

CHAPTER 393

HEALTH AND ENVIRONMENT

HOUSE BILL 24-1262

BY REPRESENTATIVE(S) Garcia and Jodeh, Bacon, Boesenecker, Brown, Duran, Epps, Froelich, Hamrick, Herod, Kipp, Lieder, Lindstedt, Mabrey, Marvin, McCormick, McLachlan, Ortiz, Parenti, Rutinel, Sirota, Story, Titone, Velasco, Willford, Young, Amabile, Lindsay, Lukens, Ricks, Valdez, Vigil, Weissman, McCluskie;
also SENATOR(S) Buckner and Michaelson Jenet, Bridges, Coleman, Danielson, Exum, Ginal, Gonzales, Hansen, Hinrichsen, Jaquez Lewis, Kolker, Marchman, Priola, Roberts, Sullivan, Zenzinger.

AN ACT

CONCERNING MATERNAL HEALTH, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) With the increased demand for reproductive health-care services in the state, it is important to support the full infrastructure of reproductive health-care providers. This includes:

(I) Integrating the services and expertise of direct-entry midwives;

(II) Assessing and maintaining the level of reproductive health-care services needed in a community in a way that is accessible to the community;

(III) Understanding the assets and the gaps in services at the county level; and

(IV) Understanding and implementing best practices for when services are discontinued in a community, including providing notice and a transition plan to the state in order to recognize and monitor the ongoing impact to the community.

(b) Demand for community birth options jumped 30% from 2019 to 2020, with the majority of demand coming from Black and Latinx birthing people;

(c) People are choosing community birth care because they find it supportive of

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.

not just their health needs but their social, spiritual, and community values and needs; however, community birth facilities and providers face barriers to providing care;

(d) Patients should have the ability to choose the provider that is right for them, regardless of the setting. Especially for underserved Black, Indigenous, Asian, rural, refugee, or immigrant communities or someone dealing with a substance use or mental health condition, the ability to choose a provider that can meet their needs isn't just important, it could be lifesaving.

(e) Facility and practice closures leave communities scrambling when they close suddenly and without guidance to patients. When closures occur, the state must ensure that vulnerable communities are protected.

(f) The preventable maternal mortality crisis is only growing worse in our state, disproportionately harming Black and Indigenous people; and

(g) The maternal mortality review committee has made several recommendations to combat this crisis, including:

(I) Increased access to a variety of health-care professionals, such as direct-entry midwives;

(II) Addressing critical maternal health workforce shortages, such as ensuring that direct-entry midwives can provide care at their full scope and preventing perinatal facility and practice closures as much as possible;

(III) Examining unintended consequences of policies and procedures, such as exploring the impact of facility and practice closures on Black, Indigenous, Latinx, Asian, rural, and immigrant and refugee communities; and

(IV) The Colorado department of public health and environment recommends that health-care providers be trained and prepared to provide a type of care that direct-entry midwives already specialize in. The midwifery model of care exemplifies certain recommendations such as dyad care, trauma-informed care, shared decision-making, and expertise in safe transitions, care navigation, and wraparound services.

SECTION 2. In Colorado Revised Statutes, **amend** 12-225-114 as follows:

12-225-114. Repeal of article - subject to review. This article 225 is repealed, effective September 1, 2028. Before the repeal, the registering of direct-entry midwives by the division is scheduled for review in accordance with section 24-34-104.

SECTION 3. In Colorado Revised Statutes, 24-34-305, **amend** (1)(k) as follows:

24-34-305. Powers and duties of commission. (1) The commission has the following powers and duties:

(k) (I) To receive reports from people alleging MISTREATMENT IN THE CONTEXT

OF MATERNITY CARE, INCLUDING CARE THAT IS NOT ORGANIZED FOR, AND PROVIDED TO, A PERSON WHO IS PREGNANT OR IN THE POSTPARTUM PERIOD AS DEFINED IN SECTION 12-225-103, IN A MANNER THAT IS CULTURALLY CONGRUENT; ~~MAINTAINS~~ THAT FAILS TO MAINTAIN THE PERSON'S DIGNITY, PRIVACY, AND CONFIDENTIALITY; ~~ENSURES~~ THAT FAILS TO ENSURE FREEDOM FROM HARM AND MISTREATMENT; AND ~~ENABLES~~ THAT FAILS TO ENABLE INFORMED CHOICES AND CONTINUOUS SUPPORT.

(II) REPORTS SHALL BE COLLECTED IN A WAY TO ENSURE THAT:

(A) CONFIDENTIAL INFORMATION CAN BE DE-IDENTIFIED;

(B) INDIVIDUALS CAN IDENTIFY MISTREATMENT THEY EXPERIENCED BASED ON THE FOLLOWING MISTREATMENT INDEX CATEGORIES: PHYSICAL ABUSE, SEXUAL ABUSE, VERBAL ABUSE, STIGMA AND DISCRIMINATION, FAILURE TO MEET PROFESSIONAL STANDARDS OF CARE, OR POOR RAPPORT BETWEEN PATIENTS OR CLIENTS AND PROVIDERS; POOR CONDITIONS AND CONSTRAINTS PRESENTED BY THE HEALTH-CARE SYSTEM; AND OBSTETRIC RACISM;

(C) NUMBERS OF REPORTS BASED ON TYPOLOGY CAN BE GENERATED AND SHARED WITH THE PUBLIC AND OTHER AGENCIES;

(D) AN INDIVIDUAL MAY IDENTIFY ANY PROTECTED CLASS THE INDIVIDUAL MAY BE PART OF AND THAT MAY HAVE FACTORED INTO THE INDIVIDUAL'S MISTREATMENT;

(E) AN INDIVIDUAL MAY INDICATE WHAT MIGHT HAVE BEEN DONE DIFFERENTLY TO IMPROVE THE INDIVIDUAL'S SITUATION;

(F) AN INDIVIDUAL MAY ENTER NARRATIVE INFORMATION IN THE INDIVIDUAL'S OWN WORDS; AND

(G) AN INDIVIDUAL MAY VOLUNTARILY SHARE THE INDIVIDUAL'S CONTACT INFORMATION AND INDICATE WHETHER THE INDIVIDUAL CONSENTS TO BEING CONTACTED BY THE DEPARTMENT OF REGULATORY AGENCIES OR THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(III) THE COMMISSION SHALL GENERATE DE-IDENTIFIED COMPOSITE INFORMATION BASED ON REPORTS SUBMITTED PURSUANT TO THIS SUBSECTION (1)(k). NOTWITHSTANDING SECTION 24-1-136 (1)(a)(I), NO LATER THAN JULY 1, 2025, AND NO LATER THAN JULY 1 EVERY THREE YEARS THEREAFTER, THE COMMISSION SHALL SHARE THE GENERATED DE-IDENTIFIED COMPOSITE INFORMATION WITH:

(A) THE COLORADO MATERNAL MORTALITY REVIEW COMMITTEE CREATED IN SECTION 25-52-104 (1);

(B) THE HOUSE OF REPRESENTATIVES HEALTH AND HUMAN SERVICES COMMITTEE AND THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES; AND

(C) THE MATERNITY ADVISORY COMMITTEE DEFINED IN SECTION 25.5-4-506 (1)(b).

(IV) REPORTS MAY BE SHARED INTERNALLY WITH STAFF FOR STUDY, INVESTIGATION, REPORTS, PUBLICATIONS, OR HEARINGS.

SECTION 4. In Colorado Revised Statutes, 25-1-134, **amend** (2)(c)(IV) as follows:

25-1-134. Environmental justice - ombudsperson - advisory board - grant program - definitions - repeal. (2) Environmental justice advisory board.

(c) The advisory board consists of the following twelve members who, to the extent practicable, must reside in different geographic areas of the state, reflect the racial and ethnic diversity of the state, and have experience with a range of environmental issues, including air pollution, water contamination, and public health impacts:

(IV) Four voting members appointed by the executive director of the department, AT LEAST ONE OF WHOM MUST BE A MIDWIFE WHO IS PRACTICING IN A FREESTANDING BIRTH CENTER, IN A RURAL AREA, OR AS A HOME BIRTH PROVIDER.

SECTION 5. In Colorado Revised Statutes, **add** 25-3-131 as follows:

25-3-131. Maternal health-care services - discontinuation - required notifications - definition - repeal. (1) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, AT LEAST NINETY DAYS BEFORE A HOSPITAL PROVIDING MATERNAL HEALTH-CARE SERVICES OR A BIRTH CENTER MAY DISCONTINUE SUCH SERVICES, THE FACILITY SHALL PROVIDE NOTICE TO:

(a) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT RESPONSIBLE FOR LICENSING HEALTH FACILITIES PURSUANT TO SECTION 25-3-101;

(b) THE PRIMARY CARE OFFICE, CREATED IN SECTION 25-1.5-403;

(c) THE GOVERNOR;

(d) ALL PATIENTS RECEIVING MATERNAL HEALTH-CARE SERVICES AT THE FACILITY AS OF THE DATE OF THE NOTICE;

(e) ALL HEALTH-CARE PROVIDERS THAT PROVIDE MATERNAL HEALTH-CARE SERVICES FOR THE FACILITY AS OF THE DATE OF THE NOTICE; AND

(f) THE GENERAL PUBLIC.

(2) THE NOTICE REQUIRED IN SUBSECTION (1) OF THIS SECTION MUST INCLUDE:

(a) A DESCRIPTION OF THE MATERNAL HEALTH-CARE SERVICES BEING DISCONTINUED;

(b) THE RATE THE MATERNAL HEALTH-CARE SERVICES HAD BEEN PROVIDED AT IN THE PREVIOUS YEAR;

(c) THE NUMBER AND TYPE OF HEALTH-CARE PROVIDERS IMPACTED;

(d) THE PROPOSED PLAN FOR TRANSITIONING PATIENTS TO NEW HEALTH-CARE PROVIDERS; AND

(e) THE PROPOSED PLAN FOR TRANSITIONING THE HEALTH-CARE PROVIDERS TO NEW POSITIONS.

(3)(a) IN THE EVENT OF AN EMERGENCY, A FACILITY SHALL PROVIDE THE NOTICE REQUIRED IN SUBSECTION (1) OF THIS SECTION ON THE DAY A DEFINITIVE PLAN FOR ALTERNATIVE PATIENT CARE HAS BEEN ARRANGED OR WITHIN SEVEN DAYS AFTER THE EMERGENCY HAS BEEN IDENTIFIED, WHICHEVER IS EARLIER.

(b) THIS SUBSECTION (3) DOES NOT APPLY IN THE EVENT OF AN EMERGENCY COVERED BY RULES PROMULGATED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT IF SUCH EMERGENCY AFFECTS THE PHYSICAL SPACE OF THE FACILITY AND NECESSITATES THE REMOVAL OF CLIENTS, EMPLOYEES, OR CONTRACTORS FROM THE FACILITY.

(4) AS USED IN THIS SECTION:

(a) "EMERGENCY" MEANS A SUDDEN AND UNFORESEEN CIRCUMSTANCE OR FINANCIAL IMPEDIMENT THAT WOULD INHIBIT A HOSPITAL'S ABILITY TO SAFELY AND EFFECTIVELY OPERATE A MATERNAL HEALTH-CARE SERVICE.

(b) "MATERNAL HEALTH-CARE SERVICES" MEANS HEALTH-CARE SERVICES PROVIDED TO AN INDIVIDUAL REGARDING CARE RELATED TO THE INDIVIDUAL'S PREGNANCY, CHILDBIRTH, AND POSTPARTUM PERIOD.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 6. In Colorado Revised Statutes, 25-4-2206, **amend** (2)(a)(III) introductory portion and (2)(a)(III)(J); and **add** (2)(a)(III)(J.5) as follows:

25-4-2206. Health equity commission - creation - repeal. (2) (a) The commission consists of the following twenty-three members, who are as follows:

(III) The executive director of the department shall appoint ten members who represent, to the extent practical, Colorado's diverse ethnic, racial, sexual orientation, gender identity, gender expression, disability, aging population, socioeconomic, and geographic backgrounds. Each ~~person~~ INDIVIDUAL appointed to the commission must have demonstrated expertise in at least one, and preferably two, of the following areas:

(J) Behavioral health; ~~or~~

(J.5) MIDWIFERY; OR

SECTION 7. In Colorado Revised Statutes, 25-52-104, **amend** (2)(b)(II); and **add** (5.5) as follows:

25-52-104. Colorado maternal mortality review committee - creation - members - duties - report to the general assembly - repeal. (2) (b) In appointing members to the committee, the executive director shall:

(II) Ensure that committee members represent diverse communities and a variety of clinical, forensic, and psychosocial specializations and community perspectives, INCLUDING COMMUNITY-BASED MIDWIFERY; and

(5.5) THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT THIRD-PARTY EVALUATOR TO:

(a) STUDY CLOSURES, CONSOLIDATIONS, AND ACQUISITIONS RELATED TO PERINATAL HEALTH-CARE PRACTICES AND FACILITIES AND PERINATAL STATE-DESIGNATED HEALTH PROFESSIONAL SHORTAGE AREAS, AS DEFINED IN SECTION 25-1.5-402 (11), AND ASSETS AND DEFICITS RELATED TO PERINATAL HEALTH AND HEALTH-CARE SERVICES ACROSS THE STATE, NOT LIMITED TO OBSTETRIC PROVIDERS;

(b) IDENTIFY MAJOR OUTCOME CATEGORIES AT THE CLINICAL, FAMILY, COMMUNITY, AND PROVIDER LEVELS THAT THE DEPARTMENT SHOULD TRACK OVER TIME AND IDENTIFY RISKS AND OPPORTUNITIES RELATED TO CLOSURES, CONSOLIDATIONS, AND ACQUISITIONS OF PERINATAL HEALTH-CARE PRACTICES AND FACILITIES;

(c) EXPLORE THE EFFECTS OF PRACTICE AND FACILITY CLOSURES ON MATERNAL AND INFANT HEALTH OUTCOMES AND EXPERIENCES, TO ILLUSTRATE STRUCTURAL NEEDS AROUND CLOSURES, WHEN APPLICABLE;

(d) IDENTIFY RECOMMENDATIONS DURING PRACTICE AND FACILITY CLOSURES AND RESULTANT TRANSFERS OF CARE. THE DEPARTMENT OR THIRD PARTY EVALUATOR MAY USE BOTH PRIMARY AND SECONDARY DATA IN MAKING THE RECOMMENDATIONS. THE DEPARTMENT OR THIRD PARTY EVALUATOR SHALL USE THE MAP CREATED PURSUANT TO SUBSECTION (5.5)(f) OF THIS SECTION IN DEVELOPING THE RECOMMENDATIONS. THE RECOMMENDATIONS MUST:

(I) INCLUDE SOLUTIONS AT THE FACILITY LEVEL, THE PRACTICE LEVEL, THE WORKFORCE LEVEL, THE COMMUNITY LEVEL, AND THE PATIENT LEVEL;

(II) INCLUDE MINIMUM REQUIREMENTS FOR REPORTING ON CLOSURES, INCLUDING METRICS ON TIMELINES AND GEOGRAPHIC AREA, INCLUDING WHETHER THE TIMELINE CREATED IN SECTION 25-3-131 IS APPROPRIATE;

(III) DEVELOP RECOMMENDATIONS ON PRIMARY AND SECONDARY DATA COLLECTION RELATED TO CLOSURES AND RESULTANT TRANSFERS OF CARE.

(e) IDENTIFY BEST PRACTICE GUIDELINES DURING PRACTICE AND FACILITY CLOSURES AND RESULTANT TRANSFERS OF CARE. THE THIRD PARTY EVALUATOR MAY USE BOTH PRIMARY AND SECONDARY DATA IN IDENTIFYING THE BEST PRACTICE GUIDELINES. THE THIRD PARTY EVALUATOR SHALL USE THE MAP CREATED PURSUANT TO SUBSECTION (5.5)(f) OF THIS SECTION IN DEVELOPING THE GUIDELINES. THE GUIDELINES MUST CONSIDER THE FOLLOWING AREAS: RISKS AND

OPPORTUNITIES; TRANSFERS OF CARE; COMMUNITY NOTICE NEEDS AND OPPORTUNITIES; NOTIFICATION TO THE DEPARTMENT; CLOSURE TIMELINE; AND RESOURCES NEEDED BY FACILITIES, PROVIDERS, AND FAMILIES.

(f) CREATE A HEALTH PROFESSIONAL SHORTAGE AREA AND PERINATAL HEALTH SERVICES ASSETS AND DEFICITS ASSET MAP THAT IDENTIFIES BY PERINATAL SERVICE AREA:

(I) PRIMARY HEALTH-CARE PROVIDERS, INCLUDING PHYSICIANS AND MIDWIVES OF ALL CREDENTIAL TYPES WHO PROVIDE OR COULD BE PROVIDING PERINATAL HEALTH CARE;

(II) THE TYPE AND LOCATION OF PERINATAL HEALTH CARE OFFERED BY THE PROVIDERS LISTED PURSUANT TO SUBSECTION (5.5)(f)(I) OF THIS SECTION;

(III) COMMUNITY-BASED PERINATAL HEALTH-CARE WORKERS, SUCH AS DOULAS, CHILDBIRTH EDUCATORS, AND LACTATION SUPPORT CONSULTANTS; AND

(IV) RESOURCES SUCH AS COMMUNITY ADVOCATES, GATHERING PLACES, AND EDUCATIONAL HUBS;

(g) BY JULY 1, 2026, DELIVER THE BEST PRACTICES AND RECOMMENDATIONS CREATED PURSUANT TO THIS SUBSECTION (5.5) TO THE HOUSE OF REPRESENTATIVES HEALTH AND HUMAN SERVICES COMMITTEE AND THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

SECTION 8. In Colorado Revised Statutes, 24-33.5-704.5, **amend** (1)(b)(II)(G) and (1)(b)(II)(H); and **add** (1)(b)(II)(I) as follows:

24-33.5-704.5. Governor's expert emergency epidemic response committee - creation. (1) (b) (II) In addition to the state members of the committee, the governor shall appoint to the committee an individual from each of the following categories:

(G) A wildlife disease specialist with the division of wildlife; ~~and~~

(H) A pharmacist member of the state board of pharmacy; AND

(I) A MIDWIFE WITH EXPERIENCE IN OUT-OF-HOSPITAL BIRTHS.

SECTION 9. Appropriation. (1) For the 2024-25 state fiscal year, \$328,946 is appropriated to the department of public health and environment for use by the prevention services division. This appropriation is from the general fund. To implement this act, the division may use this appropriation for maternal and child health related to community health, which amount is based on an assumption that the division will require an additional 0.8 FTE.

(2) For the 2024-25 state fiscal year, \$111,072 is appropriated to the department of regulatory agencies. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$54,717 from general fund for use by the civil rights division for personal services, which amount is based on an assumption that the division will require an additional 1.0 FTE;

(b) \$7,950 from general fund for use by the civil rights division for operating expenses;

(c) \$32,005 from general fund for the purchase of legal services; and

(d) \$16,400 from general fund for the purchase of information technology services.

(3) For the 2024-25 state fiscal year, \$32,005 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (2)(c) of this section and is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies.

(4) For the 2024-25 state fiscal year, \$16,400 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (2)(d) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of regulatory agencies.

SECTION 10. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: June 4, 2024