

**Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0090.02 Christy Chase x2008

SENATE BILL 14-016

SENATE SPONSORSHIP

Aguilar,

HOUSE SPONSORSHIP

Moreno,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF CERTAIN HEALTH CARE FACILITIES TO**
102 **PROVIDE EMERGENCY SERVICES OUTSIDE A HOSPITAL 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>.)

Under current law, the department of public health and environment issues a community clinic license to a community clinic that provides emergency services.

The bill permits the department to continue issuing a community clinic license to a community clinic that provides emergency care if the

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.*

community clinic is located more than 25 miles from a hospital in the state. On or after 2 years after the effective date of the bill, all other freestanding emergency rooms must be owned and operated by a licensed or certified hospital.

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

2 **SECTION 1. In Colorado Revised Statutes, 25-1.5-103, amend**

3 **(1) (a) (I) (A) as follows:**

4 **25-1.5-103. Health facilities - powers and duties of department**
5 **- limitations on rules promulgated by department - definitions.**

6 **(1) The department has, in addition to all other powers and duties**
7 **imposed upon it by law, the powers and duties provided in this section as**
8 **follows:**

9 **(a) (I) (A) To annually license and to establish and enforce**
10 **standards for the operation of general hospitals, hospital units as defined**
11 **in section 25-3-101 (2), FREESTANDING EMERGENCY CENTERS, psychiatric**
12 **hospitals, community clinics, rehabilitation hospitals, convalescent**
13 **centers, community mental health centers, acute treatment units, facilities**
14 **for persons with intellectual and developmental disabilities, nursing care**
15 **facilities, hospice care, assisted living residences, dialysis treatment**
16 **clinics, ambulatory surgical centers, birthing centers, home care agencies,**
17 **and other facilities of a like nature, except those wholly owned and**
18 **operated by any governmental unit or agency.**

19 **SECTION 2. In Colorado Revised Statutes, add 25-1.5-111 as**
20 **follows:**

21 **25-1.5-111. Freestanding emergency centers - licensure -**
22 **requirements. (1) ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION,**
23 **A HEALTH CARE FACILITY THAT IS OPERATING AS A FREESTANDING**

1 EMERGENCY CENTER SHALL APPLY FOR AND OBTAIN FROM THE
2 DEPARTMENT AN ANNUAL FREESTANDING EMERGENCY CENTER LICENSE.

3 THE DEPARTMENT SHALL ISSUE A FREESTANDING EMERGENCY CENTER
4 LICENSE TO A HEALTH CARE FACILITY THAT:

5 (a) PROVIDES EMERGENCY SERVICES, AS DEFINED IN SECTION
6 25-3-101 (2) (a.7), TO PATIENTS AT THE FACILITY;

7 (b) HAS EXECUTED A TRANSFER AGREEMENT WITH THE NEAREST
8 LICENSED OR CERTIFIED HOSPITAL UNDER WHICH THE HOSPITAL AGREES TO
9 ACCEPT AND ADMIT PATIENTS TRANSFERRED FROM THE FREESTANDING
10 EMERGENCY CENTER;

11 (c) HAS THE ABILITY TO RECEIVE AMBULANCES;

12 (d) IS OPEN TO PATIENTS TWENTY-FOUR HOURS A DAY AND SEVEN
13 DAYS A WEEK;

14 (e) HAS CLINICAL LABORATORIES ON-SITE THAT ARE ACCREDITED
15 BY COLA OR ITS SUCCESSOR ORGANIZATION AND THAT ARE CERTIFIED
16 UNDER AND COMPLY WITH THE REQUIREMENTS SPECIFIED IN THE FEDERAL
17 "CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988", PUB.L.
18 100-578, 42 U.S.C. SEC. 263a;

19 (f) HAS DIGITAL IMAGING CAPABILITIES;

20 (g) HAS BOARD-CERTIFIED DOCTORS TRAINED IN EMERGENCY
21 MEDICINE ON-SITE; AND

22 (h) PROVIDES TO EACH PATIENT, REGARDLESS OF A PATIENT'S
23 ABILITY TO PAY;

24 (I) AN APPROPRIATE MEDICAL SCREENING, EXAMINATION, AND
25 STABILIZATION WITHIN THE FREESTANDING EMERGENCY CENTER'S
26 CAPABILITIES, INCLUDING ANCILLARY SERVICES ROUTINELY AVAILABLE TO
27 THE FACILITY, TO DETERMINE WHETHER AN EMERGENCY MEDICAL

1 CONDITION EXISTS; AND

2 (II) ANY TREATMENT NECESSARY TO STABILIZE THE PATIENT OR
3 TO GUARD AGAINST CONDITIONS THAT THREATEN LIFE OR LIMB.

4 (2) THE DEPARTMENT SHALL NOT ISSUE OR RENEW A
5 FREESTANDING EMERGENCY CENTER LICENSE TO A HEALTH CARE FACILITY
6 THAT DOES NOT SATISFY THE CRITERIA SPECIFIED IN SUBSECTION (1) OF
7 THIS SECTION AND SHALL NOT RENEW A FREESTANDING EMERGENCY
8 CENTER LICENSE ISSUED UNDER THIS SECTION UNLESS THE FREESTANDING
9 EMERGENCY CENTER IS ACCREDITED BY THE JOINT COMMISSION OR OTHER
10 NATIONALLY RECOGNIZED ACCREDITATION AUTHORITY.

11 (3) A FREESTANDING EMERGENCY CENTER LICENSED UNDER THIS
12 SECTION SHALL NOT DELAY THE PROVISION OF APPROPRIATE MEDICAL
13 SCREENING, EXAMINATION, OR TREATMENT IN ORDER TO INQUIRE ABOUT
14 THE PATIENT'S METHOD OF PAYMENT OR INSURANCE STATUS.

15 (4) NOTHING IN THIS SECTION PRECLUDES THE DEPARTMENT FROM
16 ISSUING OR RENEWING A LICENSE TO A COMMUNITY CLINIC PROVIDING
17 EMERGENCY SERVICES PURSUANT TO SECTION 25-3-101 (2) (a) (I) (B).

18 **SECTION 3.** In Colorado Revised Statutes, 25-3-101, **amend (1),**
19 **(2) (a) (I) (B), and (2) (a) (III) (C); and add (2) (a) (III) (D), (2) (a.5), (2)**
20 **(a.7), and (5) as follows:**

21 **25-3-101. Hospitals - health facilities - licensed - definitions -**
22 **rules.** (1) (a) It is unlawful for any person, partnership, association, or
23 corporation to open, conduct, or maintain any general hospital; hospital
24 unit; FREESTANDING EMERGENCY CENTER; psychiatric hospital;
25 community clinic; rehabilitation hospital; convalescent center; community
26 mental health center; acute treatment unit; facility for persons with
27 developmental disabilities, as defined in section 25-1.5-103 (2) (c);

1 nursing care facility; hospice care; assisted living residence, except an
2 assisted living residence shall be assessed a license fee as set forth in
3 section 25-27-107; dialysis treatment clinic; ambulatory surgical center;
4 birthing center; home care agency; or other facility of a like nature, except
5 those wholly owned and operated by any governmental unit or agency,
6 without first having obtained a license from the department of public
7 health and environment.

8 (b) ON AND AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (b),
9 IT IS UNLAWFUL FOR A HEALTH CARE FACILITY, OTHER THAN A LICENSED
10 OR CERTIFIED HOSPITAL, TO PROVIDE EMERGENCY SERVICES AT THE
11 FACILITY UNLESS THE HEALTH CARE FACILITY IS:

12 (I) OPERATING AS A COMMUNITY CLINIC AS DESCRIBED IN
13 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF
14 SUBSECTION (2) OF THIS SECTION; OR

15 (III) LICENSED AS A FREESTANDING EMERGENCY CENTER
16 PURSUANT TO SECTION 25-1.5-111.

17 (2) As used in this section, unless the context otherwise requires:

18 (a) (I) "Community clinic" means a health care facility that
19 provides health care services on an ambulatory basis, is neither licensed
20 as an on-campus department or service of a hospital nor listed as an
21 off-campus location under a hospital's license EXCEPT AS SPECIFIED IN
22 SUBSECTION (5) OF THIS SECTION, and meets at least one of the following
23 criteria:

24 (B) Provides emergency services at the facility, BUT ONLY IF THE
25 COMMUNITY CLINIC IS LOCATED MORE THAN TWENTY MILES FROM A
26 LICENSED OR CERTIFIED HOSPITAL; or

27 (III) "Community clinic" does not include:

1 (C) A facility that functions only as an office for the practice of
2 medicine or the delivery of primary care services by other licensed or
3 certified practitioners; OR

4 (D) A FREESTANDING EMERGENCY CENTER REQUIRED TO BE
5 LICENSED UNDER SECTION 25-1.5-111.

6 (a.5) "EMERGENCY DEPARTMENT" MEANS A DEPARTMENT OR
7 FACILITY OF A LICENSED OR CERTIFIED HOSPITAL, REGARDLESS OF
8 WHETHER THE DEPARTMENT OR FACILITY IS LOCATED ON OR OFF THE
9 HOSPITAL'S MAIN CAMPUS, THAT PROVIDES EMERGENCY SERVICES.

10 (a.7) "EMERGENCY SERVICES" MEANS THE TREATMENT OF
11 PATIENTS ARRIVING AT AN EMERGENCY DEPARTMENT BY ANY MEANS WHO
12 HAVE MEDICAL CONDITIONS, INCLUDING ACUTE ILLNESS OR TRAUMA,
13 THAT, IF NOT TREATED IMMEDIATELY, COULD RESULT IN LOSS OF LIFE,
14 LOSS OF LIMB, OR PERMANENT DISABILITY.

15 (5) A HOSPITAL LICENSED PURSUANT TO SECTION 25-1.5-103 (1)
16 (a) (I) (A) OR CERTIFIED PURSUANT TO SECTION 25-1.5-103 (1) (a) (II)
17 MAY OPERATE AN EMERGENCY DEPARTMENT OR COMMUNITY CLINIC
18 DESCRIBED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF
19 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION UNDER ITS EXISTING
20 LICENSE OR CERTIFICATE AND NEED NOT OBTAIN A SEPARATE LICENSE OR
21 CERTIFICATE FOR AN EMERGENCY DEPARTMENT OR COMMUNITY CLINIC
22 DESCRIBED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF
23 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION THAT IS NOT LOCATED
24 ON, OR IS NOT PART OF, THE HOSPITAL'S MAIN CAMPUS. A HOSPITAL THAT
25 INTENDS TO OPERATE AN EMERGENCY DEPARTMENT OR COMMUNITY
26 CLINIC DESCRIBED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF
27 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION AT AN OFF-SITE

1 LOCATION SHALL NOTIFY THE DEPARTMENT OF PUBLIC HEALTH AND
2 ENVIRONMENT IN ACCORDANCE WITH RULES ADOPTED BY THE STATE
3 BOARD OF HEALTH, WHICH RULES MAY SPECIFY THE TIME BY WHICH A
4 HOSPITAL MUST NOTIFY THE DEPARTMENT AND SET FEES FOR THE
5 DEPARTMENT'S INITIAL REVIEW OF THE EMERGENCY DEPARTMENT OR
6 COMMUNITY CLINIC DESCRIBED IN SUB-SUBPARAGRAPH (B) OF
7 SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION
8 BEFORE IT BECOMES OPERATIONAL.

9 **SECTION 4.** In Colorado Revised Statutes, 10-1-128, amend (1)
10 as follows:

11 **10-1-128. Fraudulent insurance acts - immunity for furnishing**
12 **information relating to suspected insurance fraud - legislative**
13 **declaration.** (1) (a) For purposes of this title, articles 40 to 47 of title 8,
14 C.R.S., and articles 6, 7, 29.5, 32, 33, 35, 36, 38, 40, 41, 41.5, and 43 of
15 title 12, C.R.S., a fraudulent insurance act is committed if a person
16 knowingly and with intent to defraud presents, causes to be presented, or
17 prepares with knowledge or belief that it will be presented to or by an
18 insurer, a purported insurer, or any producer thereof any written statement
19 as part or in support of an application for the issuance or the rating of an
20 insurance policy or a claim for payment or other benefit pursuant to an
21 insurance policy that he or she knows to contain false information
22 concerning any fact material thereto or if he or she knowingly and with
23 intent to defraud or mislead conceals information concerning any fact
24 material thereto. For purposes of this section, "written statement" includes
25 a patient medical record as such term is defined in section 18-4-412 (2)
26 (a), C.R.S., and any bill for medical services.

27 **(b) FOR PURPOSES OF THIS TITLE, A FRAUDULENT INSURANCE ACT**

1 INCLUDES SUBMITTING A CLAIM OR BILLING A PATIENT FOR AN
2 EMERGENCY FACILITY FEE IF THE PROVIDER IS NOT IN FACT A DEDICATED
3 EMERGENCY DEPARTMENT, AS DEFINED IN 42 CFR 489.24 (b).

4 **SECTION 5. Applicability.** This act applies to applications for
5 a new or renewal license submitted on or after the effective date of this
6 act.

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