, may use the words "mortician", "funeral director",
11 "undertaker", or any word of similar meaning as may be approved
12 by the board.

13 (2) All disinfection and preservation of dead human bodies
14 shall be performed only by licensed practitioners, or mortuary
15 science trainees operating under the supervision of a licensed
16 practitioner, or persons holding valid licenses as embalmers
17 before July 1, 1967.

18 (3) It is unlawful for any person engaged in the embalming
19 or preparation of a dead human body to admit or permit any person
20 to visit the embalming or preparation room during the time such
21 body is being embalmed or prepared for final disposition, unless
22 such person is a registered mortuary science trainee, holds a
23 license to practice mortuary science, is an authorized employee
24 of a funeral establishment, or has the written consent of the
25 next of kin of such deceased person or of a person having legal
26 authority to give such permission in the absence of any next of
27 kin, unless such admission is by virtue of an order of a proper

1 court or a public officer, including a board member or authorized
2 representative of the board, acting in the performance of his
3 official duties.

4 (4) All dead human bodies kept more than twenty-four hours
5 before final disposal shall be embalmed as prescribed in this
6 part 1 or shall be properly refrigerated. A dead human body
7 which is properly interred or cremated within twenty-four hours
8 of death shall not be subject to this part 1.

9 12-54-113. Licenses. (1) All licenses and registrations
10 are for three calendar years and shall automatically expire on
11 December 31 of the third year following the date of issuance. On
12 or before December 31, each licensee shall transmit to the
13 secretary of the board an application for renewal of said
14 license, together with the fee for such renewal as fixed by this
15 part 1. The license renewal shall be effective upon payment of
16 the required fee, unless such license has been revoked or
17 suspended or unless, upon notice and hearing as provided in this
18 part 1, just cause exists for revocation or suspension. An
19 applicant whose application for a license or renewal is refused
20 shall be entitled to a hearing by the board pursuant to section
21 24-4-105, C.R.S. 1973.

22 (2) The practice of mortuary science shall be conducted in
23 a fixed place or establishment, and no person, partnership,
24 corporation, association, society, or other organization shall
25 open in or maintain a place or establishment at which to engage
26 or conduct or hold itself out as engaging in the practice of
27 mortuary science unless a certificate of registration therefor

1 has been granted by the board. A license for the practice of
2 mortuary science shall be issued for a specific location only.
3 It shall be used only at the address specified in the application
4 unless the licensee is granted written approval for a change by
5 the board, but this provision shall not prevent a licensed
6 practitioner from conducting a funeral in another establishment
7 holding a certificate of registration pursuant to this part 1 nor
8 shall it prevent a licensed practitioner from conducting a
9 funeral at a church, home, public hall, lodge room, or cemetery
10 chapel if such licensed practitioner maintains a fixed place or
11 establishment of his own or is in the employ of a licensed
12 practitioner who operates a funeral establishment.

13 (3) The license shall be signed by the chairman and
14 secretary of the board and the seal of the board affixed thereto.
15 A license shall be issued or renewed for a period of three years
16 and all licenses and renewals thereof shall expire and terminate
17 December 31 in the third year after the issuance unless sooner
18 revoked.

19 (4) Any licensed practitioner may have the same renewed for
20 a three-year period by making and filing with the secretary of
21 the board an application therefor within thirty days preceding
22 the expiration of his license upon forms provided by the board
23 and upon payment of the prescribed renewal fee. Upon application
24 for renewal of such license, the applicant shall furnish evidence
25 of having completed thirty contact hours (three continuing
26 education units) within the three previous calendar years. The
27 units shall be in activities approved by the board as established

1 by regulation. Any person neglecting or failing to have his
2 license renewed may have the same renewed, at the discretion of
3 the board, by making application therefor during the ninety days
4 immediately following the expiration date and upon the payment of
5 a renewal fee, along with satisfactory evidence of completion of
6 the continuing education requirements. The license of any
7 licensee who is actively engaged in the military service for the
8 United States shall be held in abeyance for the duration of such
9 service, and such person shall be relieved of the payment of such
10 renewal fees as the board may deem justifiable and expedient.

11 (5) Any licensed practitioner holding a license on July 1,
12 1978, shall be deemed to be in compliance with this part 1 and
13 shall not be required to make new application or submit to a new
14 examination.

15 (6) Applications for a certificate of registration shall be
16 made on blanks furnished by the board and filed with the board on
17 or before July 1 of each year and shall be accompanied by the
18 prescribed fee. All such certificates shall expire on June 30 of
19 each year.

20 12-54-114. Reciprocity. The board, subject to the
21 provisions of this part 1 and rules of the board promulgated
22 thereunder, prescribing the qualifications for a license to
23 practice mortuary science, may recognize, after examination by
24 this board, a license to practice mortuary science issued by the
25 proper authorities of any other state or political subdivision of
26 the United States or province of Canada, upon submission of
27 evidence satisfactory to the board that such other state or

1 political subdivision of the United States or province of Canada
2 maintains a system and standard of qualifications and examination
3 for a license to practice mortuary science which is the
4 equivalent to those required by this state, and may issue such
5 license to practice mortuary science in Colorado; but said
6 applicant for reciprocal license shall prove to the members of
7 the Colorado board that he is familiar with the laws, rules, and
8 regulations governing such licenses in Colorado.

9 12-54-115. Fees. A fee, to be established by the board,
10 shall accompany the application to take the mortuary science
11 examination. The renewal fee for a license for a mortuary
12 science practitioner, or for an embalmer's or funeral director's
13 license, shall be in such amount as is set by the board. The
14 reciprocity fee shall be established by the board. The annual
15 mortuary science trainee fee shall be five dollars. The annual
16 certificate of registration fee shall be twenty-five dollars.
17 Reinstatement shall act as a renewal of all privileges and
18 obligations provided for in this part 1 and the rules and
19 regulations of the board. Applications for reinstatement shall
20 be submitted to the board in writing. The fee for reinstatement
21 shall be twenty-five dollars, plus the renewal fee for each
22 license applied for.

23 12-54-116. Disposition of fees. All fees prescribed in
24 this part 1 shall be collected by the board and transmitted to
25 the state treasurer, who shall credit the same to the general
26 fund. The general assembly shall make annual appropriations from
27 the general fund for expenditures of the board incurred in the

1 performance of its duties under this part 1, which expenditures
2 shall be made out of such appropriations upon vouchers and
3 warrants drawn pursuant to law.

4 12-54-117. Revocation or suspension. (1) No action to
5 suspend, revoke, or cancel any license or certificate of
6 registration or traineeship or to reprimand any licensed
7 practitioner or mortuary science trainee shall be taken by the
8 board until the accused or his counsel has been furnished with a
9 statement of the charges against him and a notice of the time and
10 place of hearing thereof, furnished at least ten days prior to
11 the date of the hearing. Any hearing held under this part 1
12 shall comply with the provisions of section 24-4-105, C.R.S.
13 1973. If the board, at said hearing, finds the charges are true,
14 it may revoke or suspend the license, certificate of traineeship,
15 or certificate of registration of the accused or may issue a
16 reprimand. A stenographic report of such proceeding shall be
17 made at the expense of the board and a transcript thereof kept in
18 its files. Any person aggrieved by a decision may appeal to the
19 district court of the county in which his place of business is
20 located, pursuant to section 24-4-106, C.R.S. 1973.

21 (2) In case of the revocation or suspension of the
22 registration of a funeral establishment or the issuance of a
23 reprimand concerning a funeral establishment, all notices
24 required under this part 1 shall be served on the individual
25 owner. If the owner is a corporation, association, or
26 partnership, service of all notices required under this part 1
27 shall be completed by serving one of the partners of the

1 partnership or one of the principal officers of the corporation
2 or association.

3 (3) The board may suspend or revoke a license, a
4 certificate of traineeship, or a certificate of registration or
5 may issue a reprimand if it finds that the holder of such license
6 or certificate:

7 (a) Is guilty of fraud or misrepresentation in making
8 application to the board;

9 (b) Has secured a license or certificate by means of fraud
10 or misrepresentation;

11 (c) Has been convicted of a felony or of a crime involving
12 moral turpitude;

13 (d) Is found guilty of violating any of the provisions of
14 this part 1 or the rules and regulations made under this part 1;

15 (e) Has been or is guilty of unprofessional conduct;

16 (f) Is found guilty of solicitation of dead human bodies by
17 himself, or with his knowledge, by his agents, assistants, or
18 employees, whether such solicitation occurs after death or while
19 death is impending; but this section shall not prohibit general
20 advertising, mortuary visitations, or public relations efforts.

21 (4) For the purposes of paragraph (e) of subsection (3) of
22 this section, unprofessional conduct is to be construed as that
23 breach of confidence and performance that any reasonable consumer
24 expects from a licensed practitioner in this state and is further
25 defined to include, but is not limited to, the following:

26 (a) Conviction of a felony;

27 (b) Misrepresentations made or fraud committed as a

1 licensed practitioner;

2 (c) False or misleading advertising as a licensed
3 practitioner, advertising or using the name of an unlicensed
4 person in connection with that of any funeral establishment, or
5 violating any of the regulations relating to the "truth in
6 advertising" regulations promulgated by the board;

7 (d) Solicitation of dead human bodies by the licensee or
8 his agents, assistants, or employees, whether such solicitation
9 occurs after death or while death is impending, but this shall
10 not be deemed to prohibit general advertising;

11 (e) Employment by the licensee of persons known as
12 "cappers", or "steerers", or "solicitors", or other such persons
13 to obtain the services of a licensed practitioner;

14 (f) Employment directly or indirectly of any apprentice,
15 agent, assistant, employee, or other person, on part- or
16 full-time or on commission, for the purpose of calling upon
17 individuals or institutions by whose influence dead human bodies
18 may be turned over to a particular funeral establishment;

19 (g) The direct or indirect payment or offer of payment of a
20 commission by the licensee or his agents, assistants, or
21 employees for the purpose of securing business;

22 (h) Aiding or abetting an unlicensed person, except a
23 mortuary science trainee, to practice mortuary science;

24 (i) Solicitation or acceptance by a licensee of any
25 commission or bonus or rebate in consideration of recommending or
26 causing a dead human body to be disposed of in any crematory,
27 mausoleum, or cemetery;

(j) Violation of any of the provisions of this part 1;

(k) Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care, transportation, or final disposition of dead human bodies;

(l) Fraud or misrepresentation in obtaining or renewing a license;

(m) Refusing to promptly and properly release a dead human body to the custody of the person or entity who has the legal right to effect such release if the authorized cost has been paid;

(n) Failure to secure permit for removal or burial or cremation of a dead human body prior to interment or disposal;

(o) Knowingly making any false statement on a certificate of death;

(p) Violation of any statutes of this state having to do with the prearrangement or prefinancing of a funeral;

(q) Discriminating in services because of race, creed, color, or national origin;

(r) Permitting nonmortuary science licensees to make arrangement for a funeral prior to need or at need without proper supervision.

(5) The board, after hearing and a determination by the board that the conditions for suspending a license, certificate of traineeship, or certificate of registration no longer exist, may reinstate such license or certificate.

12-54-118. Unlawful acts. (1) It is unlawful:

(a) For any licensed practitioner to disinfect or preserve

1 or to make final disposition of a dead human body when any fact
2 within his knowledge or brought to his attention is sufficient to
3 arouse a suspicion of crime in connection with the cause of death
4 of the deceased until the permission of the coroner, deputy
5 coroner, or district attorney, if there is no coroner, has been
6 first obtained;

7 (b) For any transportation company to receive for
8 transportation and shipment any dead human body unless said body
9 has been prepared by a licensed practitioner and said body is
10 accompanied by a removal or forwarding permit, but nothing in
11 this part 1 shall be so construed as to prevent the forwarding of
12 dead bodies intended for use for anatomical purposes within this
13 state when the same are so designated by the person forwarding
14 the body;

15 (c) For any person to practice the profession of mortuary
16 science, or to profess to practice such profession, or hold
17 himself out to the public as practicing such profession without
18 being the holder of a license issued under this part 1;

19 (d) For any licensed funeral director, embalmer, or
20 mortuary science practitioner to conduct funeral arrangements for
21 the care and disposition of the body of a deceased person without
22 informing the person making such arrangements at the time they
23 are made that he may have, at that time, if he wishes, a written
24 statement which includes an itemized listing of the services and
25 merchandise to be provided, together with the accompanying prices
26 for each such service and article of merchandise, insofar as the
27 same can be specified at that time;

1 (e) For any funeral establishment, funeral branch
2 establishment, or funeral director licensed under this part 1 to
3 discriminate in services because of race, creed, color, or
4 national origin;

5 (f) For any public officer or employee, official of any
6 public institution, physician, surgeon, or other person having a
7 professional relationship with any decedent to send or cause to
8 be sent to any funeral establishment or to any licensed
9 practitioner the remains of any deceased person without having
10 first made due inquiry as to the desires of the next of kin and
11 of the persons who may be chargeable with the funeral and
12 expenses of such decedent. If any such kin be found, his
13 authority and directions shall govern.

14 (g) For any company, corporation, or association engaged in
15 the business of paying or providing for the payment of the
16 expenses of the funeral, disposition, or other similar expenses
17 of deceased members or of certificate holders therein or engaged
18 in the business of providing any insurance upon the life of any
19 individual under which any obligation might or could arise to
20 care for the remains of the insured to contract to pay or pay any
21 such insurance or such benefits, or any part of either such
22 insurance or benefits, to any funeral establishment or to any
23 licensee or to any individual in any manner which might or could
24 deprive the representative, next of kin, or family of such
25 deceased person from or in any way control them or any of them in
26 procuring such funeral establishment, licensed practitioner, or
27 other proper and competent person to perform such necessary and

1 proper service and to furnish supplies as may be necessary and
2 proper to care for the remains of such decedent as such
3 representative, next of kin, or family may desire;

4 (h) For any licensed practitioner or anyone acting for him
5 to have any part in a transaction or business which in any way
6 interferes with the freedom of choice of the general public to
7 choose a licensed practitioner or to choose a funeral
8 establishment except where the body or part thereof is given for
9 anatomical purposes;

10 (i) To transport or otherwise transfer by common carrier
11 any dead human body within or out of the state of Colorado unless
12 said body has been prepared by a mortuary science practitioner
13 licensed in Colorado.

14 12-54-119. Violations and penalties. Any violation of any
15 of the provisions of this part 1 is a misdemeanor, and, upon
16 conviction thereof, the person so convicted shall be punished by
17 a fine of not more than one thousand dollars or by imprisonment
18 in the county jail for not more than six months or by both such
19 fine and imprisonment.

20 12-54-120. Exceptions. (1) No provision of this part 1
21 shall apply to, or in any way interfere with, the duties of any
22 officer of any public institution, nor with the duties of any
23 officer of a medical college, county medical society, anatomical
24 association, college of embalming, or any other recognized person
25 in carrying out the provisions of the sections of the statutes of
26 the state of Colorado prescribing the conditions under which
27 indigent dead human bodies are held subject for scientific or

1 anatomical study.

2 (2) This part 1 shall not apply to, nor in any way
3 interfere with, any custom or rite of any religious sect in the
4 burial of its dead, and the members and followers of such
5 religious sect may continue to care for, prepare, and bury the
6 bodies of deceased members of such religious sect, free from any
7 term or condition, or any provision of this part 1, and the
8 persons caring for and preparing for disposal of such bodies need
9 not be licensed and are not subject to this part 1.

10 12-54-121. Funeral service practices. (1) The personnel
11 of a funeral establishment whose services are desired shall make
12 every reasonable attempt to fulfill the needs and desires of the
13 deceased and the arrangers both as to services and merchandise,
14 and a full disclosure of all its available services and
15 merchandise should be made to the arrangers prior to selection of
16 the casket.

17 (2) Before the arrangers select the funeral, the personnel
18 of the mortuary shall provide an itemized list of what is
19 included in the funeral as well as the prices of all available
20 funerals at that mortuary. Full disclosure shall also be made in
21 the case of a memorial service and as to use of funeral
22 merchandise and facilities applicable thereto.

23 (3) Any statements of legal requirements shall be complete
24 and factual, as well as statements as to the conditions under
25 which embalming is required or advisable. Representations as to
26 the use of a casket or other receptacle and the necessity, if
27 any, of an interment receptacle in connection with a funeral or

1 an alternate thereto or for final disposition shall be truthful
2 and shall disclose all pertinent information.

3 (4) When quoting funeral prices, either orally, by use of a
4 disclosure statement, or by a final bill, the funeral home,
5 through its authorized representative, shall only list those
6 items as cash advances or accommodation items which are paid for
7 or could be paid for by the family in the same amount which is
8 paid by the funeral home including discounts and rebates.

9 (5) There shall be posted in each funeral establishment a
10 notice advising consumers where complaints relating to the
11 conduct of the funeral establishment or of the licensed
12 practitioner may be filed, including a telephone number. Such
13 notice shall be located in a prominent place in the funeral
14 establishment and shall be of sufficient type size to be clearly
15 legible at a distance of five feet.

16 (6) Documents and papers concerning the operation of a
17 funeral establishment and the final disposition of any deceased
18 shall be retained by the funeral establishment for a period of
19 seven years.

20 SECTION 2. 24-34-104 (4) (b), Colorado Revised Statutes
21 1973, as amended, and as further amended by Session Laws of
22 Colorado 1977, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH
23 to read:

24 24-34-104. General assembly review of regulatory agencies
25 for termination, continuation, or reestablishment.

26 (4) (b) (XIII) Board of mortuary science, created by section
27 12-54-104, C.R.S. 1973.

1 SECTION 3. Repeal. 24-34-104 (2) (b) (V), Colorado Revised
2 Statutes 1973, as amended, is repealed.

3 SECTION 4. Effective date. This act shall take effect July
4 1, 1978.

5 SECTION 5. Safety clause. The general assembly hereby
6 finds, determines, and declares that this act is necessary for
7 the immediate preservation of the public peace, health, and
8 safety.

COMMITTEE ON HEALTH, ENVIRONMENT,
WELFARE, AND INSTITUTIONS
BILL NO. 4

A BILL FOR AN ACT

1 ENACTING A PROGRAM FOR PERINATAL CARE FOR THE MEDICALLY INDIGENT,
2 AND MAKING AN APPROPRIATION THEREFOR.

Bill Summary

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

Establishes a program providing perinatal care for medically indigent residents of the state, including local determination of eligibility, specification of services to be reimbursed, and formation of a local supervisory committee to oversee the program. Makes an appropriation to the department of health for implementation of the program.

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

4 SECTION 1. Title 26, Colorado Revised Statutes 1973, as
5 amended, and as further amended by Session Laws of Colorado 1977,
6 is amended BY THE ADDITION OF A NEW ARTICLE to read:

7 ARTICLE 4.1

8 Perinatal Care for the

9 Medically Indigent

10 26-4.1-101. Legislative declaration. In enacting this
11 article the general assembly intends to encourage early prenatal
12 care and thereby prevent health problems from occurring later in

1 pregnancy and to make available perinatal care at the most
2 appropriate level in the closest proximity, particularly in
3 sparsely populated rural areas of this state, for the medically
4 indigent residents of this state in order to further the public
5 health and welfare. In so doing the general assembly also
6 recognizes that the financial impact of high-risk pregnancy and
7 excess prematurity is great, both on the state and its citizens,
8 and that perinatal care rendered to the medically indigent who
9 might not otherwise receive such care is one means of alleviating
10 the burdens created by such pregnancy and prematurity. The
11 general assembly further intends that in implementing a program
12 for perinatal care for the medically indigent procedures be
13 developed to maximize cost containment through the utilization of
14 services at the most appropriate level of care, including the use
15 of minimum care facilities and home health care services. It is
16 the intent of the general assembly that the objectives of this
17 article be accomplished through the combined efforts of the
18 various state and local agencies charged with responsibilities by
19 this article in cooperation with private individuals and
20 organizations offering perinatal health care services.

21 26-4.1-102. Definitions. As used in this article, unless
22 the context otherwise requires:

23 (1) "Department" means the department of health.

24 (2) "Local supervisory committee" means the committee
25 established pursuant to section 26-4.1-106.

26 (3) "Medically indigent" means those persons who are
27 residents of Colorado, whose income falls within the parameters

1 set forth in the most recently promulgated Colorado general
2 hospital inpatient and outpatient ability to pay scale, who are
3 not eligible under the federally assisted programs of medicare
4 (Title XVIII), medicaid (Title XIX), and champus, for whom there
5 is no legal entitlement to third-party coverage, and whose income
6 is insufficient to pay for necessary perinatal care.

7 (4) "Participant" means an applicant who has been
8 determined eligible as provided by the local supervisory
9 committee.

10 (5) "Perinatal" means the period from conception to
11 twenty-eight days after birth.

12 (6) "Provider" means any health care provider in this state
13 offering health care services that is licensed, certified, or in
14 any way regulated by the state.

15 (7) "Public health agency" means the county or district
16 department of health, a public health nurse, or any other public
17 health officer in the county charged with the administration of
18 public health programs.

19 (8) "Third-party coverage" means benefits payable under
20 contract or by law for health care services relating to perinatal
21 care by a person other than the recipient of such services,
22 including but not limited to benefits payable under private
23 health insurance.

24 26-4.1-103. Services available under program - department
25 of health to regulate. (1) Services which shall be reimbursed
26 under the program established by this article shall include
27 prenatal examinations by or under the supervision of a licensed

1 physician, laboratory work and tests excluding those routine
2 tests available without charge through the department or a local
3 public health source, up to two days' hospitalization for mother
4 and infant in an uncomplicated delivery, delivery of the infant,
5 three physician visits to the newborn infant in the hospital, a
6 one-time postpartal visit for the mother, no more than fifty
7 percent of the state's share of emergency transportation costs
8 during pregnancy and up to six weeks after delivery, transfer of
9 the mother or newborn infant between institutional providers, and
10 necessary board, lodging, and transportation of identified
11 high-risk participants prior to delivery when a medical
12 determination has been made that problems exist that may
13 complicate delivery.

14 (2) The department shall promulgate rules and regulations
15 to aid in the determination of payment for the type of pregnancy,
16 including uncomplicated pregnancy, with adjustments for
17 complications involving maternal risks and risks for the fetus or
18 newborn; adjusted length of hospital stay for other than
19 uncomplicated deliveries; services required for perinatal care;
20 emergencies requiring transportation of the mother or infant, or
21 both, to another provider; and continuous hospitalization
22 associated with problems of birth requiring neonatal care. Such
23 rules and regulations shall be substantially in accordance with
24 the standards established by the professional standards review
25 organization in this state.

26 26-4.1-104. Eligibility determination - change of
27 circumstances - appeal. (1) The local supervisory committee

1 shall be responsible for determination of each applicant's
2 eligibility and shall verify, independently of the applicant's
3 representations, that such applicant is eligible, and the local
4 supervisory committee may contract with any competent person or
5 agency to perform such determination and verification. When an
6 applicant has been determined eligible for participation in the
7 program established by this article, the local supervisory
8 committee shall forward to the department the participant's name.
9 The local supervisory committee shall issue to each participant
10 an identification card, bearing the participant's photograph,
11 which shall be dated to show the commencement of participation in
12 the program established by this article.

13 (2) (a) If, at any time during participation in the program
14 established by this article, the participant knowingly acquires
15 any property or receives any increase in income or property, or
16 both, in excess of that declared at the time of determination of
17 eligibility, or if there is any other change in circumstances
18 affecting the participant's eligibility, it is the duty of the
19 participant to notify the local supervisory committee within
20 thirty days in writing of the acquisition of such property,
21 receipt of such income, or change in circumstances, and any
22 participant who knowingly fails to do so is guilty of a
23 misdemeanor and, upon conviction thereof, shall be punished by a
24 fine of not more than seven hundred fifty dollars, or by
25 imprisonment in the county jail for not more than six months, or
26 by both such fine and imprisonment. Any participant who
27 deliberately changes her third-party coverage in order to
28 decrease the liability for payment under such coverage is guilty

1 of a misdemeanor and, upon conviction thereof, shall be punished
2 as provided in this paragraph (a).

3 (b) The local supervisory committees shall use an
4 application form which contains appropriate and conspicuous
5 notice of the penalties for fraud and shall deliver to each
6 participant a notice explaining what changes in circumstances
7 require written notification to the local supervisory committee
8 under paragraph (a) of this subsection (2). The local
9 supervisory committees shall make available suitable forms which
10 may be used for purposes of this notification, and any local
11 supervisory committee representative receiving oral information
12 of the kind specified in this subsection (2) shall assist the
13 recipient in completing the required written notification.

14 (c) Additional costs incurred by district attorneys in
15 enforcing this subsection (2) shall be billed to the department
16 in the proportion to each county as specified in section
17 20-1-302, C.R.S. 1973, and the department shall pay such costs as
18 an expense of public assistance administration.

19 (3) A nonrefundable fee, not to exceed fifteen dollars for
20 each separate application, shall be charged by the local
21 supervisory committee to provide for the administrative costs of
22 the local supervisory committee in verifying the eligibility of
23 the applicant.

24 (4) (a) (I) If an application is not acted upon by the
25 local supervisory committee within two weeks after filing of the
26 same, or if an application is denied in whole or in part, or if
27 benefits are suspended, terminated, or modified, the applicant or

1 participant, as the case may be, may appeal to the department in
2 the manner and form prescribed by the rules and regulations of
3 the department.

4 (II) Upon receipt of an appeal, the department shall give
5 the appellant at least ten days' notice and an opportunity for a
6 fair hearing in accordance with the rules and regulations of the
7 department. Any such fair hearing shall comply with section
8 24-4-105, C.R.S. 1973, and the department's hearing officer shall
9 preside.

10 (III) The appellant shall have an opportunity to examine
11 all applications and pertinent records concerning said appellant
12 which constitute a basis for the denial, suspension, termination,
13 or modification of benefits.

14 (b) Upon its own motion, the department may review any
15 decision of a local supervisory committee and may consider any
16 application upon which a decision has not been made by the local
17 supervisory committee within the time specified in paragraph (a)
18 of this subsection (4). The department may make such additional
19 investigation as it deems necessary and shall make such decision
20 as to the granting of benefits and the amount thereof as in its
21 opinion is justifiable pursuant to the provisions of this article
22 and the rules and regulations of the department. Applicants or
23 participants affected by such decisions of the department, upon
24 request, shall be given reasonable notice and opportunity for a
25 fair hearing by the department.

26 (c) All decisions of the department shall be binding upon
27 the local supervisory committee involved and shall be complied

1 with by such local supervisory committee.

2 26-4.1-105. Charges - payment - administration of state
3 payment - limitation. Charges for perinatal care shall be based
4 on the medicaid reimbursement rates. The local supervisory
5 committee shall determine the participant's ability to pay for
6 such care, if any, based on the graduated recipient schedule
7 established by the department. Of the charges not attributable
8 to the participant, the state shall pay no more than eighty
9 percent and the local contribution shall be no less than twenty
10 percent, which shall be paid directly to the vendor of the
11 services rendered. The department shall establish a graduated
12 recipient fee schedule, in conformance with the income
13 requirements of the Colorado general hospital ability to pay
14 scale, shall administer the payment of the state contribution,
15 and shall provide, by rule and regulation, for the maximum
16 coordination of benefits. Charges incurred by individuals
17 assigned as charitable contributions under the provisions of the
18 federal "Hospital Survey and Construction Act", as amended, shall
19 not be represented as a charge to the program established by this
20 article. Only providers shall be eligible to participate in the
21 program established by this article, except that of hospitals
22 only public and private nonprofit hospitals shall be deemed
23 providers.

24 26-4.1-106. Local supervisory committee - duties and
25 responsibilities. (1) A local supervisory committee shall be
26 established in each county to oversee the administration of the
27 program established by this article, including determination of

1 eligibility as provided in section 26-4.1-104, and to insure
2 maximum coordination of services provided pursuant to such
3 program. The local supervisory committee shall consist of one
4 member representing the local department of social services to be
5 appointed by the director of said local department, one member
6 representing the public health agency to be appointed by the
7 director of such agency, one county commissioner to be appointed
8 by the board of county commissioners, one representative from
9 each participating institutional provider to be appointed by such
10 provider, one physician licensed to practice in this state, to be
11 appointed by the county medical society, if any, no less than two
12 members having no affiliation with or interest in any group
13 otherwise represented on the local supervisory committee to be
14 appointed by the director of the public health agency, and, in
15 counties in which a municipality operates a public hospital, a
16 member representing the governing body of such municipality.

17 (2) In addition to the duties prescribed in subsection (1)
18 of this section, the local supervisory committee shall report at
19 least quarterly to the public health agency and the department
20 regarding the functioning of the program and any suspected abuses
21 of such program. No later than January 1, 1979, the local
22 supervisory committee shall make an inventory of all resources
23 available in the county or region from any source which may be
24 available to participants in the program.

25 (3) Two or more counties in proximity may combine to form a
26 regional supervisory committee, adjusting the membership of such
27 committee so that each county is adequately represented, as each

1 public health agency may agree.

2 26-4.1-107. Public health agency duties. The public health
3 agency in each county shall publicize the availability of the
4 program established by this article to potential participants and
5 shall seek the participation of all providers in the program. In
6 addition the public health agency shall provide information on
7 resources currently available in the county.

8 SECTION 2. 25-1-107 (1), Colorado Revised Statutes 1973, as
9 amended, and as further amended by Session Laws of Colorado 1977,
10 is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

11 25-1-107. Powers and duties of the department. (1) (y) To
12 promulgate rules and regulations concerning prenatal and
13 perinatal care for the medically indigent as specified in article
14 4.1 of title 26, C.R.S. 1973.

15 SECTION 3. Appropriation. There is hereby appropriated,
16 out of any moneys in the general fund not otherwise appropriated,
17 to the department of health, for the fiscal year commencing July
18 1, 1978, the sum of _____ dollars (\$), or so much
19 thereof as may be necessary, for the implementation of this act,
20 but of the sum appropriated, no more than _____ dollars
21 (\$) may be used for administration of the program.

22 SECTION 4. Safety clause. The general assembly hereby
23 finds, determines, and declares that this act is necessary for
24 the immediate preservation of the public peace, health, and
25 safety.