

CHAPTER 174

HEALTH AND ENVIRONMENT

SENATE BILL 19-065

BY SENATOR(S) Garcia, Bridges, Cooke, Coram, Crowder, Danielson, Donovan, Fenberg, Gardner, Ginal, Gonzales, Priola, Rankin, Rodriguez, Story, Tate, Todd, Williams A., Winter, Woodward, Zenzinger;
also REPRESENTATIVE(S) Exum, Arndt, Bird, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Galindo, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Kipp, Liston, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Valdez A., Valdez D., Becker.

AN ACT

CONCERNING THE CREATION OF A PEER HEALTH ASSISTANCE PROGRAM FOR EMERGENCY MEDICAL SERVICE PROVIDERS, 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 25-3.5-208** as follows:

25-3.5-208. Emergency medical service providers' peer health assistance program - rules. (1) AS A CONDITION OF INITIAL CERTIFICATION AND CERTIFICATION RENEWAL, EVERY APPLICANT SHALL PAY TO THE DEPARTMENT, AT THE TIME OF APPLICATION, TWO DOLLARS AND FIFTY-FIVE CENTS. THIS AMOUNT MAY BE ADJUSTED ON JANUARY 1, 2021, AND ANNUALLY THEREAFTER BY THE BOARD TO REFLECT:

(a) CHANGES IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD, OR ITS SUCCESSOR INDEX; AND

(b) OVERALL UTILIZATION OF THE PROGRAM.

(2) THE FEE IMPOSED PURSUANT TO SUBSECTION (1) OF THIS SECTION IS TO SUPPORT DESIGNATED PROVIDERS THE DEPARTMENT SELECTS TO PROVIDE ASSISTANCE TO EMERGENCY MEDICAL SERVICE PROVIDERS NEEDING HELP IN DEALING WITH PHYSICAL, EMOTIONAL, OR PSYCHOLOGICAL CONDITIONS THAT MAY BE DETRIMENTAL TO THEIR ABILITY TO PROVIDE EMERGENCY MEDICAL SERVICES.

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.

(3) THE DEPARTMENT SHALL DEPOSIT THE FEES COLLECTED PURSUANT TO THIS SECTION IN THE EMERGENCY MEDICAL SERVICES PEER ASSISTANCE FUND, REFERRED TO IN THIS SECTION AS THE "FUND", WHICH IS HEREBY CREATED IN THE STATE TREASURY. MONEY IN THE FUND IS NOT SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND. THE DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION.

(4) THE DEPARTMENT SHALL SELECT ONE OR MORE PEER HEALTH ASSISTANCE PROGRAMS AS DESIGNATED PROVIDERS. TO BE ELIGIBLE FOR DESIGNATION BY THE DEPARTMENT, A PEER HEALTH ASSISTANCE PROGRAM MUST:

(a) PROVIDE FOR THE EDUCATION OF EMERGENCY MEDICAL SERVICE PROVIDERS WITH RESPECT TO THE RECOGNITION AND PREVENTION OF PHYSICAL, EMOTIONAL, AND PSYCHOLOGICAL CONDITIONS AND PROVIDE FOR INTERVENTION WHEN NECESSARY OR UNDER CIRCUMSTANCES THAT THE DEPARTMENT MAY ESTABLISH BY RULE;

(b) OFFER ASSISTANCE TO AN EMERGENCY MEDICAL SERVICE PROVIDER IN IDENTIFYING PHYSICAL, EMOTIONAL, OR PSYCHOLOGICAL CONDITIONS;

(c) EVALUATE THE EXTENT OF PHYSICAL, EMOTIONAL, OR PSYCHOLOGICAL CONDITIONS AND REFER THE EMERGENCY MEDICAL SERVICE PROVIDER FOR APPROPRIATE TREATMENT;

(d) MONITOR THE STATUS OF AN EMERGENCY MEDICAL SERVICE PROVIDER WHO HAS BEEN REFERRED FOR TREATMENT;

(e) PROVIDE COUNSELING AND SUPPORT FOR THE EMERGENCY MEDICAL SERVICE PROVIDER AND FOR THE FAMILY OF ANY EMERGENCY MEDICAL SERVICE PROVIDER REFERRED FOR TREATMENT;

(f) AGREE TO RECEIVE REFERRALS FROM THE DEPARTMENT; AND

(g) AGREE TO MAKE SERVICES AVAILABLE TO ALL CERTIFIED EMERGENCY MEDICAL SERVICE PROVIDERS.

(5) THE DEPARTMENT MAY SELECT AN ENTITY TO ADMINISTER THE EMERGENCY MEDICAL SERVICE PROVIDERS PEER HEALTH ASSISTANCE PROGRAM. THE ADMINISTERING ENTITY MUST BE A NONPROFIT PRIVATE FOUNDATION THAT IS QUALIFIED UNDER SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND IS DEDICATED TO PROVIDING SUPPORT FOR CHARITABLE, BENEVOLENT, EDUCATIONAL, AND SCIENTIFIC PURPOSES THAT ARE RELATED TO MEDICINE, MEDICAL EDUCATION, MEDICAL RESEARCH AND SCIENCE, AND OTHER MEDICAL CHARITABLE PURPOSES.

(6) THE ADMINISTERING ENTITY SHALL:

(a) DISTRIBUTE THE MONEY COLLECTED FROM THE DEPARTMENT, LESS EXPENSES, TO AN APPROVED DESIGNATED PROVIDER, AS DIRECTED BY THE DEPARTMENT;

(b) PROVIDE AN ANNUAL ACCOUNTING TO THE DEPARTMENT OF ALL AMOUNTS COLLECTED, EXPENSES INCURRED, AND AMOUNTS DISBURSED; AND

(c) POST A SURETY PERFORMANCE BOND IN AN AMOUNT SPECIFIED BY THE DEPARTMENT TO SECURE PERFORMANCE UNDER THE REQUIREMENTS OF THIS SECTION. THE ADMINISTERING ENTITY MAY RECOVER THE ACTUAL ADMINISTRATIVE COSTS INCURRED IN PERFORMING ITS DUTIES UNDER THIS SECTION IN AN AMOUNT NOT TO EXCEED TEN PERCENT OF THE TOTAL AMOUNT COLLECTED.

(7)(a) ANY CERTIFICATE HOLDER WHO DOES NOT HAVE ACCESS TO AN EMPLOYEE ASSISTANCE PROGRAM MAY APPLY TO THE DEPARTMENT FOR PARTICIPATION IN A QUALIFIED PEER HEALTH ASSISTANCE PROGRAM. IN ORDER TO BE ELIGIBLE FOR PARTICIPATION, A CERTIFICATE HOLDER SHALL:

(I) ACKNOWLEDGE THE EXISTENCE OR THE POTENTIAL EXISTENCE OF A PHYSICAL, PSYCHOLOGICAL, OR EMOTIONAL CONDITION; EXCESSIVE ALCOHOL OR DRUG USE; OR AN ALCOHOL USE DISORDER, AS DEFINED IN SECTION 27-81-102(1), OR A SUBSTANCE USE DISORDER, AS DEFINED IN SECTION 27-82-102(13.5);

(II) AFTER A FULL EXPLANATION OF THE OPERATION AND REQUIREMENTS OF THE PEER HEALTH ASSISTANCE PROGRAM, AGREE TO VOLUNTARILY PARTICIPATE IN THE PROGRAM AND AGREE IN WRITING TO PARTICIPATE IN THE PROGRAM OF THE PEER HEALTH ASSISTANCE ORGANIZATION DESIGNATED BY THE DEPARTMENT.

(b) (I) ANY CERTIFICATE HOLDER MAY SELF-REFER TO THE QUALIFIED PEER HEALTH ASSISTANCE PROGRAM SELECTED BY THE DEPARTMENT. IF A CERTIFICATE HOLDER WHO SELF-REFERS IN ACCORDANCE WITH THIS SUBSECTION (7)(b) HAS ACCESS TO AN EMPLOYEE ASSISTANCE PROGRAM, THE CERTIFICATE HOLDER SHALL COVER THE COST OF THE PROGRAM.

(II) A CERTIFICATE HOLDER WHO SELF-REFERS AND IS ACCEPTED INTO A QUALIFIED PEER HEALTH ASSISTANCE PROGRAM SHALL AFFIRM THAT, TO THE BEST OF THEIR KNOWLEDGE, INFORMATION, AND BELIEF, THEY KNOW OF NO INSTANCE IN WHICH THEY HAVE VIOLATED THIS ARTICLE 3.5 OR THE RULES OF THE BOARD, EXCEPT IN INSTANCES AFFECTED BY THE CERTIFICATE HOLDER'S PHYSICAL, PSYCHOLOGICAL, OR EMOTIONAL CONDITION.

(8) ALL DOCUMENTS, RECORDS, OR REPORTS GENERATED IN THE PROVISION OF SERVICES TO A CERTIFICATE HOLDER WHO IS ATTENDING A QUALIFIED PEER HEALTH ASSISTANCE PROGRAM ARE CONFIDENTIAL AND NOT SUBJECT TO SUBPOENA AND SHALL NOT BE USED AS EVIDENCE IN ANY PROCEEDING OTHER THAN DISCIPLINARY ACTION BY THE DEPARTMENT. THE DOCUMENTS, RECORDS, AND REPORTS ARE NOT PUBLIC RECORDS FOR PURPOSES OF SECTION 24-72-203.

(9) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE DEPARTMENT MAY SUMMARILY SUSPEND THE CERTIFICATION OF ANY CERTIFICATE HOLDER WHO IS REFERRED TO A PEER HEALTH ASSISTANCE PROGRAM BY THE DEPARTMENT AND WHO FAILS TO ATTEND OR TO COMPLETE THE PROGRAM. IF A CERTIFICATE HOLDER OBJECTS TO THE SUSPENSION, THE CERTIFICATE HOLDER MAY SUBMIT A WRITTEN REQUEST TO THE DEPARTMENT FOR THE FORMAL HEARING ON THE SUSPENSION WITHIN TWO DAYS AFTER RECEIVING NOTICE OF THE SUSPENSION AND THE

DEPARTMENT SHALL GRANT THE REQUEST. IN THE HEARING, THE CERTIFICATE HOLDER SHALL HAVE THE BURDEN OF PROVING THAT THE CERTIFICATE HOLDER'S CERTIFICATION SHOULD NOT BE SUSPENDED. THE HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH SECTION 24-4-105.

(10) NOTHING IN THIS SECTION CREATES ANY LIABILITY ON THE DEPARTMENT OR THE STATE OF COLORADO FOR THE ACTIONS OF THE DEPARTMENT IN MAKING GRANTS TO PEER ASSISTANCE PROGRAMS, AND NO CIVIL ACTION MAY BE BROUGHT OR MAINTAINED AGAINST THE DEPARTMENT OR THE STATE FOR AN INJURY ALLEGED TO HAVE BEEN THE RESULT OF THE ACTIVITIES OF ANY STATE-FUNDED PEER ASSISTANCE PROGRAM OR THE RESULT OF AN ACT OR OMISSION OF AN EMERGENCY MEDICAL SERVICE PROVIDER PARTICIPATING IN OR REFERRED BY A STATE-FUNDED PEER ASSISTANCE PROGRAM. HOWEVER, THE STATE REMAINS LIABLE UNDER THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, IF AN INJURY ALLEGED TO HAVE BEEN THE RESULT OF AN ACT OR OMISSION OF AN EMERGENCY MEDICAL SERVICE PROVIDER PARTICIPATING IN OR REFERRED BY A STATE-FUNDED PEER ASSISTANCE PROGRAM OCCURRED WHILE THE EMERGENCY MEDICAL SERVICE PROVIDER WAS PERFORMING DUTIES AS AN EMPLOYEE OF THE STATE.

(11) THE DEPARTMENT MAY PROMULGATE RULES NECESSARY TO IMPLEMENT THIS SECTION.

SECTION 2. Appropriation. For the 2019-20 state fiscal year, \$57,242 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 emergency medical services account within the highway users tax fund created in section 25-3.5-603 (1)(a), C.R.S., and is based on an assumption that the division will require an additional 0.8 FTE. To implement this act, the division may use this appropriation for the peer health assistance program related to emergency medical services.

SECTION 3. 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.

Approved: May 14, 2019