

CHAPTER 206

AIRCRAFT AND AIRPORTS

HOUSE BILL 16-1280

BY REPRESENTATIVE(S) Winter, Ginal, Kraft-Tharp, Lontine, Melton, Mitsch Bush, Pabon, Rankin, Ryden, Williams, Hullinghorst;
also SENATOR(S) Lambert, Aguilar, Carroll, Grantham, Kerr, Lundberg, Martinez Humenik, Newell, Todd, Woods.

AN ACT

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

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

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

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

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

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

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

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

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

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

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

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

25-3.5-307. Licensure of fixed-wing and rotor-wing air ambulances - cash fund created - rules. (1) (a) Except as provided in paragraph (b) of this subsection (1), prior to beginning air ambulance operations in this state, ~~all fixed-wing and rotor-wing~~ AN air ambulance services ~~shall~~ SERVICE MUST be licensed by the department. EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (1), COMPLIANCE WITH RULES PROMULGATED BY THE BOARD OR successful completion of an accreditation process as established and updated by the ~~commission on accreditation of medical transport systems (CAMTS) or a successor organization~~ THROUGH AN ACCREDITING ORGANIZATION APPROVED BY THE DEPARTMENT AS HAVING STANDARDS EQUIVALENT TO OR EXCEEDING THE STANDARDS ESTABLISHED IN RULES OF THE BOARD is required for full licensure and renewal of such license by the department for ~~all fixed-wing and rotor-wing~~ AN air ambulance services. The department may issue a conditional license to an air ambulance service that has not completed CAMTS accreditation if the service is actively working toward CAMTS accreditation. An air ambulance service that receives a conditional license shall complete its CAMTS accreditation within two years after issuance of the conditional license. If an air ambulance service to which a conditional license has been issued fails to complete the CAMTS accreditation process within two years after issuance of the initial conditional license, the conditional license shall be revoked, and the air ambulance service shall not be issued any type of license until it successfully completes the CAMTS accreditation process SERVICE.

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

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

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

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

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

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

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

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

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

25-3.5-307.5. Standards for air ambulance services - rules - civil penalties - disciplinary actions - transitional provisions - repeal. (1) THE BOARD SHALL PROMULGATE RULES IN ACCORDANCE WITH SECTION 24-4-103, C.R.S., TO ESTABLISH MINIMUM STANDARDS FOR AN AIR AMBULANCE SERVICE. THE RULES MUST INCLUDE MINIMUM REQUIREMENTS OR STANDARDS FOR:

(a) APPROVAL OF AN ACCREDITING ORGANIZATION;

(b) RECOGNIZING ANOTHER JURISDICTION'S LICENSE, INCLUDING A RESTRICTION ON THE NUMBER OF ALLOWABLE FLIGHTS PER YEAR IN COLORADO UNDER THAT LICENSE, A FEE FOR SUCH RECOGNITION, AND A PROCESS TO RESCIND THE RECOGNITION UPON A SHOWING OF GOOD CAUSE;

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

(d) MEDICAL CREW QUALIFICATIONS AND TRAINING;

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

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

(g) MEDICAL EQUIPMENT IN AN AIR AMBULANCE;

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

(i) MAINTAINING PROGRAM QUALITY; AND

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

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

(3) **Civil penalties.** AN AIR AMBULANCE OPERATOR, SERVICE, OR PROVIDER OR OTHER PERSON WHO VIOLATES THIS SECTION, SECTION 25-3.5-307, OR A RULE OF THE BOARD PROMULGATED PURSUANT TO THIS PART 3 OR WHO OPERATES WITHOUT A CURRENT AND VALID LICENSE IS SUBJECT TO A CIVIL PENALTY OF UP TO FIVE THOUSAND DOLLARS PER VIOLATION OR FOR EACH DAY OF A CONTINUING VIOLATION. THE DEPARTMENT SHALL ASSESS AND COLLECT THESE PENALTIES. BEFORE COLLECTING A PENALTY, THE DEPARTMENT SHALL PROVIDE THE ALLEGED VIOLATOR WITH NOTICE AND THE OPPORTUNITY FOR A HEARING IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., AND ALL APPLICABLE RULES OF THE BOARD. THE DEPARTMENT SHALL TRANSMIT ALL PENALTIES COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE GENERAL FUND.

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

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

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

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

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

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

(I) AUTHORIZE AN AIR AMBULANCE SERVICE TO TREAT AND TRANSPORT PATIENTS IF THE AIR AMBULANCE SERVICE IS LICENSED BY ANOTHER STATE OR ACCREDITED BY AN ORGANIZATION APPROVED BY THE DEPARTMENT;

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

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

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

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

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

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

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

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

Approved: June 1, 2016