

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 16-0824.01 Christy Chase x2008

HOUSE BILL 16-1374

HOUSE SPONSORSHIP

McCann, Esgar, Ginal, Lontine, Primavera, Ryden

SENATE SPONSORSHIP

Kefalas,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING DISCLOSURE REQUIREMENTS APPLICABLE TO A LICENSED**
102 **COMMUNITY CLINIC PROVIDING EMERGENCY SERVICES TO**
103 **PATIENTS AT A SITE THAT IS NOT ATTACHED TO A HOSPITAL.**

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/bills summaries>.)

The bill requires a freestanding emergency room that provides emergency services in a facility, charges a facility fee, and is not attached to a hospital to post notices throughout the facility indicating that the facility is an emergency room that provides emergency services to treat emergency medical conditions. Additionally, a freestanding emergency

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.*

room, after performing an initial medical examination, must inform a patient who is determined not to have an emergency medical condition of, and provide to the patient a written statement containing, the following information:

- ! That the freestanding emergency room charges rates comparable to those charged by a hospital emergency room, including a facility fee of a specified amount;
- ! That the freestanding emergency room or a physician providing medical care at the center may not be a participating provider under the patient's health benefit plan;
- ! That the physician providing medical care at the freestanding emergency room may bill the patient separately from the center; and
- ! That for nonemergency medical conditions, the patient may wish to confer with his or her primary care physician or other primary care provider.

The freestanding emergency room must explain the contents of the written statement to the patient, obtain the patient's signature on the document, provide the patient with a copy of the signed document, and maintain the signed document in the patient's medical record.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25-3-117 as
3 follows:

4 **25-3-117. Freestanding emergency rooms - required notices -**
5 **disclosures - legislative declaration.** (1) THE GENERAL ASSEMBLY
6 HEREBY FINDS AND DECLARES THAT:

7 (a) EMERGENCY SERVICES ARE OF CRUCIAL VALUE TO COLORADO
8 COMMUNITIES, PROVIDING CARE WHEN COLORADANS ARE IN CRITICAL
9 NEED;

10 (b) INAPPROPRIATE OR UNNECESSARY USE OF EMERGENCY
11 SERVICES DRIVES UP HEALTH CARE COSTS;

12 (c) EMERGENCY CARE IS NOT A SUBSTITUTE FOR PRIMARY CARE,
13 AND PATIENTS WITH NONEMERGENT CONDITIONS ARE BETTER SERVED IN

1 A PRIMARY CARE SETTING;

2 (d) INDIVIDUALS SHOULD BE ABLE TO MAKE INFORMED DECISIONS
3 ABOUT ACCESSING HEALTH CARE SERVICES OF THEIR CHOICE WITHOUT
4 BARRIERS OR RESTRICTIONS; AND

5 (e) IT IS IN THE PUBLIC INTEREST FOR HEALTH CARE CONSUMERS TO
6 RECEIVE BALANCED INFORMATION ABOUT THEIR RIGHTS AND
7 RESPONSIBILITIES WITH REGARD TO EMERGENCY SERVICES.

8 (2) (a) (I) A FREESTANDING EMERGENCY ROOM SHALL POST A
9 NOTICE THAT STATES THAT THE HEALTH FACILITY IS AN EMERGENCY ROOM
10 THAT PROVIDES EMERGENCY SERVICES TO PATIENTS WITH EMERGENCY
11 MEDICAL CONDITIONS AND IS NOT AN URGENT CARE CENTER OR PRIMARY
12 CARE PROVIDER, AND EMERGENCY CARE RATES WILL APPLY.

13 (II) IF THE FREESTANDING EMERGENCY ROOM IS SUBJECT TO THE
14 REQUIREMENTS OF EMTALA, THE FREESTANDING EMERGENCY ROOM
15 MAY POST THE NOTICE AS PART OF OR ADJACENT TO THE SIGN REQUIRED
16 BY 42 CFR 489.20 (q) REGARDING A PATIENT'S RIGHT TO A MEDICAL
17 SCREENING EXAMINATION.

18 (b) A FREESTANDING EMERGENCY ROOM SHALL POST THE NOTICE
19 REQUIRED BY THIS SUBSECTION (2) IN PROMINENT AND CONSPICUOUS
20 LOCATIONS, INCLUDING:

21 (I) AT EACH PUBLIC ENTRANCE TO THE FREESTANDING EMERGENCY
22 ROOM;

23 (II) IN EACH WAITING AREA AND PATIENT TREATMENT ROOM OR
24 AREA;

25 (III) AT EACH LOCATION WITHIN THE FREESTANDING EMERGENCY
26 ROOM AT WHICH A PERSON PAYS FOR HEALTH CARE SERVICES; AND

27 (IV) ON THE FREESTANDING EMERGENCY ROOM'S WEBSITE, IF ONE

1 EXISTS.

2 (c) THE NOTICE MUST BE IN LEGIBLE PRINT ON A SIGN WITH
3 DIMENSIONS OF AT LEAST THIRTEEN INCHES BY TWENTY INCHES.

4 (3)(a) AFTER PERFORMING AN APPROPRIATE MEDICAL SCREENING
5 EXAMINATION TO DETERMINE WHETHER A PATIENT HAS AN EMERGENCY
6 MEDICAL CONDITION, A FREESTANDING EMERGENCY ROOM THAT IS NOT
7 SUBJECT TO THE REQUIREMENTS OF EMTALA SHALL INFORM EVERY
8 PATIENT WHO DOES NOT HAVE AN EMERGENCY MEDICAL CONDITION OF
9 THE FOLLOWING:

10 (I) THE FREESTANDING EMERGENCY ROOM CHARGES RATES
11 COMPARABLE TO THOSE CHARGED BY A HOSPITAL EMERGENCY ROOM AND
12 CHARGES A FACILITY FEE OF _____ DOLLARS OR MORE;

13 (II) THE FREESTANDING EMERGENCY ROOM OR A PHYSICIAN
14 PROVIDING MEDICAL CARE AT THE FREESTANDING EMERGENCY ROOM MAY
15 NOT BE A PARTICIPATING PROVIDER UNDER THE PATIENT'S HEALTH BENEFIT
16 PLAN OR MAY NOT BE PART OF THE PROVIDER NETWORK IN THE PATIENT'S
17 HEALTH BENEFIT PLAN;

18 (III) THE PHYSICIAN PROVIDING MEDICAL CARE AT THE
19 FREESTANDING EMERGENCY ROOM MAY BILL THE PATIENT SEPARATELY
20 FROM THE FREESTANDING EMERGENCY ROOM FOR ANY MEDICAL CARE THE
21 PHYSICIAN PROVIDES TO THE PATIENT; AND

22 (IV) THE PATIENT MAY WISH TO CONSULT HIS OR HER PRIMARY
23 CARE PHYSICIAN OR OTHER PRIMARY CARE PROVIDER FOR TREATMENT OF
24 A NONEMERGENCY MEDICAL CONDITION.

25 (b) IN ADDITION TO INFORMING THE PATIENT AS SPECIFIED IN
26 PARAGRAPH (a) OF THIS SUBSECTION (3), A FREESTANDING EMERGENCY
27 ROOM SHALL PROVIDE A WRITTEN STATEMENT TO EACH PATIENT OR THE

1 PATIENT'S REPRESENTATIVE, UPON COMPLETING AN APPROPRIATE MEDICAL
2 SCREENING EXAMINATION AND DETERMINING THAT THE PATIENT DOES NOT
3 HAVE AN EMERGENCY MEDICAL CONDITION, CONTAINING THE SAME
4 INFORMATION AS SPECIFIED IN SAID PARAGRAPH (a). A REPRESENTATIVE
5 OF THE FREESTANDING EMERGENCY ROOM SHALL REVIEW THE
6 INFORMATION WITH THE PATIENT OR HIS OR HER REPRESENTATIVE, OBTAIN
7 THE PATIENT'S OR REPRESENTATIVE'S ACKNOWLEDGMENT AND SIGNATURE
8 ON THE DOCUMENT, PROVIDE A COPY OF THE SIGNED DOCUMENT TO THE
9 PATIENT OR REPRESENTATIVE, AND MAINTAIN THE SIGNED DOCUMENT IN
10 THE PATIENT'S MEDICAL RECORD.

11 (c) THIS SUBSECTION (3) APPLIES ONLY TO A FREESTANDING
12 EMERGENCY ROOM THAT IS NOT SUBJECT TO THE REQUIREMENTS OF
13 EMTALA.

14 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
15 REQUIRES:

16 (a) "EMERGENCY MEDICAL CONDITION" HAS THE SAME MEANING
17 AS SET FORTH IN SECTION 1395dd (e) (1) OF EMTALA, AS AMENDED.

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19 (b) "EMERGENCY SERVICES" MEANS SERVICES TO TREAT PATIENTS
20 ARRIVING BY ANY MEANS WHO HAVE MEDICAL CONDITIONS, INCLUDING
21 ACUTE ILLNESS OR TRAUMA, THAT, IF NOT TREATED IMMEDIATELY, COULD
22 RESULT IN LOSS OF LIFE OR LIMB OR IN PERMANENT DISABILITY.

23 (c) "EMTALA" MEANS THE FEDERAL "EMERGENCY MEDICAL
24 TREATMENT AND ACTIVE LABOR ACT", 42 U.S.C. SEC. 1395dd, AND
25 REGULATIONS ADOPTED UNDER THE ACT.

26 (d) (I) "FREESTANDING EMERGENCY ROOM" MEANS A COMMUNITY
27 CLINIC LICENSED BY THE DEPARTMENT OF PUBLIC HEALTH AND

1 ENVIRONMENT PURSUANT TO SECTION 25-3-101 THAT:

2 (A) OFFERS EMERGENCY SERVICES;

3 (B) CHARGES A FACILITY FEE; AND

4 (C) IS NOT ATTACHED TO OR CONTAINED WITHIN A HOSPITAL.

5 (II) THE TERM INCLUDES A HEALTH FACILITY LICENSED OR
6 CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
7 PURSUANT TO SECTION 25-3-101 THAT:

8 (A) OFFERS EMERGENCY SERVICES;

9 (B) CHARGES A FACILITY FEE; AND

10 (C) IS AFFILIATED WITH OR OPERATED BY A HOSPITAL SYSTEM AND
11 IS LOCATED OFF THE HOSPITAL'S MAIN CAMPUS.

12 (III) THE TERM EXCLUDES A LICENSED COMMUNITY CLINIC THAT
13 PROVIDES EMERGENCY SERVICES AND URGENT CARE SERVICES WITHIN THE
14 SAME LOCATION AND CHARGES DIFFERENTIAL RATES FOR THE EMERGENCY
15 SERVICES AND URGENT CARE SERVICES IT PROVIDES.

16 (e) "PARTICIPATING PROVIDER" HAS THE SAME MEANING AS SET
17 FORTH IN SECTION 10-16-102 (46), C.R.S.

18 (f) "PROVIDER NETWORK" MEANS A NETWORK AS DEFINED IN
19 SECTION 10-16-102 (45), C.R.S.

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