

Department of Health Care Policy & Financing 1570 Grant Street Denver, CO 80203

October 1, 2021

Governor Jared Polis 136 State Capitol 200 E Colfax Avenue Denver, CO 80203

Dear Governor Polis:

Enclosed please find the Department of Health Care Policy & Financing and the Department of Public Health & Environment's (the Departments') legislative report on the Nursing Home Penalty Cash Fund (NHPCF).

Section 25-1-107.5, C.R.S. requires the Departments to jointly submit an annual report to the Governor, the Senate Health and Human Services Committee, and the House Public Health Care and Human Services Committee regarding the expenditure of moneys in the NHPCF for the purposes described in Section 25-1-107.5(4)(c)(II), C.R.S. The report shall detail the amount of moneys expended for such purposes, the recipients of the funds, and the effectiveness of the use of the funds, and any other information deemed pertinent by the Departments or requested by the Governor or the committees.

The NHPCF is managed in part by the Nursing Home Innovations Grant Board (the Board), which is comprised of ten members representing the nursing home community as outlined in SB 14-151. The Board solicits, reviews and recommends grants for funding from the NHPCF. The Departments are pleased to submit this report on behalf of the Board. The Departments are supportive of the culture change initiatives and appreciate the Board's work on this important issue. The report describes the goals, costs, and results of active grants in SFY 2020-21 funded from the NHPCF. These projects benefit nursing home residents by improving their quality of life, as authorized by the statute.

If you require further information or have additional questions, please contact the Department of Health Care Policy & Financing's Legislative Liaison, Jo Donlin, at 720-610-7795, or Randy Kuykendall, Director, Health Facilities and Emergency Medical Services Division, Department of Public Health & Environment, at 303.692.2945.



Sincerely,

Sincerely,

Gill Hunsaker Raw

Kim Bimestefer **Executive Director** Department of Health Care Policy and Financing

Jill Hunsaker Ryan **Executive Director** Department of Public Health and Environment

KB/KM

Enclosure(s): 2021 Nursing Home Penalty Cash Fund Report

CC: Elisabeth Arenales, Senior Health Policy Advisor, Governor's Office Legislative Council Library State Library

Tracy Johnson, Medicaid Director, HCPF

Tom Massey, Policy, Communications, and Administration Office Director, HCPF

Anne Saumur, Cost Control Office Director, HCPF

Bettina Schneider, Finance Office Director, HCPF

Bonnie Silva, Community Living Interim Office Director, HCPF

Parrish Steinbrecher, Health Information Office Director, HCPF

Rachel Reiter, External Relations Division Director, HCPF

Jo Donlin, Legislative Liaison, HCPF

Randy Kuykendall, Director, Health Facilities & Emergency Medical Services Division, **CDPHE**





Department of Health Care Policy & Financing 1570 Grant Street Denver, CO 80203

October 1, 2021

The Honorable Susan Lontine, Chair House Health and Insurance Committee 200 E. Colfax Avenue Denver, CO 80203

Dear Representative Lontine:

Enclosed please find the Department of Health Care Policy & Financing and the Department of Public Health & Environment's (the Departments') legislative report on the Nursing Home Penalty Cash Fund (NHPCF).

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Department of Health Care Policy and
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Jill Hunsaker Ryan Executive Director Department of Public Health and Environment

Gill Hunsaker Law

KB/KM

Enclosure(s): 2021 Nursing Home Penalty Cash Fund Report

Jo Donlin, Legislative Liaison, HCPF

CC: Representative Yadira Caraveo, Vice Chair, Health and Insurance Committee Representative Mark Baisley, Health and Insurance Committee Representative Ron Hanks, Health and Insurance Committee Representative Dominique Jackson, Health and Insurance Committee Representative Chris Kennedy, Health and Insurance Committee Representative Karen McCormick, Health and Insurance Committee Representative Kyle Mullica, Health and Insurance Committee Representative David Ortiz, Health and Insurance Committee Representative Matt Soper, Health and Insurance Committee Representative Brianna Titone, Health and Insurance Committee Representative Tonya Van Beber, Health and Insurance Committee Representative Dave Williams, Health and Insurance Committee Legislative Council Library State Library Bettina Schneider, Finance Office Director, HCPF Tracy Johnson, Medicaid Director, HCPF Bonnie Silva, Community Living Interim Office Director, HCPF Tom Massey, Policy, Communications, and Administration Office Director, HCPF Anne Saumur, Cost Control Office Director, HCPF Parrish Steinbrecher, Health Information Office Director, HCPF Rachel Reiter, External Relations Division Director, HCPF



Randy Kuykendall, Director, Health Facilities & Emergency Medical Services Division, CDPHE





Department of Health Care Policy & Financing 1570 Grant Street Denver, CO 80203

October 1, 2021

The Honorable Dafna Michaelson Jenet, Chair House Public & Behavioral Health and Human Services Committee 200 E. Colfax Avenue Denver, CO 80203

Dear Representative Michaelson Jenet:

Enclosed please find the Department of Health Care Policy & Financing and the Department of Public Health & Environment's (the Departments') legislative report on the Nursing Home Penalty Cash Fund (NHPCF).

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Department of Health Care Policy and
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Jill Hunsaker Ryan
Executive Director
Department of Public Health and
Environment

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KB/RC

Enclosure(s): 2021 Nursing Home Penalty Cash Fund Report

CC: Representative Emily Sirota, Vice Chair, Public & Behavioral Health and Human Services Committee

Representative Mary Bradfield, Public & Behavioral Health and Human Services Committee

Representative Lisa Cutter, Public & Behavioral Health and Human Services Committee

Representative Serena Gonzales-Gutierrez, Public & Behavioral Health and Human Services Committee

Representative Richard Holtorf, Public & Behavioral Health and Human Services Committee

Representative Iman Jodeh, Public & Behavioral Health and Human Services Committee

Representative Colin Larson, Public & Behavioral Health and Human Services Committee

Representative David Ortiz, Public & Behavioral Health and Human Services Committee

Representative Rod Pelton, Public & Behavioral Health and Human Services Committee

Representative Naquetta Ricks, Public & Behavioral Health and Human Services Committee

Representative Dan Woog, Public & Behavioral Health and Human Services Committee



Representative Mary Young, Public & Behavioral Health and Human Services Committee Legislative Council Library State Library

Tracy Johnson, Medicaid Director, HCPF
Tom Massey, Policy, Communications, and Administration Office Director, HCPF
Bettina Schneider, Finance Office Director, HCPF
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Jo Donlin, Legislative Liaison, HCPF

Randy Kuykendall, Director, Health Facilities & Emergency Medical Services Division, CDPHE





Department of Health Care Policy & Financing 1570 Grant Street Denver, CO 80203

October 1, 2021

The Honorable Rhonda Fields, Chair Senate Health and Human Services Committee 200 E. Colfax Avenue Denver, CO 80203

Dear Senator Fields:

Enclosed please find the Department of Health Care Policy & Financing and the Department of Public Health & Environment's (the Departments') legislative report on the Nursing Home Penalty Cash Fund (NHPCF).

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Department of Health Care Policy & Financing

Jill Hunsaker Ryan **Executive Director** Department of Public Health & Environment

Gill Hunsaker Kyan

KB/RC

Enclosure(s): 2021 Nursing Home Penalty Cash Fund Report

CC: Senator Joann Ginal, Vice Chair, Health and Human Services Committee Senator Janet Buckner, Health and Human Services Committee Senator Sonya Jaquez Lewis, Health and Human Services Committee Senator Barbara Kirkmeyer, Health and Human Services Committee Senator Cleave Simpson, Health and Human Services Committee Senator Jim Smallwood, Health and Human Services Committee Legislative Council Library

State Library

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Randy Kuykendall, Director, Health Facilities & Emergency Medical Services Division, **CDPHE**



Nursing Home Penalty Cash Fund Expenditure Report State Fiscal Year (SFY) 2020-2021

Introduction

A Civil Money Penalty (CMP) is a monetary penalty imposed on nursing facilities by the Centers for Medicare and Medicaid Services (CMS). Penalties are imposed following survey findings in which a facility is found to be out of compliance with one or more participation requirements for Medicare or Medicaid. A portion of collected CMPs are returned to the States to be reinvested in projects that benefit nursing facility residents. Colorado's Nursing Home Penalty Cash Fund (cash fund) comprises the State portion of CMP funds and interest income on the cash fund. The Colorado Department of Public Health and Environment (CDPHE) is the single state survey agency responsible for facility surveys and imposition of CMPs. The Department of Health Care Policy and Financing (HCPF) manages these funds according to Federal regulation and State statute.

Spending Authorities

Federal Regulations¹ limit the use of these funds to activities that protect or improve the quality of care for nursing home residents including:

- (a) Support and protection of residents of a facility that closes.
- (b) Time-limited expenses incurred in the process of relocating when a facility is closed or downsized.
- (c) Projects that support resident and family councils and other consumer involvement in assuring quality care in facilities.
- (d) Facility improvement initiatives approved by CMS.
- (e) Development and maintenance of temporary management or receivership capabilities.

In 2014, Senate Bill 14-151 established the Nursing Home Innovations Grant Board (the Board) to replace the Nursing Facility Culture Change Accountability Board established by House Bill 09-1196 in 2009. The Bill established funding maximums and expanded the time-period for which a project could be funded to three years.

In 2019, in response to the growing balance of the fund and changes in Federal Guidance, Senate Bill 19-254 lifted the funding maximum. Prior to the COVID-19 pandemic, CMS had expressed that States should work towards making 50% of the fund available for grant making.

¹ 42 CFR § 488.433 Civil money penalties: Uses and approval of civil money penalties imposed by CMS

In 2021, Senate Bill 21-128 transitioned primary grant making authority to CDPHE and adjusted administrative expense caps in order to improve State and Federal alignment as well grant-making efficiency.

Recovery of Emergency Expenditures

On February 11, 2020, CDPHE issued a summary suspension of the nursing home license for Union Printers Home in Colorado Springs. The following day a temporary license was issued to a receivership for the purposes of closing the building and safely relocating residents of that facility. CDPHE and HCPF sought and received Federal approval to utilize CMP funds for the purposes of operating the receivership and safely relocating residents and their possessions to new homes of their choosing. The initial appropriation of funds provided operating expenses to the receiver necessary to ensure the continuation of services to the residents of Union Printers Home.

Under supervision from CDPHE and HCPF, the receivership successfully transferred all residents from the home by March 27, 2020 without incident. CDPHE and HCPF issued \$1,043,230.19 in CMP funds to manage the closure and transition residents to new homes. In SFY 2021 HCPF was able to refund \$938,360.44 in recaptured Medicaid, Medicare, and private insurer revenues. This represents 90% of the initial costs related to closure and resulted in a net cost of \$104,869.44 charged to the emergency portion of the fund.

Nursing Home Innovations Grant Board Activities

SFY 2021 began in the midst of the COVID-19 pandemic. Ongoing Cycle 11 grants and the implementation of Cycle 12 grants were delayed to allow facilities to focus on infection control and comply with associated emergency measures. Additionally, CMS put a hold on reviewing grant proposals unrelated to the pandemic. The Board established applications and reviews for emergency grants aimed at improving access to safe communication and visitation with friends and family and reworked existing grants approvals to accommodate recipients dealing with the impact to COVID-19.

Additionally, the Board continued board member training in compliance with House Bill 18-1198. The SFY 2021 Nursing Home Innovations Grant Board roster is attached. The Board is currently seeking applications for one vacancy who must be a resident of a nursing home, or a family member of a nursing home resident, one member of the business community, and one person employed in a Long Term Care Facility and is in the process of recommending two other transitioning seats for appointment.

COVID-19 related grants

In March 2020, in response to the COVID-19 pandemic, the Board recognized a need to mitigate isolation in Colorado Nursing Homes. Following discussion with CMS, the Board secured approval for up to \$700,000 towards the purchase of communication devices for every nursing home in the State. Facilities were given the opportunity to purchase laptops and/or tablets capable for video conferencing solely for resident usage. Every facility in the State was given the opportunity to purchase up to \$3000 in equipment and disinfectant supplies. 147 facilities have utilized these funds in FY 2020 and 2021, all expenditures were applied to the 2021 FY balance.

In September 2020, an additional \$3000 per facility was made available to purchase tents and plastic dividers aimed at accommodating safe outdoor visitation. 35 facilities utilized these funds in FY 2021. The Board worked to expand awareness of the opportunity as well as reviewed and approved applications throughout the year.

Grants Awarded and Funding Expended

The Board continues to receive and review applications from various organizations in Colorado including consultants, charitable organizations, nursing home providers, management companies, higher education organizations, government subdivisions, and others. Upon project approval, the Board members review deliverables and assist grantees in coordinating projects. Board members perform onsite visits or in-person meetings with the grant recipient organization. Project results are made publicly available through the HCPF website. In SFY 2021, the Board has been working with grant recipients to adjust or delay implementation while nursing homes respond to the COVID-19 pandemic.

Administrative Costs

Senate Bill 14-151 does allow for \$10,000 from the cash fund to be used annually for administrative costs of the Board; however, the Board did not utilize any funds for administrative expenses in SFY 2020-2021.

Grant Funds

In SFY 2019-2020 the Board oversaw projects approved eleventh grant cycle. In addition to the COVID-19 technology grant, the Board also worked to adjust and reimplement twelfth grant cycle projects as facilities were able to return to standard operations.

Cycle Eleven

Cycle Eleven applications were received and reviewed in September 2018. The Board received 17 applications of which five were approved. The grant recipients, amounts awarded, purposes, and results of the grant projects for SFY 2019-2020 are summarized on **Attachment B** of this document.

For SFY 2019-2020

- \$250,000 were made available.
- \$213,593 in Grant funds were awarded.

Cycle Twelve

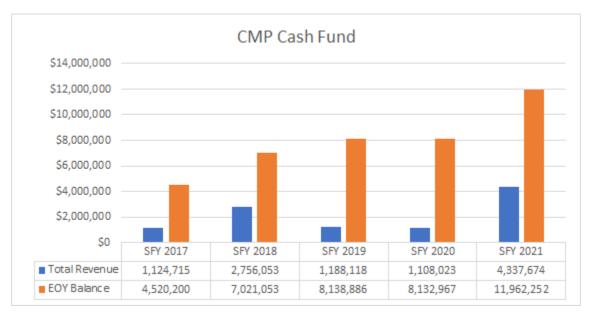
Cycle Twelve grants were received and reviewed in September 2019 with an anticipated start date of July 1, 2020. Cycle Twelve represents the first grant cycle without the \$250,000 spending cap in place. The Board received 20 applications and has obtained Federal approval for 13 projects totaling \$1,064,465.94 over three years. The start dates for many of these projects have been delayed while facilities battle the COVID-19 pandemic and the Board is in the process of re-developing timelines for project implementations.

Cycle Thirteen

The Board implemented new application guidelines and received applications for Cycle thirteen grants in August 2021. 21 applications were received and reviews are currently underway.

Nursing Home Penalty Cash Fund Finances

Total CMPs imposed in SFY 2021 increased to \$3,292,903, additionally HCPF has been successful in recovering \$938,360 related to the emergency expenses charged to manage the closure of Union Printers Home in early 2020. This represents 90% of the funds utilized to ensure the safe transition of affected residents. At the conclusion of SFY 2021, the balance of the cash fund was \$11,962,252.



	CMPs Collected	Recoveries	Interest Income	Expenditures	EOY Balance
SFY 2017	\$1,081,387		\$43,327	(\$175,816)	\$4,520,199
SFY 2018	\$2,661,732		\$94,320	(\$185,110)	\$7,021,053
SFY 2019	\$1,002,278		\$188,840	(\$70,286)	\$8,138,886
SFY 2020 ²	\$919,824		\$188,199	(\$1,113,248) ³	\$8,133,662
SFY 2021	\$3,292,903	\$938,360 ⁴	\$106,410	(\$711,104)	\$11,962,2525

² Figures have been revised to reflect revenue and payables that were outstanding in previous year's report.

³ Number includes cash outlays provided for the closure of Union Printers Home.

⁴ Funds recovered to date related to closure of Union Printers Home.

⁵ Figure includes accounts payable pending processing.

Going Forward

Prior to the pandemic CMS communicated that States should work towards making 50% of non-emergency funds available for grants each year. The CMS goal represented a 1500% increase in annual expenditures over the Boards previous spending authority. With the passage of SB 21-128, the Board will have access to additional administrative support that is needed to meet the Federal expenditure goals as well as engage in expanded oversight and support for grant recipients. HCPF and CDPHE have worked to transition financial management of grants to CDPHE going into SFY 2022. The Board has additionally engaged with providers to solicit a larger and greater number of grant applications aimed at COVID-19 recovery.

ATTACHMENT A

10 Members (7 Appointed by Governor) NURSING HOME INNOVATIONS GRANT BOARD

	APPOINTED	<u>EXPIRES</u>
Vacant		
rep. disability community who is either a		
resident of a nursing facility or a family member		
of a nursing facility resident, repl. Miller, appt.		
Jenny Rebecca Matlock, NHA, Golden (U)	10-04-17	09-09-21
rep. currently employed in long-term care		
nursing facilities, repl. Moore, appt.		
Hope Carwile, LCSW, Lakewood (U)	10-04-14	09-01-23
rep. currently employed in long-term care		
nursing facilities, repl. Fox, appt.		
Stacey Lee Love, Aurora (D)	10-04-14	09-01-23
rep. currently employed in long-term care		
nursing facilities, reappt.		
Vacant		09-01-20
rep. consumer of long-term care,		
repl. Furch, appt.		
Vacant,		09-01-20
rep. business community,		
repl. Barton, appt		
Vacant		09-01-21
rep. currently employed in long-term		
nursing facility, repl. Adams (resigned) appt.		
Other Members		
Cindy D. Webb, Denver (U)	06-26-14	N/A
rep. designee of state long-term care ombudsman		
Richard Clark	03-16-17	N/A
rep. Executive Director of HCPF, or designee		
Jo Tansey	08-28-14	N/A
rep. Executive Director of CDPHE, or designee		
CRS 25-1-107.5 Name change (SB 14 151)	UPDATED: 7-1-21	

ATTACHMENT B

SFY 2019-20 NURSING HOME INNOVATIONS GRANT BOARD SFY 2018-2019 PROJECTS UNDERWAY IN SFY 2020-2021

Mesa Vista of Boulder: \$52,937.00

It's Never Too Late (iN2L)

Mesa Vista of Boulder will be purchasing iN2L technology for resident usage. The facility will have multiple systems for usage in resident activities, therapy, and to support communication with family members. The facility-wide incorporation of the tool will include monitoring of impact on resident behaviors, symptoms, and therapy participation. This project was completed in SFY 2021.

Colorado Health Care Association (CHCA): \$72,100 Specialized Infection Prevention Training in Nursing Homes

Starting in October 2019, CHCA will be coordinating Infection Preventionist certification for up to 150 Long Term Care Residents. CMP funds will be utilized to ensure no-cost professional development for Colorado's Long Term Care workforce. Courses are offered online and result in an infection preventionist certificate. The project has been extended to maximize participation. This project remains ongoing.

Vivage Senior Living: \$29,670

Reading2Connect

Seven facilities in Colorado will participate in the Reading2Connect project. The program provides accessible books for nursing facility residents. Funds will be used to purchase equipment, books, and training for staff. This project is expected to conclude by the end of 2021.

Southeast Colorado Hospital District: \$14,251 Movement and Mobility Benefits the Human Body

Southeast Colorado Hospital District purchased equipment and activities to encourage residents to make use of the outdoor common areas at the facility. Promoting activities and movement allows the facility to incorporate physical therapy goals and improve whole self well-being for facility residents. The facility is a rural non-profit and the grant helps ensure access to non-medical equipment that would otherwise be unavailable. This project was completed in SFY 2021.

Someren Glen: \$44,635

Certified Eden Associate Training

Building off a previous project for Clermont Park, Christian Living Communities seeks to certify staff in the Eden Alternative. The program incorporates culture change and person-centered care approaches for Nursing Facility settings. Someren Glen will be certifying staff as Eden Educators in order to incorporate facility-wide Eden Education certifications. This project was delayed due to COVID-19 visitation measures. The Board is working with the recipient to restart the project.

ATTACHMENT C

SFY 2020-21 NURSING HOME INNOVATIONS GRANT BOARD PROJECTS APPROVED OR INITIATED IN SFY 2020-2021

The Eden Alternative: \$198,225

The Eden Alternative Online Conference for Colorado Long Term Care Workers

The Eden Alternative is offering an online conference for Long Term Care employees, Ombudsman, and State Surveyors. The Eden Alternative training provides person-centered care approaches to nursing facilities and has been shown to improve health outcomes. The online conference will offer a variety of synchronous courses for up to 330 Colorado participants. This project was completed in SFY 2021.

EDU-Catering: \$53,730

Validation® Training in Four Colorado Nursing Homes and Beyond

With the aim of creating a safer environment, the project will provide education to direct care workers on research based interaction techniques aimed at reducing stressors in individuals suffering from dementia related disorders. The project builds on a previous grant that received substantial positive feedback from participants. Facilities will have access to training topics in varying hours in an effort to capture workers across all shifts. This project was delayed due to COVID-19 visitation measures but was restarted in an online format in SFY 2021.

Devonshire Acres: \$8250

Devonshire Acres Greenhouse Project

Devonshire Acres is utilizing multiple sources of funding for the construction of an accessible greenhouse that will allow residents to garden and grow fresh food. The grant board funds will be used towards the costs of tools, seeds and seasonal equipment. This project was completed in SF 2021.

Crisis Prevention Institute: \$352,550

Crisis Prevention Institute's Colorado Skilled Nursing Facility Initiative

Crisis Prevention Institute will train and certify instructors in Nonviolent Crisis Intervention for 55 facilities in Colorado. The program focuses on de-escalation techniques towards individuals in crisis and equips employees with the knowledge and skills to safely resolve the situation. Training certifications will allow educators to certify all staff in the building for up to 4 years which will firmly establish the skillset amongst Colorado's direct care workforce. The program aims to reduce incidents of injury towards care providers, staff and residents. This project was delayed related to COVID-19 measure, but was relaunched on July 1, 2021.

Volunteers of America: \$28,500

VOA Nursing Homes Virtual Reality Initiative

The project will contribute towards the purchase of virtual reality headsets and software in two western slope facilities aiming to reduce the effects of isolation as well as supplement activity and therapy goals. Volunteers of America will develop recommendations for usage, best practices and evaluate impacts on resident behaviors for other Colorado facilities to consider. This project was delayed related to COVID-

19 measures, but was relaunched in SFY 2021 and is expected to conclude by the end of the calendar year.

Grand River Health, E. Dene Moore Care Center: \$18,100 Equine assisted therapy and non-verbal communication

The project provides a dual benefit to residents and staff at the facility by providing equine therapy for residents and non-verbal communication training for the facility's staff. Non-verbal communication can be critical in caregiving for residents living with dementia. The project includes the development of a guidebook for staff as an onsite reference after the offsite training with horses is delivered, ensuring reinforcement of the hands-on training over time. This project was delayed related to COVID-19 measures and is anticipated to resume in Spring 2022.

Colorow Care Center: \$84,406.97

The Culture Change Revolution - Equipping The Western Slope

Colorow Care Center will be coordinating Eden Alternative training and certification opportunities for western slope nursing facilities. The Eden Alternative applies person-centered care practices to nursing home settings and has been shown to improve quality and resident satisfaction in nursing facilities. This project was delayed related to COVID-19 measures and is anticipated to resume in Spring 2022.

Holly Heights Nursing Home: \$36,644.73 Daffodils for Dementia

The Daffodils for Dementia program will provide nursing home staff with a deeper understanding of the dementia disease process and specialized training in effective techniques for assessing the needs and behavior of residents in order to provide appropriate care interventions. This project was delayed related to COVID-19 measures, the board is working with the facility to establish a new project timeframe.

Cherrelyn Health Care: \$11,865 Telling Life's Stories

The proposed project will provide residents with the opportunity to reminisce on their life and record important memories on video and in printed form. Presenting and sharing resident stories will improve staff and resident relationships, while increasing residents' engagement and social interaction. As a result, the project will directly improve resident's overall quality of life. This project was delayed related to COVID-19 measures, the board is working with the facility to establish a new project timeframe.

Focus Consultation: \$218,992 The Live Oak Project

The project aims to provide continuous training and support in culture change and person-centered care initiatives for 10 facilities in Colorado. The culture change brought about by the Live Oak Project will provide improvements to quality of life focused on meaning, growth, empowerment, connection and engagement for all residents regardless of physical and mental capacity. This project was delayed related to COVID-19 measures, the board is working with the facility to establish a new project timeframe.

iAging: \$98,089.40

End of Life Dialogues and Program Development for Skilled Nursing Homes

The project aims to provide education towards dialogues about end of life planning. The project will directly benefit nursing home residents by providing staff with training on best practices in end of life programming, including creating a space and place for residents and staff to discuss end of life planning. This project was delayed related to COVID-19 measures, the board is working with the organization to establish a new project timeframe.

Colorow Care Center: \$32,175 The Equine Therapy Program

Funds will be used towards the implementation of an Equine Therapy program for facility residents. Providing residents interaction with horses will decrease resident depression and agitation through animal companionship and increase quality of life by combating loneliness and providing outdoor engagement. This project was delayed related to COVID-19 measures and is anticipated to resume in Spring 2022.