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THIS MEMORANDUM REFLECTS THE LEGAL OPINION OF THE
AUTHORING ATTORNEY AND IS NOT TO BE CONSTRUED AS AN
OFFICIAL OPINION OF THE ATTORNEY GENERAL.

April 5, 1995

The Honorable Richard G. Mutzebaugh
State Senator
Senate Chamber
State Capitol Building
Denver, CO 80203

RE: Request for Opinion dated March 8, 1995 regarding peer
health assistance programs

Dear Senator Mutzebaugh:

We have reviewed the statutes relevant to your request for an
opinion regarding the fees involved in peer health assistance
programs.

You asked "since the fee paid by the licensee which goes to the
peer health assistance program is required by statute does it
become 'state funds' which must be appropriated before being
spent and which must be audited by the state"? My opinion is
that the fee does not become state funds. Pursuant to the
language of the statutes, the fee is paid by the licensee to an
administering entity which is not a state agency. The monies
never enter the state treasury nor are they controlled by any
state agency. It is my understanding that the legislative intent
behind the law was to specifically exempt these fees from state
funds. (The general assembly did retain such authority for a
transition year while the agencies located administering entities
- that year has now passed for all of the peer health assistance
programs except nursing which will complete its transition year
at the conclusion of fiscal year 1994-1995.) The general assem-
bly did not retain any authority to make an appropriation from
the administering entity to the peer health assistance program.



