

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 16-0830.01 Duane Gall x4335

HOUSE BILL 16-1280

HOUSE SPONSORSHIP

Winter,

SENATE SPONSORSHIP

Lambert,

House Committees

Transportation & Energy
Finance
Appropriations

Senate Committees

Health & Human Services
Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF AIR AMBULANCE SERVICE, AND, IN**
102 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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, Colorado requires air ambulance services to be accredited by the Commission on Accreditation of Medical Transport Systems (CAMTS) in order to operate legally in the state. However, some of the CAMTS standards relate to an air carrier's rates, routes, and service, which are matters that have been determined to be exclusively subject to federal, not state, regulation.

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.*

SENATE
3rd Reading Unamended
May 2, 2016

SENATE
2nd Reading Unamended
April 29, 2016

HOUSE
3rd Reading Unamended
April 14, 2016

HOUSE
Amended 2nd Reading
April 12, 2016

The bill removes direct references to CAMTS accreditation as the necessary and sufficient condition for Colorado licensure and substitutes a regulatory structure in which CAMTS accreditation is one of a number of factors considered by the department of public health and environment in its licensing decisions. Other factors relate to patient care and the health, safety, and welfare of the general public, which are matters subject to state jurisdiction.

The state board of health is granted rule-making authority to set minimum standards for licensure of air ambulance services; issue provisional licenses and recognize licenses issued by other states; waive certain requirements if health and safety are not adversely affected; establish fees; and take disciplinary action, including the assessment of civil penalties, for violation of the rules.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-3.5-103, **add** (1.3)
3 as follows:

4 **25-3.5-103. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (1.3) "AIR AMBULANCE SERVICE" MEANS ANY PUBLIC OR PRIVATE
7 ENTITY THAT USES AN AIR AMBULANCE TO TRANSPORT PATIENTS TO A
8 MEDICAL FACILITY.

9 **SECTION 2.** In Colorado Revised Statutes, 25-3.5-104, **amend**
10 (4) (e) as follows:

11 **25-3.5-104. Emergency medical and trauma services advisory**
12 **council - creation - duties.** (4) The council shall:

13 (e) Review and make recommendations concerning guidelines and
14 standards for the delivery of emergency medical and trauma services,
15 including:

16 (I) Establishing a list of minimum equipment requirements for
17 ambulance vehicles operated by an ambulance service licensed in this
18 state and making recommendations on the process used by counties in the

1 licensure of ambulance services;

2 (II) Developing curricula for the training of emergency medical
3 personnel; ~~and~~

4 (III) Making recommendations on the verification process used by
5 the department to determine facility eligibility to receive trauma center
6 designation; AND

7 (IV) MAKING RECOMMENDATIONS REGARDING THE PROCESS USED
8 BY THE DEPARTMENT TO IDENTIFY ACCREDITING ORGANIZATIONS FOR AIR
9 AMBULANCE LICENSING.

10 **SECTION 3.** In Colorado Revised Statutes, 25-3.5-307, **amend**
11 (1) as follows:

12 **25-3.5-307. Licensure of fixed-wing and rotor-wing air**
13 **ambulances - cash fund created - rules.** (1) (a) Except as provided in
14 paragraph (b) of this subsection (1), prior to beginning air ambulance
15 operations in this state, ~~all fixed-wing and rotor-wing~~ AN air ambulance
16 ~~services shall~~ SERVICE MUST be licensed by the department. EXCEPT AS
17 OTHERWISE PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (1),
18 COMPLIANCE WITH RULES PROMULGATED BY THE BOARD OR successful
19 completion of an accreditation process ~~as established and updated by the~~
20 ~~commission on accreditation of medical transport systems (CAMTS) or~~
21 ~~a successor organization~~ THROUGH AN ACCREDITING ORGANIZATION
22 APPROVED BY THE DEPARTMENT AS HAVING STANDARDS EQUIVALENT TO
23 OR EXCEEDING THE STANDARDS ESTABLISHED IN RULES OF THE BOARD is
24 required for full licensure and renewal of such license by the department
25 for ~~all fixed-wing and rotor-wing~~ AN air ambulance services. The
26 department may issue a conditional license to an air ambulance service
27 that has not completed CAMTS accreditation if the service is actively

1 ~~working toward CAMTS accreditation. An air ambulance service that~~
2 ~~receives a conditional license shall complete its CAMTS accreditation~~
3 ~~within two years after issuance of the conditional license. If an air~~
4 ~~ambulance service to which a conditional license has been issued fails to~~
5 ~~complete the CAMTS accreditation process within two years after~~
6 ~~issuance of the initial conditional license, the conditional license shall be~~
7 ~~revoked, and the air ambulance service shall not be issued any type of~~
8 ~~license until it successfully completes the CAMTS accreditation process~~
9 SERVICE.

10 (b) (I) Upon a showing of exigent circumstances, as defined by
11 the board, the department may authorize an unlicensed air ambulance
12 service to provide a particular transport.

13 (II) THE DEPARTMENT MAY RECOGNIZE THE LICENSE ISSUED BY
14 ANOTHER JURISDICTION FOR AN AIR AMBULANCE SERVICE THAT MAKES A
15 LIMITED NUMBER OF FLIGHTS PER CALENDAR YEAR INTO OR OUT OF
16 COLORADO, AND THE DEPARTMENT SHALL IMPOSE AN ANNUAL FEE UPON
17 AN AIR AMBULANCE SERVICE WHOSE LICENSE IS SO RECOGNIZED. THE
18 DEPARTMENT MAY RESCIND SUCH RECOGNITION, WITHOUT REFUNDING OR
19 PRORATING THE FEE, IF RESCISSION IS NECESSARY TO PROTECT PUBLIC
20 HEALTH AND SAFETY.

21 (b.5) THE BOARD SHALL ALLOW THE DEPARTMENT TO GRANT A
22 WAIVER OF A RULE ADOPTED BY THE BOARD IF THE APPLICANT FOR THE
23 WAIVER SATISFACTORILY DEMONSTRATES:

24 (I) (A) THE WAIVER WILL NOT ADVERSELY AFFECT THE HEALTH
25 AND SAFETY OF PATIENTS; AND

26 (B) IN THE PARTICULAR SITUATION, THE REQUIREMENT SERVES NO
27 BENEFICIAL PUBLIC PURPOSE; OR

1 (II) CIRCUMSTANCES INDICATE THAT THE PUBLIC BENEFIT OF
2 WAIVING THE REQUIREMENT OUTWEIGHS THE PUBLIC BENEFIT TO BE
3 GAINED BY STRICTLY ADHERING TO THE REQUIREMENT.

4 (c) IN ADDITION TO ITS RULE-MAKING AUTHORITY GRANTED UNDER
5 SECTION 25-3.5-307.5, the board shall promulgate rules specifying
6 ~~additional~~ MINIMUM licensure requirements AND STANDARDS FOR AIR
7 AMBULANCE SERVICES NECESSARY TO ENSURE PUBLIC HEALTH AND
8 SAFETY, INCLUDING GOVERNING THE ISSUANCE OF INITIAL AND RENEWAL
9 LICENSES, CONDITIONAL LICENSES, PROVISIONAL LICENSES, AND OTHER
10 NECESSARY LICENSES; establishing a reasonable ~~fee~~ FEES for licensure
11 AND FOR ON-SITE INSPECTIONS, INVESTIGATIONS, CHANGES OF OWNERSHIP,
12 AND OTHER ACTIVITIES RELATED TO LICENSURE; defining exigent
13 circumstances for purposes of the exception in SUBPARAGRAPH (I) OF
14 paragraph (b) of this subsection (1); and specifying the procedure and
15 grounds for the suspension, revocation, or denial of a license. ~~Such~~ THE
16 rules ~~shall~~ MUST include the process used to investigate complaints
17 against an air ambulance service and procedures for data collection and
18 reporting to the department by an air ambulance service; except that
19 complaints that are related to the requirements of ~~CAMTS or a successor~~
20 AN ACCREDITING organization ~~shall~~ APPROVED BY THE DEPARTMENT IN
21 ACCORDANCE WITH PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION
22 MAY be referred to ~~CAMTS or such successor~~ THE organization for
23 investigation IF THE DEPARTMENT DETERMINES THAT REFERRAL IS
24 APPROPRIATE. The department shall consider the results of such
25 investigations in making licensure decisions concerning air ambulance
26 services.

27 (d) THE DEPARTMENT MAY ISSUE A PROVISIONAL LICENSE TO AN

1 APPLICANT FOR AN INITIAL LICENSE TO OPERATE AN AIR AMBULANCE
2 SERVICE IF THE APPLICANT IS TEMPORARILY UNABLE TO CONFORM TO ALL
3 THE MINIMUM STANDARDS REQUIRED UNDER THIS ARTICLE AND RULES OF
4 THE BOARD; EXCEPT THAT A LICENSE SHALL NOT BE ISSUED TO AN
5 APPLICANT IF THE OPERATION OF THE APPLICANT'S AIR AMBULANCE
6 SERVICE WILL ADVERSELY AFFECT PATIENT CARE OR THE HEALTH, SAFETY,
7 AND WELFARE OF THE PUBLIC. AS A CONDITION OF OBTAINING A
8 PROVISIONAL LICENSE, THE APPLICANT MUST DEMONSTRATE TO THE
9 DEPARTMENT THAT THE APPLICANT IS MAKING ITS BEST EFFORTS TO
10 ACHIEVE COMPLIANCE WITH APPLICABLE STANDARDS. THE DEPARTMENT
11 MAY ISSUE THE APPLICANT A SECOND PROVISIONAL LICENSE FOR THE SAME
12 DURATION AND SHALL CHARGE THE SAME FEE AS FOR THE FIRST
13 PROVISIONAL LICENSE, BUT THE DEPARTMENT SHALL NOT ISSUE A THIRD
14 OR SUBSEQUENT PROVISIONAL LICENSE TO THE APPLICANT.

15 **SECTION 4.** In Colorado Revised Statutes, **add** 25-3.5-307.5 as
16 follows:

17 **25-3.5-307.5. Standards for air ambulance services - rules -**
18 **civil penalties - disciplinary actions - transitional provisions - repeal.**

19 (1) THE BOARD SHALL PROMULGATE RULES IN ACCORDANCE WITH
20 SECTION 24-4-103, C.R.S., TO ESTABLISH MINIMUM STANDARDS FOR AN
21 AIR AMBULANCE SERVICE. THE RULES MUST INCLUDE MINIMUM
22 REQUIREMENTS OR STANDARDS FOR:

- 23 (a) APPROVAL OF AN ACCREDITING ORGANIZATION;
- 24 (b) RECOGNIZING ANOTHER JURISDICTION'S LICENSE, INCLUDING
25 A RESTRICTION ON THE NUMBER OF ALLOWABLE FLIGHTS PER YEAR IN
26 COLORADO UNDER THAT LICENSE, A FEE FOR SUCH RECOGNITION, AND A
27 PROCESS TO RESCIND THE RECOGNITION UPON A SHOWING OF GOOD CAUSE;

1 (c) MALPRACTICE AND LIABILITY INSURANCE FOR INJURIES TO
2 PERSONS, IN AMOUNTS DETERMINED BY THE BOARD, AND WORKERS'
3 COMPENSATION COVERAGE AS REQUIRED BY COLORADO LAW;

4 (d) MEDICAL CREW QUALIFICATIONS AND TRAINING;

5 (e) QUALIFICATIONS, TRAINING, AND ROLES AND RESPONSIBILITIES
6 FOR A MEDICAL DIRECTOR FOR AN AIR AMBULANCE SERVICE;

7 (f) COMMUNICATION EQUIPMENT, REPORTING CAPABILITIES,
8 PATIENT SAFETY, AND CREW SAFETY AND STAFFING;

9 (g) MEDICAL EQUIPMENT IN AN AIR AMBULANCE;

10 (h) DATA COLLECTION AND SUBMISSION, INCLUDING REPORTING
11 REQUIREMENTS AS DETERMINED BY THE DEPARTMENT;

12 (i) MAINTAINING PROGRAM QUALITY; AND

13 (j) MANAGEMENT OF PATIENT AND MEDICAL STAFF SAFETY WITH
14 REGARD TO CLINICAL STAFFING AND SHIFT TIME.

15 (2) RULES PROMULGATED BY THE BOARD MUST NOT INCLUDE
16 ACTIVITIES PREEMPTED BY THE FEDERAL AVIATION ADMINISTRATION OR
17 THE FEDERAL "AIRLINE DEREGULATION ACT", 49 U.S.C. SEC. 1301 ET
18 SEQ.

19 (3) **Civil penalties.** AN AIR AMBULANCE OPERATOR, SERVICE, OR
20 PROVIDER OR OTHER PERSON WHO VIOLATES THIS SECTION, SECTION
21 25-3.5-307, OR A RULE OF THE BOARD PROMULGATED PURSUANT TO THIS
22 PART 3 OR WHO OPERATES WITHOUT A CURRENT AND VALID LICENSE IS
23 SUBJECT TO A CIVIL PENALTY OF UP TO FIVE THOUSAND DOLLARS PER
24 VIOLATION OR FOR EACH DAY OF A CONTINUING VIOLATION. THE
25 DEPARTMENT SHALL ASSESS AND COLLECT THESE PENALTIES. BEFORE
26 COLLECTING A PENALTY, THE DEPARTMENT SHALL PROVIDE THE ALLEGED
27 VIOLATOR WITH NOTICE AND THE OPPORTUNITY FOR A HEARING IN

1 ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",
2 ARTICLE 4 OF TITLE 24, C.R.S., AND ALL APPLICABLE RULES OF THE
3 BOARD. THE DEPARTMENT SHALL TRANSMIT ALL PENALTIES COLLECTED
4 PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO SHALL
5 CREDIT THEM TO THE GENERAL FUND.

6 (4) **Disciplinary actions.** FOR VIOLATION OF ANY PROVISION OF
7 THIS SECTION, SECTION 25-3.5-307, OR A RULE OF THE BOARD
8 PROMULGATED PURSUANT TO THIS PART 3 OR FOR OPERATING WITHOUT A
9 LICENSE, THE DEPARTMENT MAY TAKE ANY ONE OR MORE OF THE
10 FOLLOWING ACTIONS:

11 (a) DENY, SUSPEND, OR REVOKE A LICENSE ISSUED PURSUANT TO
12 THIS PART 3;

13 (b) IMPOSE A CIVIL PENALTY AS PROVIDED IN SUBSECTION (3) OF
14 THIS SECTION;

15 (c) ISSUE A CEASE-AND-DESIST ORDER IF THE DEPARTMENT HAS
16 DETERMINED THAT A VIOLATION HAS OCCURRED AND IMMEDIATE
17 ENFORCEMENT IS DEEMED NECESSARY. THE CEASE-AND-DESIST ORDER
18 MUST SET FORTH THE PROVISIONS ALLEGED TO HAVE BEEN VIOLATED, THE
19 FACTS ALLEGED TO HAVE CONSTITUTED THE VIOLATION, AND THE
20 REQUIREMENT THAT ALL VIOLATIONS CEASE FORTHWITH.

21 (d) SUMMARILY SUSPEND A LICENSE ISSUED PURSUANT TO THIS
22 PART 3 IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

23 (5) **Transitional provisions - repeal.** (a) ON OR BEFORE
24 DECEMBER 30, 2017, THE BOARD SHALL ADOPT RULES TO IMPLEMENT THIS
25 SECTION. BEFORE THE RULES BECOME EFFECTIVE, THE DEPARTMENT MAY:

26 (I) AUTHORIZE AN AIR AMBULANCE SERVICE TO TREAT AND
27 TRANSPORT PATIENTS IF THE AIR AMBULANCE SERVICE IS LICENSED BY

1 ANOTHER STATE OR ACCREDITED BY AN ORGANIZATION APPROVED BY THE
2 DEPARTMENT;

3 (II) INVESTIGATE COMPLAINTS AGAINST AN AIR AMBULANCE
4 SERVICE; AND

5 (III) TAKE DISCIPLINARY ACTION AS NECESSARY TO PROTECT THE
6 PUBLIC HEALTH, SAFETY, AND WELFARE IN A MANNER CONSISTENT WITH
7 THE RULES IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION.

8 (b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2018.

9 **SECTION 5. Appropriation.** (1) For the 2016-17 state fiscal
10 year, \$21,836 is appropriated to the department of public health and
11 environment. This appropriation is from the fixed-wing and rotary-wing
12 ambulances cash fund created in section 25-3.5-307 (2) (a), C.R.S. To
13 implement this act, the department may use this appropriation as follows:

14 (a) \$18,036 for use by the health facilities and emergency medical
15 services division for the state EMS coordination, planning and
16 certification program, which amount is based on an assumption that the
17 division will require an additional 0.2 FTE; and

18 (b) \$3,800 for the purchase of legal services.

19 (2) For the 2016-17 state fiscal year, \$3,800 is appropriated to the
20 department of law. This appropriation is from reappropriated funds
21 received from the department of public health and environment under
22 paragraph (b) of subsection (1) of this section. To implement this act, the
23 department of law may use this appropriation to provide legal services for
24 the department of public health and environment.

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