
APPENDIX H

SAMPLE CLAUSES: AGENCY RULE-MAKING AUTHORIZED

I. Broad Rule-making Authority

A. (Example Based on PUC Rule-making Provision)

40-2-XXX. Rules. The commission shall promulgate such rules as are necessary for the proper administration and enforcement of this title and shall furnish, without charge, copies of the appropriate rules and regulations to each public utility under its jurisdiction and, upon request, to any public officer, agency, political subdivision, association of officers, agencies, or political subdivisions and to any representative of twenty-five or more consumers. The commission shall be governed by the provisions of article 4 of title 24, C.R.S., for the promulgation and adoption of rules and regulations; except that, notwithstanding any provision of the said article 4 of title 24, C.R.S., to the contrary, the commission shall issue a decision whenever it adopts rules or regulations in accordance with this section.

B. (Example Based on Department of Revenue Rule-making Provision)

39-23.5-XXX. Administration by department - action for collection of tax - appeals - limitations. (1) The department is charged with the administration and enforcement of this article and may promulgate such rules as may be required to effectuate the purposes of this article. Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

C. (Example Based on Department of Institutions Rule-making Provision)

27-1-XXX. Employment of personnel. (6) The executive director may promulgate such rules as are necessary to implement the provisions of this section. Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

D. (Example Based on Department of Agriculture Rule-making Provision)

12-16-XXX. Administration - rules and regulations - delegation of duties. (1) The commissioner shall promulgate such rules in accordance with article 4 of title 24, C.R.S., as are necessary for the administration of this part 1.

II. Specific Rule-making Authority

A. (Example Based on Department of Social Services Rule-making Provision)

26-6-XXX. Standards for facilities and agencies. (1) (a) The department shall prescribe and publish minimum standards for licensing. Such standards shall be applicable to the various types of facilities and agencies for child care regulated and licensed by this article; except that the department shall prescribe separate standards for licensing of employer-sponsored on-site child care centers pursuant to paragraph (b) of this subsection (1). The department shall seek the advice and assistance of persons representative of the various types of child care facilities and agencies in establishing such standards. For employer-sponsored on-site child care centers, the department shall seek the advice and assistance of parents, providers, experts in the child care field, persons in the business community, and representatives of business, research, and advocacy organizations with an expertise and interest in child care. Such standards shall be established by rule of the executive director, and such rules shall be issued and published only in conformity with the provisions and procedures specified in article 4 of title 24, C.R.S., and shall become effective only as provided in said article.

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

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

(b) The character, suitability, and qualifications of the applicant for a license, either original or renewal, and of other persons directly responsible for the care and welfare of children served;

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

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

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

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

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

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

(i) Filing of reports with the department;

(j) Discipline of children; and

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

B. (Example Based Department of Administration Rule-making Provision)

24-30-XXX. Rules. (1) In order to carry out the purposes of this part 15, the state risk manager may promulgate reasonable rules governing the following:

- (a) The administration of the programs authorized in this part 15;
 - (b) The management and administration of the investigation and adjustment of claims brought against the state, its officials, and its employees and of claims of state agencies for loss or damage to state property;
 - (c) The management and administration of legal defense of claims brought against the state, its officials, and its employees;
 - (d) The general supervision of parties who have contracted with the state to provide claims investigation, claims adjustment, support services, or legal services;
 - (e) Specifications on documents required to present a claim for compromise or settlement;
 - (f) Specifications on documents required to discharge or hold harmless the state from liability under a claim;
 - (g) Standards for compromising and settling claims brought against the state or against a state official or employee whose defense has been assumed by the state.
- (2) Promulgation of the rules authorized by subsection (1) of this section shall be in accordance with article 4 of title 24, C.R.S.

C. (Example Based on Department of Human Services Rule-making Provision)

27-1-XXX. Rules. Pursuant to article 4 of title 24, C.R.S., the executive director of the department of human services shall promulgate such rules as are necessary to implement the procedures specified in sections 19-2-204, 19-2-701, 19-2-1103, 19-2-1104, 19-3-403, 19-3-506, 19-3-507, and 19-3-508, C.R.S., regarding children who are in detention or who are or may be mentally ill or who have or may have developmental disabilities.

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