

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0440.02 Christy Chase x2008

SENATE BILL 14-162

SENATE SPONSORSHIP

Nicholson,

HOUSE SPONSORSHIP

Mitsch Bush,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING QUALITY MANAGEMENT PROGRAMS FOR EMERGENCY
102 MEDICAL SERVICE PROVIDERS PROVIDING CARE IN THE
103 PREHOSPITAL SETTING.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill specifies the mandatory components of a quality management program established by an emergency medical services organization, the purpose of which is to conduct assessments of prehospital care provided by emergency medical service (EMS)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

providers.

Information collected and maintained pursuant to a quality management program that contains the required components is confidential, and persons who participate in a quality management program cannot be compelled to testify in a civil or administrative proceeding. The confidentiality protections do not apply to factual testimony about which a person has personal knowledge. Persons participating in a quality management program in good faith are not liable for any damages resulting from the proceedings.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 9 to article
3 3.5 of title 25 as follows:

4 **PART 9**

5 **QUALITY MANAGEMENT**

6 **25-3.5-901. Short title.** THIS ACT SHALL BE KNOWN AND MAY BE
7 CITED AS THE "CAROL J. SHANABERGER ACT".

8 **25-3.5-902. Legislative declaration.** THE GENERAL ASSEMBLY
9 HEREBY FINDS AND DECLARES THAT THE IMPLEMENTATION OF QUALITY
10 MANAGEMENT FUNCTIONS TO EVALUATE AND IMPROVE PREHOSPITAL
11 EMERGENCY MEDICAL SERVICE PATIENT CARE IS ESSENTIAL TO THE
12 OPERATION OF EMERGENCY MEDICAL SERVICES ORGANIZATIONS. FOR THIS
13 PURPOSE, IT IS NECESSARY THAT THE COLLECTION OF INFORMATION BY
14 PREHOSPITAL MEDICAL DIRECTORS AND EMERGENCY MEDICAL SERVICES
15 ORGANIZATIONS BE REASONABLY UNFETTERED SO THAT A COMPLETE AND
16 THOROUGH EVALUATION AND IMPROVEMENT OF THE QUALITY OF PATIENT
17 CARE CAN BE ACCOMPLISHED. TO THIS END, QUALITY MANAGEMENT
18 INFORMATION RELATING TO THE EVALUATION OR IMPROVEMENT OF THE
19 QUALITY OF PREHOSPITAL EMERGENCY MEDICAL SERVICES IS
20 CONFIDENTIAL, SUBJECT TO SECTION 25-3.5-904 (3), AND PERSONS

1 PERFORMING QUALITY MANAGEMENT FUNCTIONS ARE GRANTED QUALIFIED
2 IMMUNITY AS SPECIFIED IN SECTION 25-3.5-904 (4). IT IS THE INTENT OF
3 THE GENERAL ASSEMBLY THAT NOTHING IN THIS SECTION REVISE, AMEND,
4 OR ALTER ARTICLE 36 OR PART 1 OF ARTICLE 36.5 OF TITLE 12, C.R.S.

5 **25-3.5-903. Definitions.** AS USED IN THIS PART 9, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (1) "EMERGENCY MEDICAL SERVICES ORGANIZATION" MEANS:

8 (a) LOCAL EMERGENCY MEDICAL AND TRAUMA SERVICE
9 PROVIDERS, AS DEFINED IN SECTION 25-3.5-602 (4), EXCLUDING A HEALTH
10 CARE FACILITY LICENSED OR CERTIFIED BY THE DEPARTMENT PURSUANT
11 TO SECTION 25-1.5-103 (1) (a) THAT HAS A QUALITY MANAGEMENT
12 PROGRAM PURSUANT TO SECTION 25-3-109;

13 (b) REGIONAL EMERGENCY MEDICAL AND TRAUMA SERVICES
14 ADVISORY COUNCILS, AS DEFINED IN SECTION 25-3.5-703 (6.8) AND
15 ESTABLISHED UNDER SECTION 25-3.5-704 (2) (c); AND

16 (c) PUBLIC SAFETY ANSWERING POINTS, AS DEFINED IN SECTION
17 29-11-101 (6.5), C.R.S., PERFORMING EMERGENCY MEDICAL DISPATCH.

18 (2) "PREHOSPITAL MEDICAL DIRECTOR" OR "MEDICAL DIRECTOR"
19 MEANS A LICENSED PHYSICIAN WHO SUPERVISES CERTIFIED EMERGENCY
20 MEDICAL SERVICE PROVIDERS WHO PROVIDE PREHOSPITAL CARE.

21 (3) "QUALITY MANAGEMENT ASSESSMENT" MEANS A REVIEW AND
22 ASSESSMENT OF THE PERFORMANCE OF PREHOSPITAL CARE PROVIDED BY
23 EMERGENCY MEDICAL SERVICE PROVIDERS OPERATING UNDER A MEDICAL
24 DIRECTOR.

25 (4) (a) "QUALITY MANAGEMENT PROGRAM" MEANS A PROGRAM
26 ESTABLISHED UNDER THIS PART 9 THAT IS DESIGNED TO PERFORM QUALITY
27 MANAGEMENT ASSESSMENTS FOR THE PURPOSE OF IMPROVING PATIENT

1 CARE AND INCLUDES:

2 (I) QUALITY ASSURANCE AND RISK MANAGEMENT ACTIVITIES;

3 (II) PEER REVIEW OF EMERGENCY MEDICAL SERVICE PROVIDERS;

4 AND

5 (III) OTHER QUALITY MANAGEMENT FUNCTIONS.

6 (b) "QUALITY MANAGEMENT PROGRAM" DOES NOT INCLUDE
7 REVIEW OR ASSESSMENT OF THE LICENSING, USE, OR MAINTENANCE OF
8 VEHICLES USED BY AN EMERGENCY MEDICAL SERVICES ORGANIZATION.

9 **25-3.5-904. Quality management programs - creation -**
10 **assessments - confidentiality of information - exceptions - immunity**
11 **for good-faith participants.** (1) EACH EMERGENCY MEDICAL SERVICES
12 ORGANIZATION THAT INSTITUTES A QUALITY MANAGEMENT PROGRAM TO
13 CONDUCT QUALITY MANAGEMENT ASSESSMENTS SHALL INCLUDE IN THAT
14 PROGRAM AT LEAST THE FOLLOWING COMPONENTS:

15 (a) PERIODIC REVIEW OF TREATMENT PROTOCOLS, COMPLIANCE
16 WITH TREATMENT PROTOCOLS, AND PREHOSPITAL EMERGENCY MEDICAL
17 CARE PROVIDED TO PATIENTS;

18 (b) PEER REVIEW OF EMERGENCY MEDICAL SERVICE PROVIDERS,
19 INCLUDING REVIEW OF THEIR QUALIFICATIONS AND COMPETENCE AND
20 QUALITY AND APPROPRIATENESS OF PATIENT CARE;

21 (c) THE COLLECTION OF DATA IF REQUIRED PURSUANT TO SECTION
22 25-3.5-704 (2) (h) (II);

23 (d) A GENERAL DESCRIPTION OF THE TYPES OF CASES, PROBLEMS,
24 OR RISKS TO BE REVIEWED AND THE PROCESS USED FOR IDENTIFYING
25 POTENTIAL RISKS;

26 (e) IDENTIFICATION OF THE PERSONNEL OR COMMITTEES
27 RESPONSIBLE FOR COORDINATING QUALITY MANAGEMENT ACTIVITIES AND

1 THE MEANS OF REPORTING WITHIN THE QUALITY MANAGEMENT PROGRAM;

2 (f) A DESCRIPTION OF THE METHOD FOR SYSTEMATICALLY
3 REPORTING INFORMATION TO THE ORGANIZATION'S MEDICAL DIRECTOR;

4 (g) A DESCRIPTION OF THE METHOD FOR INVESTIGATING AND
5 ANALYZING CAUSES OF INDIVIDUAL PROBLEMS AND PATTERNS OF
6 PROBLEMS;

7 (h) A DESCRIPTION OF POSSIBLE CORRECTIVE ACTIONS TO ADDRESS
8 THE PROBLEMS, INCLUDING EDUCATION, PREVENTION, AND MINIMIZING
9 POTENTIAL PROBLEMS OR RISKS; AND

10 (i) A DESCRIPTION OF THE METHOD FOR FOLLOWING UP IN A
11 TIMELY MANNER ON CORRECTIVE ACTION TO DETERMINE THE
12 EFFECTIVENESS OF THE ACTION.

13 (2) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS
14 SUBSECTION (2) OR SUBSECTION (3) OF THIS SECTION, INFORMATION
15 REQUIRED TO BE COLLECTED AND MAINTAINED, INCLUDING INFORMATION
16 FROM THE PREHOSPITAL CARE REPORTING SYSTEM THAT IDENTIFIES AN
17 INDIVIDUAL, AND RECORDS, REPORTS, AND OTHER INFORMATION
18 OBTAINED AND MAINTAINED IN ACCORDANCE WITH A QUALITY
19 MANAGEMENT PROGRAM ESTABLISHED PURSUANT TO THIS SECTION ARE
20 CONFIDENTIAL AND SHALL NOT BE RELEASED EXCEPT TO THE DEPARTMENT
21 IN CASES OF AN ALLEGED VIOLATION OF BOARD RULES PERTAINING TO
22 EMERGENCY MEDICAL SERVICE PROVIDER CERTIFICATION OR EXCEPT IN
23 ACCORDANCE WITH SECTION 25-3.5-205 (4).

24 (b) (I) AN EMERGENCY MEDICAL SERVICES ORGANIZATION OR
25 PREHOSPITAL MEDICAL DIRECTOR MAY SHARE QUALITY MANAGEMENT
26 RECORDS RELATED TO PEER REVIEW OF AN EMERGENCY MEDICAL SERVICE
27 PROVIDER WITH ANOTHER EMERGENCY MEDICAL SERVICES ORGANIZATION

1 OR A LICENSED OR CERTIFIED HEALTH CARE FACILITY THAT HAS A QUALITY
2 MANAGEMENT PROGRAM UNDER THIS SECTION OR SECTION 25-3-109, AS
3 APPLICABLE, WITHOUT VIOLATING THE CONFIDENTIALITY REQUIREMENTS
4 OF PARAGRAPH (a) OF THIS SUBSECTION (2) AND WITHOUT WAIVING THE
5 PRIVILEGE SPECIFIED IN SUBSECTION (3) OF THIS SECTION, IF THE
6 EMERGENCY MEDICAL SERVICE PROVIDER SEEKS TO SUBJECT HIMSELF OR
7 HERSELF TO, OR IS CURRENTLY SUBJECT TO, THE AUTHORITY OF THE
8 EMERGENCY MEDICAL SERVICES ORGANIZATION OR HEALTH CARE
9 FACILITY.

10 (II) A HEALTH CARE FACILITY LICENSED OR CERTIFIED BY THE
11 DEPARTMENT PURSUANT TO SECTION 25-1.5-103 (1) (a) THAT HAS A
12 QUALITY MANAGEMENT PROGRAM PURSUANT TO SECTION 25-3-109 MAY
13 SHARE QUALITY MANAGEMENT RECORDS RELATED TO PEER REVIEW OF AN
14 EMERGENCY MEDICAL SERVICE PROVIDER WITH AN EMERGENCY MEDICAL
15 SERVICES ORGANIZATION OR PREHOSPITAL MEDICAL DIRECTOR IF THE
16 EMERGENCY MEDICAL SERVICE PROVIDER SEEKS TO SUBJECT HIMSELF OR
17 HERSELF TO, OR IS CURRENTLY SUBJECT TO, THE AUTHORITY OF THE
18 EMERGENCY MEDICAL SERVICES ORGANIZATION OR PREHOSPITAL MEDICAL
19 DIRECTOR WITHOUT VIOLATING THE CONFIDENTIALITY REQUIREMENTS OF
20 SUBSECTION (2) OF THIS SECTION AND SECTION 25-3-109 (3) AND WITHOUT
21 WAIVING THE PRIVILEGE SPECIFIED IN SUBSECTION (3) OF THIS SECTION
22 AND SECTION 25-3-109 (4).

23 (c) THE CONFIDENTIALITY OF INFORMATION PROVIDED FOR IN THIS
24 SECTION IS NOT IMPAIRED OR OTHERWISE ADVERSELY AFFECTED SOLELY
25 BECAUSE THE PREHOSPITAL MEDICAL DIRECTOR OR EMERGENCY MEDICAL
26 SERVICES ORGANIZATION SUBMITS THE INFORMATION TO A
27 NONGOVERNMENTAL ENTITY TO CONDUCT STUDIES THAT EVALUATE,

1 DEVELOP, AND ANALYZE INFORMATION ABOUT EMERGENCY MEDICAL CARE
2 OPERATIONS, PRACTICES, OR ANY OTHER FUNCTION OF EMERGENCY
3 MEDICAL CARE ORGANIZATIONS. THE RECORDS, REPORTS, AND OTHER
4 INFORMATION COLLECTED OR DEVELOPED BY A NONGOVERNMENTAL
5 ENTITY REMAIN PROTECTED AS PROVIDED IN PARAGRAPH (a) OF THIS
6 SUBSECTION (2). IN ORDER TO ADEQUATELY PROTECT THE
7 CONFIDENTIALITY OF THE INFORMATION, THE FINDINGS, CONCLUSIONS, OR
8 RECOMMENDATIONS CONTAINED IN THE STUDIES CONDUCTED BY
9 ANONGOVERNMENTAL ENTITY ARE NOT DEEMED TO ESTABLISH A
10 STANDARD OF CARE FOR EMERGENCY MEDICAL CARE ORGANIZATIONS.

11 (3) (a) THE RECORDS, REPORTS, AND OTHER INFORMATION
12 DESCRIBED IN SUBSECTION (2) OF THIS SECTION ARE NOT SUBJECT TO
13 SUBPOENA AND ARE NOT DISCOVERABLE OR ADMISSIBLE AS EVIDENCE IN
14 ANY CIVIL OR ADMINISTRATIVE PROCEEDING. A PERSON WHO
15 PARTICIPATES IN THE REPORTING, COLLECTION, EVALUATION, OR USE OF
16 QUALITY MANAGEMENT INFORMATION WITH REGARD TO A SPECIFIC
17 CIRCUMSTANCE SHALL NOT TESTIFY ABOUT HIS OR HER PARTICIPATION IN
18 ANY CIVIL OR ADMINISTRATIVE PROCEEDING.

19 (b) THIS SUBSECTION (3) DOES NOT APPLY TO:

20 (I) ANY CIVIL OR ADMINISTRATIVE PROCEEDING, INSPECTION, OR
21 INVESTIGATION AS OTHERWISE PROVIDED BY LAW BY THE DEPARTMENT OR
22 OTHER APPROPRIATE REGULATORY AGENCY HAVING JURISDICTION FOR
23 DISCIPLINARY OR LICENSING SANCTIONS;

24 (II) A PERSON GIVING TESTIMONY CONCERNING FACTS OF WHICH
25 HE OR SHE HAS PERSONAL KNOWLEDGE ACQUIRED INDEPENDENTLY OF THE
26 QUALITY MANAGEMENT PROGRAM OR FUNCTION;

27 (III) THE AVAILABILITY, AS PROVIDED BY LAW OR THE RULES OF

1 CIVIL PROCEDURE, OF FACTUAL INFORMATION RELATING SOLELY TO THE
2 INDIVIDUAL IN INTEREST IN A CIVIL SUIT BY THE PERSON, NEXT FRIEND OR
3 LEGAL REPRESENTATIVE, BUT FACTUAL INFORMATION DOES NOT INCLUDE
4 OPINIONS OR EVALUATIONS PERFORMED AS A PART OF THE QUALITY
5 MANAGEMENT PROGRAM;

6 (IV) A PERSON GIVING TESTIMONY CONCERNING AN ACT OR
7 OMISSION THAT HE OR SHE OBSERVED OR IN WHICH HE OR SHE
8 PARTICIPATED, NOTWITHSTANDING ANY PARTICIPATION BY HIM OR HER IN
9 THE QUALITY MANAGEMENT PROGRAM;

10 (V) A PERSON GIVING TESTIMONY CONCERNING FACTS HE OR SHE
11 HAD RECORDED IN A MEDICAL RECORD RELATING SOLELY TO THE
12 INDIVIDUAL IN INTEREST IN A CIVIL SUIT.

13 (4) A PERSON, ACTING IN GOOD FAITH, WITHIN THE SCOPE AND
14 FUNCTIONS OF A QUALITY MANAGEMENT PROGRAM, AND WITHOUT
15 VIOLATING ANY APPLICABLE LAWS, WHO PARTICIPATES IN THE REPORTING,
16 COLLECTION, EVALUATION, OR USE OF QUALITY MANAGEMENT
17 INFORMATION OR PERFORMS OTHER FUNCTIONS AS PART OF A QUALITY
18 MANAGEMENT PROGRAM WITH REGARD TO A SPECIFIC CIRCUMSTANCE IS
19 IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BASED ON HIS OR HER
20 PARTICIPATION IN THE QUALITY MANAGEMENT PROGRAM BROUGHT BY AN
21 EMERGENCY MEDICAL SERVICE PROVIDER OR PERSON TO WHOM THE
22 QUALITY MANAGEMENT INFORMATION PERTAINS. THIS IMMUNITY DOES
23 NOT APPLY TO ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION IN THE
24 PROVISION OF CARE.

25 (5) NOTHING IN THIS SECTION:

26 (a) AFFECTS OR PREVENTS THE VOLUNTARY RELEASE OF ANY
27 QUALITY MANAGEMENT RECORD OR INFORMATION BY A PREHOSPITAL

1 MEDICAL DIRECTOR OR EMERGENCY MEDICAL SERVICES ORGANIZATION;
2 EXCEPT THAT NO PATIENT-IDENTIFYING INFORMATION MAY BE RELEASED
3 WITHOUT THE PATIENT'S CONSENT;

4 (b) LIMITS ANY STATUTORY OR COMMON-LAW PRIVILEGE,
5 CONFIDENTIALITY, OR IMMUNITY; OR

6 (c) AFFECTS A PERSON'S ABILITY TO ACCESS HIS OR HER MEDICAL
7 RECORDS AS PROVIDED IN SECTION 25-1-801 OR THE RIGHT OF ANY FAMILY
8 MEMBER OR OTHER PERSON TO OBTAIN MEDICAL RECORD INFORMATION
9 UPON THE CONSENT OF THE PATIENT OR HIS OR HER AUTHORIZED
10 REPRESENTATIVE.

11 **SECTION 2. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.