

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 17, 2018
Date

Committee on Public Health Care & Human Services.

After consideration on the merits, the Committee recommends the following:

HB18-1357 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 2, strike line 11 and substitute:
 - 2 "(1) "HEALTH CARE PROVIDER" OR "PROVIDER" MEANS:
 - 3 (a) A".

- 4 Page 2, line 12, strike "(17), OR" and substitute "(17);
 - 5 (b) A".

- 6 Page 2, line 14, strike "12." and substitute "(12); OR
 - 7 (c) ANY OTHER HEALTH CARE PROVIDER REGULATED BY THE
 - 8 STATE."

- 9 Page 2, line 22, after "(1)" insert "(a)".

- 10 Page 3, after line 2 insert:
 - 11 "(b) THE OFFICE AND THE DEPARTMENT SHALL OPERATE PURSUANT
 - 12 TO A MEMORANDUM OF UNDERSTANDING BETWEEN THE TWO ENTITIES.
 - 13 THE MEMORANDUM OF UNDERSTANDING CONTAINS, AT A MINIMUM:
 - 14 (I) A REQUIREMENT THAT THE OFFICE HAS ITS OWN PERSONNEL
 - 15 RULES;
 - 16 (II) A REQUIREMENT THAT THE OMBUDSPERSON HAS INDEPENDENT
 - 17 HIRING AND TERMINATION AUTHORITY OVER OFFICE EMPLOYEES;
 - 18 (III) A REQUIREMENT THAT THE OFFICE MUST FOLLOW STATE
 - 19 FISCAL RULES;

1 (IV) A REQUIREMENT THAT THE OFFICE OF BEHAVIORAL HEALTH
2 SHALL OFFER THE OFFICE LIMITED SUPPORT WITH RESPECT TO:
3 (A) PERSONNEL MATTERS;
4 (B) RECRUITMENT;
5 (C) PAYROLL;
6 (D) BENEFITS;
7 (E) BUDGET SUBMISSION, AS NEEDED;
8 (F) ACCOUNTING; AND
9 (G) OFFICE SPACE, FACILITIES, AND TECHNICAL SUPPORT; AND
10 (V) ANY OTHER PROVISIONS REGARDING ADMINISTRATIVE
11 SUPPORT THAT WILL HELP MAINTAIN THE INDEPENDENCE OF THE OFFICE.
12 (c) THE OFFICE SHALL OPERATE WITH FULL INDEPENDENCE AND
13 HAS COMPLETE AUTONOMY, CONTROL, AND AUTHORITY OVER
14 OPERATIONS, BUDGET, AND PERSONNEL DECISIONS RELATED TO THE
15 OFFICE AND THE OMBUDSPERSON."

16 Page 3, line 3, strike "JANUARY 1, 2019," and substitute "NOVEMBER 1,
17 2018,".

18 Page 3, line 27, strike "REPORT CONCERNS AND COMPLAINTS" and
19 substitute "ASSIST CONSUMERS AND PROVIDERS IN REPORTING CONCERNS
20 AND FILING COMPLAINTS WITH APPROPRIATE REGULATORY OR OVERSIGHT
21 AGENCIES".

22 Page 4, after line 12 insert:

23 "(4) THE OMBUDSPERSON, EMPLOYEES OF THE OFFICE, AND ANY
24 PERSONS ACTING ON BEHALF OF THE OFFICE SHALL COMPLY WITH ALL
25 STATE AND FEDERAL CONFIDENTIALITY LAWS THAT GOVERN THE
26 DEPARTMENT WITH RESPECT TO THE TREATMENT OF CONFIDENTIAL
27 INFORMATION OR RECORDS AND THE DISCLOSURE OF SUCH INFORMATION
28 AND RECORDS.

29 (5) IN THE PERFORMANCE OF HIS OR HER DUTIES, THE
30 OMBUDSPERSON SHALL ACT INDEPENDENTLY OF THE OFFICE OF
31 BEHAVIORAL HEALTH. ANY RECOMMENDATIONS MADE BY THE
32 OMBUDSPERSON OR POSITIONS TAKEN BY THE OMBUDSPERSON DO NOT
33 REFLECT THOSE OF THE DEPARTMENT OR OFFICE OF BEHAVIORAL
34 HEALTH."

35 Page 4, after line 18 insert:

1 **"27-80-305. Qualified immunity.** THE OMBUDSPERSON AND
2 EMPLOYEES OR PERSONS ACTING ON BEHALF OF THE OFFICE ARE IMMUNE
3 FROM SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL
4 CAPACITIES, FOR ANY CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY, OR
5 FOR PERSONAL INJURY OR OTHER CIVIL LIABILITY CAUSED BY OR ARISING
6 OUT OF ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION THAT
7 OCCURRED WITHIN THE SCOPE OF EMPLOYMENT, DUTIES, OR
8 RESPONSIBILITIES PERTAINING TO THE OFFICE, INCLUDING ISSUING
9 REPORTS OR RECOMMENDATIONS; EXCEPT THAT NOTHING IN THIS SECTION
10 PROTECTS THOSE PERSONS FROM SUIT OR LIABILITY FOR DAMAGE, LOSS,
11 INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL AND
12 WANTON MISCONDUCT OF THE PERSON."

13 Renumber succeeding C.R.S. section accordingly.

14 Page 5, strike line 13 and substitute "PROVIDER OR IDENTIFYING
15 INFORMATION ABOUT A HEALTH CARE FACILITY LICENSED PURSUANT TO
16 SECTION 25-1.5-103 OR AN EMERGENCY MEDICAL SERVICES FACILITY, AS
17 DEFINED IN SECTION 27-65-102 (5.5)."

18 Page 5, line 24, strike "**carriers -**".

19 Page 5, strike lines 25 through 27.

20 Strike pages 6 and 7.

21 Page 8, strike lines 1 through 18 and substitute "**definition.** (1) (a) BY
22 MARCH 1, 2019, AND EVERY OTHER MARCH 1".

23 Renumber succeeding subsection accordingly.

24 Strike "BEHAVIORAL" on: **Page 3**, lines 9, 11, and 16; **Page 4**, lines 10 and
25 18; and **Page 5**, line 12.

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