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HOUSE BILL 19-1010

BY REPRESENTATIVE(S) Mullica and Landgraf, Buentello, Caraveo, Esgar, Exum, Garnett, Hansen, Herod, Jackson, Jaquez Lewis, Kennedy, Lontine, Roberts, Singer, Sirota, Snyder, Tipper, Titone, Valdez D., Weissman, Becker;
also SENATOR(S) Gardner and Pettersen, Bridges, Court, Danielson, Donovan, Fenberg, Fields, Ginal, Gonzales, Moreno, Rodriguez, Story, Todd, Williams A., Winter, Garcia.

CONCERNING THE LICENSING OF FREESTANDING EMERGENCY DEPARTMENTS,
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, **add** 25-1.5-114 as follows:

25-1.5-114. Freestanding emergency departments - licensure - requirements - rules - definition. (1) ON OR AFTER DECEMBER 1, 2021, A PERSON THAT WISHES TO OPERATE A FREESTANDING EMERGENCY DEPARTMENT MUST SUBMIT TO THE DEPARTMENT ON AN ANNUAL BASIS A COMPLETED APPLICATION FOR LICENSURE AS A FREESTANDING EMERGENCY DEPARTMENT. ON OR AFTER JULY 1, 2022, A PERSON SHALL NOT OPERATE A

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

FREESTANDING EMERGENCY DEPARTMENT THAT IS REQUIRED TO BE LICENSED PURSUANT TO THIS SECTION WITHOUT A LICENSE ISSUED BY THE DEPARTMENT.

(2) THE DEPARTMENT MAY GRANT A WAIVER OF THE LICENSURE REQUIREMENTS SET FORTH IN THIS SECTION AND IN RULES ADOPTED BY THE BOARD FOR EITHER A LICENSED COMMUNITY CLINIC OR COMMUNITY CLINIC SEEKING LICENSURE THAT IS SERVING AN UNDERSERVED POPULATION IN THE STATE.

(3) (a) THE BOARD SHALL ADOPT RULES ESTABLISHING THE REQUIREMENTS FOR LICENSURE OF, WAIVER FROM THE REQUIREMENT FOR LICENSURE OF, SAFETY AND CARE STANDARDS FOR, AND FEES FOR LICENSING AND INSPECTING FREESTANDING EMERGENCY DEPARTMENTS. THE BOARD MUST SET THE FEES IN ACCORDANCE WITH SECTION 25-3-105.

(b) THE RULES ADOPTED BY THE BOARD SHALL INCLUDE A REQUIREMENT THAT EACH INDIVIDUAL SEEKING TREATMENT AT THE FREESTANDING EMERGENCY DEPARTMENT RECEIVE A MEDICAL SCREENING EXAMINATION AND A PROHIBITION AGAINST DELAYING A MEDICAL SCREENING EXAMINATION IN ORDER TO INQUIRE ABOUT THE INDIVIDUAL'S ABILITY TO PAY OR INSURANCE STATUS.

(c) THE RULES ADOPTED BY THE BOARD MUST TAKE EFFECT BY JULY 1, 2021, AND THEREAFTER THE BOARD SHALL AMEND THE RULES AS NECESSARY.

(4) A FREESTANDING EMERGENCY DEPARTMENT LICENSED PURSUANT TO THIS SECTION IS SUBJECT TO THE REQUIREMENTS IN SECTION 25-3-119.

(5) (a) AS USED IN THIS SECTION, "FREESTANDING EMERGENCY DEPARTMENT" MEANS A HEALTH FACILITY THAT OFFERS EMERGENCY CARE, THAT MAY OFFER PRIMARY AND URGENT CARE SERVICES, AND THAT IS EITHER:

(I) OWNED OR OPERATED BY, OR AFFILIATED WITH, A HOSPITAL OR HOSPITAL SYSTEM AND LOCATED MORE THAN TWO HUNDRED FIFTY YARDS FROM THE MAIN CAMPUS OF THE HOSPITAL; OR

(II) INDEPENDENT FROM AND NOT OPERATED BY OR AFFILIATED WITH

A HOSPITAL OR HOSPITAL SYSTEM AND NOT ATTACHED TO OR SITUATED WITHIN TWO HUNDRED FIFTY YARDS OF, OR CONTAINED WITHIN, A HOSPITAL.

(b) "FREESTANDING EMERGENCY DEPARTMENT" DOES NOT INCLUDE A HEALTH FACILITY DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION THAT WAS LICENSED BY THE DEPARTMENT PURSUANT TO SECTION 25-1.5-103 AS A COMMUNITY CLINIC PRIOR TO JULY 1, 2010, IF THE FACILITY IS SERVING A RURAL COMMUNITY OR A SKI AREA, AS DEFINED IN BOARD RULES.

SECTION 2. In Colorado Revised Statutes, 25-1.5-103, **amend** (1)(a)(I)(A) and (2)(a.5)(II); and **add** (2)(a.5)(III) as follows:

25-1.5-103. Health facilities - powers and duties of department - limitations on rules promulgated by department - definitions. (1) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section as follows:

(a) (I) (A) To annually license and to establish and enforce standards for the operation of general hospitals, hospital units as defined in section 25-3-101 (2), FREESTANDING EMERGENCY DEPARTMENTS AS DEFINED IN SECTION 25-1.5-114, psychiatric hospitals, community clinics, rehabilitation hospitals, convalescent centers, community mental health centers, acute treatment units, facilities for persons with intellectual and developmental disabilities, nursing care facilities, hospice care, assisted living residences, dialysis treatment clinics, ambulatory surgical centers, birthing centers, home care agencies, and other facilities of a like nature, except those wholly owned and operated by any governmental unit or agency.

(2) For purposes of this section, unless the context otherwise requires:

(a.5) "Community clinic" has the same meaning as set forth in section 25-3-101 and does not include:

(II) A rural health clinic, as defined in section 1861 (aa)(2) of the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa)(2); OR

(III) A FREESTANDING EMERGENCY DEPARTMENT AS DEFINED IN AND REQUIRED TO BE LICENSED UNDER SECTION 25-1.5-114.

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

25-3-101. Hospitals - health facilities - licensed - definitions.

(1) It is unlawful for any person, partnership, association, or corporation to open, conduct, or maintain any general hospital, hospital unit, FREESTANDING EMERGENCY DEPARTMENT AS DEFINED IN SECTION 25-1.5-114, psychiatric hospital, community clinic, rehabilitation hospital, convalescent center, community mental health center, acute treatment unit, facility for persons with developmental disabilities, as defined in section 25-1.5-103 (2)(c), nursing care facility, hospice care, assisted living residence, except an assisted living residence shall be assessed a license fee as set forth in section 25-27-107, dialysis treatment clinic, ambulatory surgical center, birthing center, home care agency, or other facility of a like nature, except those wholly owned and operated by any governmental unit or agency, without first having obtained a license from the department. ~~of public health and environment.~~

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

(a) (I) "Community clinic" means a health care facility that provides health care services on an ambulatory basis, is neither licensed as an on-campus department or service of a hospital nor listed as an off-campus location under a hospital's license, and meets at least one of the following criteria:

(B) Provides emergency services at the facility AND IS NOT OTHERWISE REQUIRED TO OBTAIN LICENSURE AS A FREESTANDING EMERGENCY DEPARTMENT IN ACCORDANCE WITH SECTION 25-1.5-114; or

(III) "Community clinic" does not include:

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

(D) A FREESTANDING EMERGENCY DEPARTMENT AS DEFINED IN AND REQUIRED TO BE LICENSED UNDER SECTION 25-1.5-114.

SECTION 4. In Colorado Revised Statutes, 25-3-119, **amend** (8)(c)

as follows:

25-3-119. Freestanding emergency departments - required notices - disclosures - rules - definitions. (8) As used in this section:

~~(c) (†) "Freestanding emergency department" means a health facility that offers emergency care, that may offer primary and urgent care services, that is licensed by the department pursuant to section 25-1.5-103, and that is either:~~ HAS THE SAME MEANING AS SECTION 25-1.5-114 (5).

~~(A) Owned or operated by, or affiliated with, a hospital or hospital system and is located more than two hundred fifty yards from the main campus of the hospital; or~~

~~(B) Independent from and not operated by or affiliated with a hospital or hospital system and is not attached to or situated within two hundred fifty yards of, or contained within, a hospital.~~

~~(H) "Freestanding emergency department" does not include a health facility described in subsection (8)(c)(I) of this section that was licensed by the department pursuant to section 25-1.5-103 as a community clinic prior to July 1, 2010, if the facility is serving a rural community or a ski area, as defined in state board rules.~~

SECTION 5. Appropriation. For the 2019-20 state fiscal year, \$43,248 is appropriated to the department of public health and environment for use by the health facilities and emergency medical services division. This appropriation is from the health facilities general licensure cash fund created in section 25-3-103.1 (1), C.R.S., and is based on an assumption that the division will require an additional 0.5 FTE. To implement this act, the division may use this appropriation for the nursing facility survey.

SECTION 6. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO