

CHAPTER 355

HUMAN SERVICES - BEHAVIORAL HEALTH

HOUSE BILL 21-1085

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also SENATOR(S) Bridges and Smallwood, Buckner, Danielson, Ginal, Gonzales, Hansen, Kirkmeyer, Kolker, Lee, Moreno, Pettersen, Priola, Rankin, Simpson, Sonnenberg, Story, Winter, Garcia.

AN ACT

CONCERNING SECURE TRANSPORTATION FOR AN INDIVIDUAL IN BEHAVIORAL HEALTH CRISIS, 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** (3.3), (8.1), and (11.4) as follows:

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

(3.3) "BEHAVIORAL HEALTH" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-27.6-102 (4).

(8.1) "EMERGENCY MEDICAL SERVICES FACILITY" MEANS A LICENSED OR CERTIFIED FACILITY THAT PROVIDES EMERGENCY MEDICAL SERVICES, INCLUDING BUT NOT LIMITED TO HOSPITALS, HOSPITAL UNITS AS DEFINED IN SECTION 25-3-101, FREESTANDING EMERGENCY DEPARTMENTS AS DEFINED IN SECTION 25-1.5-114, PSYCHIATRIC HOSPITALS, COMMUNITY CLINICS, COMMUNITY MENTAL HEALTH CENTERS, AND ACUTE TREATMENT UNITS.

(11.4) (a) "SECURE TRANSPORTATION" OR "SECURE TRANSPORTATION SERVICES" MEANS URGENT TRANSPORTATION SERVICES PROVIDED TO INDIVIDUALS EXPERIENCING A BEHAVIORAL HEALTH CRISIS.

(b) SECURE TRANSPORTATION INCLUDES:

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.

(I) FOR AN INDIVIDUAL BEING TRANSPORTED PURSUANT TO SECTION 27-65-103 OR 27-65-105 (1), TRANSPORTATION FROM THE COMMUNITY TO A FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES FOR TREATMENT AND EVALUATION PURSUANT TO ARTICLE 65 OF TITLE 27;

(II) FOR AN INDIVIDUAL IN NEED OF SERVICES PURSUANT TO ARTICLES 81 AND 82 OF TITLE 27, TRANSPORTATION FROM ANY LOCATION TO AN APPROVED TREATMENT FACILITY, AS DESCRIBED IN SECTION 27-81-106, OR A WALK-IN CRISIS CENTER THAT IS OPERATING AS PART OF THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM;

(III) FOR AN INDIVIDUAL WHO IS RECEIVING TRANSPORTATION ACROSS LEVELS OF CARE OR TO A HIGHER LEVEL OF CARE, TRANSPORTATION BETWEEN ANY OF THE FOLLOWING TYPES OF FACILITIES:

(A) AN EMERGENCY MEDICAL SERVICES FACILITY;

(B) A FACILITY DESIGNATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES FOR TREATMENT AND EVALUATION PURSUANT TO ARTICLE 65 OF TITLE 27;

(C) AN APPROVED TREATMENT FACILITY, AS DESCRIBED IN SECTION 27-81-106;

(D) A WALK-IN CRISIS CENTER THAT IS OPERATING AS PART OF THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM; OR

(E) A BEHAVIORAL HEALTH ENTITY LICENSED PURSUANT TO SECTION 25-27.6-106 WITH A CURRENT TWENTY-FOUR-HOUR ENDORSEMENT.

(c) "SECURE TRANSPORTATION" DOES NOT INCLUDE URGENT TRANSPORTATION SERVICES PROVIDED BY LAW ENFORCEMENT OR PERSONNEL EMPLOYED BY OR CONTRACTED WITH A LAW ENFORCEMENT AGENCY TO INDIVIDUALS EXPERIENCING A BEHAVIORAL HEALTH CRISIS; EXCEPT THAT ANY MEMBER OF A CO-RESPONDER TEAM WHO IS NOT LAW ENFORCEMENT OR PERSONNEL EMPLOYED BY OR CONTRACTED WITH A LAW ENFORCEMENT AGENCY AND WHO HOLDS A VALID LICENSE FOR SECURE TRANSPORTATION BY THE COUNTY IN WHICH THE SECURE TRANSPORTATION ORIGINATES, IN A VEHICLE WITH A VALID PERMIT ISSUED BY THE COUNTY IN WHICH THE SECURE TRANSPORTATION ORIGINATES, AND WHICH MEETS THE MINIMUM REQUIREMENTS FOR SECURE TRANSPORTATION ESTABLISHED BY RULE PURSUANT TO SECTION 25-3.5-311 MAY PROVIDE URGENT SECURE TRANSPORTATION SERVICES.

SECTION 2. In Colorado Revised Statutes, **add** 25-3.5-309, 25-3.5-310, 25-3.5-311, 25-3.5-312, and 25-3.5-313 as follows:

25-3.5-309. Secure transportation - license required - fees - exceptions.

(1)(a) AFTER JANUARY 1, 2023, AN ENTITY SHALL NOT PROVIDE PUBLIC OR PRIVATE SECURE TRANSPORTATION SERVICES, AS DEFINED IN SECTION 25-3.5-103 (11.4), IN THIS STATE UNLESS THAT ENTITY HOLDS A VALID LICENSE ISSUED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED; EXCEPT THAT ENTITIES DESCRIBED IN SUBSECTION (2) OF THIS

SECTION MAY PROVIDE SECURE TRANSPORTATION SERVICES.

(b) LICENSES, PERMITS, AND RENEWALS ISSUED PURSUANT TO THIS SECTION AND SECTION 25-3.5-310 REQUIRE A FEE IN AN AMOUNT TO BE DETERMINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED TO REFLECT THE DIRECT AND INDIRECT COSTS INCURRED BY THE COUNTY IN IMPLEMENTING LICENSES FOR SECURE TRANSPORTATION.

(2) AMBULANCE AGENCIES, TRANSPORTATION SERVICES PROVIDED BY THE OFFICE OF BEHAVIORAL HEALTH WITHIN THE STATE DEPARTMENT OF HUMAN SERVICES, EMERGENCY SERVICE PATROLS ESTABLISHED PURSUANT TO SECTION 27-81-115, AND LAW ENFORCEMENT MAY PROVIDE SECURE TRANSPORTATION SERVICES TO AN INDIVIDUAL IN NEED OF URGENT BEHAVIORAL HEALTH CARE.

(3) AN AMBULANCE AGENCY IS ELIGIBLE TO RECEIVE REIMBURSEMENT PURSUANT TO SECTION 25.5-5-328 AND IS EXEMPT FROM ADDITIONAL LICENSING REQUIREMENTS IF THE AGENCY MEETS THE REQUIREMENTS FOR SECURE TRANSPORTATION AS ESTABLISHED BY RULE PURSUANT TO SECTION 25-3.5-311.

(4) EACH VEHICLE OPERATED BY A SECURE TRANSPORTATION LICENSEE MUST BE ISSUED A SEPARATE PERMIT BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED UPON POSITIVE REVIEW PURSUANT TO SECTION 25-3.5-310.

25-3.5-310. Secure transportation - issuance of licenses and permits - term - requirements. (1) (a) AFTER RECEIPT OF AN ORIGINAL APPLICATION FOR A LICENSE TO PROVIDE PUBLIC OR PRIVATE SECURE TRANSPORTATION SERVICES, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED SHALL REVIEW THE APPLICATION, THE APPLICANT'S RECORD, AND THE APPLICANT'S EQUIPMENT, AS WELL AS THE APPLICANT'S TRAINING AND OPERATING PROCEDURES. IN ORDER TO BE APPROVED FOR A LICENSE, THE APPLICANT MUST PROVIDE EVIDENCE THAT THE APPLICANT'S EQUIPMENT AND TRAINING AND OPERATING PROCEDURES MEET OR EXCEED THE MINIMUM REQUIREMENTS ESTABLISHED BY THE STATE BOARD OF HEALTH PURSUANT TO SECTION 25-3.5-311. THE BOARD OF COUNTY COMMISSIONERS OF ANY COUNTY MAY IMPOSE, BY RESOLUTION, ADDITIONAL REQUIREMENTS FOR SECURE TRANSPORTATION THAT IS BASED IN THAT COUNTY.

(b) IF AN APPLICANT IS APPROVED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED SHALL ISSUE A LICENSE, VALID FOR THREE YEARS, TO THE APPLICANT TO PROVIDE SECURE TRANSPORTATION SERVICES. THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED SHALL ALSO ISSUE A PERMIT, VALID FOR TWELVE MONTHS AFTER THE DATE OF ISSUANCE, FOR EACH VEHICLE USED BY THE LICENSEE IF THE VEHICLES AND EQUIPMENT MEET OR EXCEED THE MINIMUM REQUIREMENTS ESTABLISHED BY THE STATE BOARD OF HEALTH PURSUANT TO SECTION 25-3.5-311.

(2) ANY LICENSE OR PERMIT ISSUED PURSUANT TO THIS SECTION, UNLESS

REVOKED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY IN WHICH THE SECURE TRANSPORTATION SERVICE IS BASED, MAY BE RENEWED BY FILING AN APPLICATION, AS APPLICABLE FOR AN ORIGINAL LICENSE OR PERMIT. APPLICATIONS FOR PERMIT RENEWAL MUST BE FILED ANNUALLY, BUT NOT LESS THAN THIRTY DAYS BEFORE THE DATE THE PERMIT EXPIRES.

(3) A LICENSEE OR PERMIT HOLDER SHALL NOT SELL, ASSIGN, OR OTHERWISE TRANSFER A LICENSE OR PERMIT ISSUED PURSUANT TO THIS SECTION.

25-3.5-311. Secure transportation - rules. (1) ON OR BEFORE JULY 1, 2022, THE STATE BOARD OF HEALTH SHALL ADOPT RULES ESTABLISHING THE MINIMUM REQUIREMENTS FOR SECURE TRANSPORTATION SERVICES LICENSING, INCLUDING BUT NOT LIMITED TO:

(a) STAFFING REQUIREMENTS FOR VEHICLES;

(b) STAFF TRAINING REQUIREMENTS, INCLUDING VERBAL DE-ESCALATION AND TRAUMA-INFORMED CARE, AS WELL AS CULTURAL COMPETENCIES RELATED TO SUPPORTING PERSONS WITH PHYSICAL OR COGNITIVE DISABILITIES;

(c) OPERATING PROCEDURES, INCLUDING CIRCUMSTANCES WHEN INDIVIDUAL PHYSICAL RESTRAINT IS ALLOWED;

(d) QUALITY IMPROVEMENT AND THE PROCESS USED TO INVESTIGATE COMPLAINTS AGAINST A LICENSEE;

(e) DATA COLLECTION AND REPORTING ON UTILIZATION TO THE DEPARTMENT BY A LICENSEE;

(f) MINIMUM CLINICAL AND MEDICAL STANDARDS AND PROCEDURES;

(g) THE CIRCUMSTANCES UNDER WHICH AN INDIVIDUAL MAY BE TRANSPORTED; AND

(h) CRITERIA FOR PICKUP AND DROP-OFF.

25-3.5-312. Funding. THE DEPARTMENT IS AUTHORIZED TO SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, AND DONATIONS FROM PUBLIC OR PRIVATE SOURCES FOR THE PURPOSE OF FACILITATING THE RULEMAKING PROCESS SET FORTH IN SECTION 25-3.5-311.

25-3.5-313. Reporting. THE DEPARTMENT SHALL ANNUALLY MAKE PUBLICLY AVAILABLE THE DATA COLLECTED FROM SECURE TRANSPORTATION PROVIDERS.

SECTION 3. In Colorado Revised Statutes, 25.5-5-324, **amend** (4)(a) as follows:

25.5-5-324. Nonemergency medical transportation - urgent and secure transportation need - report - funding - repeal. (4) (a) The state department shall annually report on the implementation and effectiveness of the process created in this section for meeting urgent AND SECURE transportation needs within the

nonemergency medical transportation benefit AND SECURE TRANSPORTATION SERVICES BENEFIT. The state department shall present the report as part of its annual ~~presentation~~ "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" PRESENTATION REQUIRED BY SECTION 2-7-203 to the health and human services committee of the senate and the public AND BEHAVIORAL health and human services committee of the house of representatives, or any successor committees. ~~as required pursuant to section 2-7-203.~~

SECTION 4. In Colorado Revised Statutes, **add** 25.5-5-328 as follows:

25.5-5-328. Secure transportation for behavioral health crises - benefit - funding. (1) ON OR BEFORE JANUARY 1, 2023, THE STATE DEPARTMENT SHALL CREATE A BENEFIT FOR SECURE TRANSPORTATION SERVICES, AS THAT TERM IS DEFINED IN SECTION 25-3.5-103 (11.4). THE STATE DEPARTMENT SHALL RESEARCH AND CREATE A PLAN TO ESTABLISH SECURE TRANSPORTATION SERVICES, WHICH MAY INCLUDE SUPPLEMENTAL AND COORDINATED COMMUNITY RESPONSE SERVICES, TO BE IMPLEMENTED ON OR BEFORE JULY 1, 2023. THE STATE DEPARTMENT SHALL COLLABORATE WITH THE OFFICE OF BEHAVIORAL HEALTH IN ITS RESEARCH AND PLANNING EFFORTS TO DETERMINE HOW THIS BENEFIT MAY ALIGN WITH CO-RESPONDER, MOBILE CRISIS, AND EMERGENCY CRISIS DISPATCH.

(2) THE STATE DEPARTMENT IS AUTHORIZED TO SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, AND DONATIONS FROM PUBLIC OR PRIVATE SOURCES FOR THE PURPOSE OF FUNDING THE URGENT TRANSPORTATION NEEDS WITHIN THE EXISTING NONEMERGENCY MEDICAL TRANSPORTATION BENEFIT AND SECURE TRANSPORTATION SERVICES BENEFIT UNDER THE MEDICAL ASSISTANCE PROGRAM, AS SET FORTH IN SUBSECTION (1) OF THIS SECTION AND SECTION 25.5-5-324 (1).

SECTION 5. In Colorado Revised Statutes, 27-60-104, **amend** (7) as follows:

27-60-104. Behavioral health crisis response system - crisis service facilities - walk-in centers - mobile response units - report. (7) The state department shall explore solutions for addressing secure transportation, AS DEFINED IN SECTION 25-3.5-103 (11.4), of individuals placed on a seventy-two-hour treatment and evaluation hold pursuant to article 65 of this title 27, AND SHALL INCLUDE THE FOLLOWING INFORMATION AS PART OF ITS 2023 "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" PRESENTATION REQUIRED PURSUANT TO SECTION 2-7-203:

(a) HOW CRISIS CONTRACTORS ARE FACILITATING THE USE OF SECURE TRANSPORTATION OR CONTRACTING WITH SECURE TRANSPORTATION LICENSEES; AND

(b) HOW THE STATE DEPARTMENT HAS SUPPORTED AND ENCOURAGED CRISIS CONTRACTORS TO INCLUDE SECURE TRANSPORTATION IN THE BEHAVIORAL HEALTH CRISIS RESPONSE SYSTEM.

SECTION 6. In Colorado Revised Statutes, 27-65-107, **amend** (8) as follows:

27-65-107. Certification for short-term treatment - procedure. (8) Whenever

it appears to the court, by reason of a report by the treating professional person or any other report satisfactory to the court, that a respondent detained for evaluation and treatment or certified for treatment should be transferred to another facility for treatment and the safety of the respondent or the public requires that the respondent be transported by SECURE TRANSPORTATION, AS DEFINED IN SECTION 25-3.5-103 (11.4), OR a sheriff, the court may issue an order directing the sheriff or ~~his or her~~ THE SHERIFF'S designee to deliver the respondent to the designated facility.

SECTION 7. In Colorado Revised Statutes, 40-10.1-105, **amend** (1) introductory portion and (1)(d) as follows:

40-10.1-105. Transportation not subject to regulation. (1) The following types of transportation are not subject to regulation ~~under this article~~ PURSUANT TO THIS ARTICLE 10.1:

(d) Transportation by hearses, ambulances, SECURE TRANSPORTATION, AS DEFINED IN SECTION 25-3.5-103 (11.4), or other emergency vehicles;

SECTION 8. Appropriation. (1) For the 2021-22 state fiscal year, \$46,800 is appropriated to the department of health care policy and financing for us by the executive director's office. This appropriation consists of \$39,993 from the general fund and \$6,807 from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S. To implement this act, the office may use this appropriation as follows:

(a) \$32,900, consisting of \$30,335 from the general fund and \$2,565 from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S., for personal services, which amount is based on an assumption that the office will require an additional 0.9 FTE;

(b) \$3,775, consisting of \$3,481 from the general fund and \$294 from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S., for operating expenses; and

(c) \$10,125, consisting of \$6,177 general fund and \$3,948 from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S., for Medicaid management information system maintenance and projects.

(2) For the 2021-22 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$127,801 in federal funds for use by the executive director's office to implement this act, which amount is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year. The appropriation in subsection (1) of this section is based on the assumption that the office will receive this amount of federal funds to be used as follows:

(a) \$32,901 for personal services;

(b) \$3,775 for operating expenses; and

(c) \$91,125 for Medicaid management information system maintenance and

projects.

(3) For the 2021-22 state fiscal year, \$46,490 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 general fund and is based on an assumption that the division will require an additional 0.6 FTE. To implement this act, the division may use this appropriation for administration and operations.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 27, 2021