

CHAPTER 213

HEALTH AND ENVIRONMENT

HOUSE BILL 95-1249

BY REPRESENTATIVES Sullivan, Dyer, and George;
also SENATORS Rizzuto, Hopper, and Tebedo.

AN ACT

CONCERNING THE REGULATION OF HEALTH CARE FACILITIES BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 25-1-107 (1) (I) (I), (1) (I) (II), (1) (I) (II.1), and (1) (I) (III), Colorado Revised Statutes, 1989 Repl. Vol., are amended, and the said 25-1-107 (1) (I), as amended, is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

25-1-107. Powers and duties of the department - repeal. (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(I) (I) 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), psychiatric hospitals, community clinics, rehabilitation centers, convalescent centers, community mental health centers, facilities for ~~the mentally retarded~~ PERSONS WITH DEVELOPMENTAL DISABILITIES, habilitation centers for brain-damaged children, chiropractic centers and hospitals, maternity hospitals, nursing care facilities, ~~intermediate care facilities~~, residential care facilities, the pilot project rehabilitative nursing facility, hospice care, ~~facilities for terminally ill individuals~~, personal care boarding homes, DIALYSIS TREATMENT CLINICS, AMBULATORY SURGICAL CENTERS, BIRTHING CENTERS, and other ~~institutions~~ FACILITIES of a like nature, except those wholly owned and operated by any governmental unit or agency. In establishing and enforcing such standards and in addition to the required announced inspections, the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

department shall, within available appropriations, make additional inspections without prior notice to the facility. Such inspections shall be made only during the hours of 7 a.m. to 7 p.m. The issuance, suspension, renewal, revocation, annulment, or modification of licenses shall be governed by the provisions of ~~sections~~ SECTION 24-4-104, C.R.S., and SECTION 25-3-102, and all licenses shall bear the date of issue and cover a twelve-month period. Nothing contained in this paragraph (I) shall be construed to prevent the department from adopting and enforcing, with respect to projects for which federal assistance has been obtained or shall be requested, such higher standards as may be required by applicable federal laws or regulations of federal agencies responsible for the administration of such federal laws.

(II) To establish and enforce standards for the operation and maintenance of the health ~~institutions~~ FACILITIES named in subparagraph (I) of this paragraph (I), wholly owned and operated by the state or any of its political subdivisions, and no such ~~institution~~ FACILITY shall be operated or maintained without an annual certificate of compliance.

(II.1) To suspend, revoke, or refuse to renew any license issued to a health ~~institution~~ FACILITY pursuant to subparagraph (I) or (II) of this paragraph (I) if such health ~~institution~~ FACILITY has ~~violated~~ COMMITTED abuse of health insurance pursuant to section 18-13-119, C.R.S., or if such health ~~institution~~ FACILITY has advertised through newspapers, magazines, circulars, direct mail, directories, radio, television, or otherwise that it will perform any act prohibited by section 18-13-119 (3), C.R.S., unless the health ~~institution~~ FACILITY is exempted from said section in accordance with subsection (5) thereof.

(II.2) TO ESTABLISH AND ENFORCE STANDARDS FOR LICENSURE OF COMMUNITY MENTAL HEALTH CENTERS. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL HAVE THE PRIMARY RESPONSIBILITY FOR THE LICENSURE OF SUCH FACILITIES. THE DEPARTMENT OF HUMAN SERVICES SHALL HAVE PRIMARY RESPONSIBILITY FOR PROGRAM APPROVAL.

(III) ~~(A)~~ For purposes of this paragraph (I), ~~the term~~ UNLESS THE CONTEXT OTHERWISE REQUIRES:

(A) "Community mental health center" means either a physical plant or a group of services under unified administration and including at least the following: Inpatient services; outpatient services; day hospitalization; emergency services; and consultation and educational services, which services are provided principally for mentally ill persons residing in a particular community in or near which the facility is situated.

(B) ~~The term "Facility for the mentally retarded~~ PERSONS WITH DEVELOPMENTAL DISABILITIES" means a facility specially ~~designed for the diagnosis, treatment, education, training, or custodial care of the mentally retarded, including facilities for training specialists and sheltered workshops for the mentally retarded, but only if such workshops are part of facilities which provide or will provide comprehensive services for the mentally retarded~~ DESIGNED FOR THE ACTIVE TREATMENT AND HABILITATION OF PERSONS WITH DEVELOPMENTAL DISABILITIES OR A COMMUNITY RESIDENTIAL HOME, AS DEFINED IN SECTION 27-10.5-102 (4), C.R.S., WHICH IS LICENSED AND CERTIFIED PURSUANT TO SECTION 27-10.5-109, C.R.S.

(C) "HOSPICE CARE" MEANS AN ENTITY THAT ADMINISTERS SERVICES TO A TERMINALLY ILL PERSON UTILIZING PALLIATIVE CARE OR TREATMENT.

SECTION 2. 25-3-101, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-3-101. Hospitals - health facilities - licensed. (1) It is unlawful for any person, partnership, association, or corporation to open, conduct, or maintain any general hospital, hospital unit AS DEFINED IN SUBSECTION (2) OF THIS SECTION, psychiatric hospital, community clinic, rehabilitation center, convalescent center, community mental health center, facility for ~~the mentally retarded~~ PERSONS WITH DEVELOPMENTAL DISABILITIES, habilitation center for brain-damaged children, chiropractic center ~~chiropractic~~ AND hospital, maternity hospital, nursing care facility, ~~intermediate care facility~~, residential care facility, pilot project rehabilitative nursing facility, hospice care, ~~facility for terminally ill individuals~~, PERSONAL CARE BOARDING HOME, EXCEPT A PERSONAL CARE BOARDING HOME SHALL BE ASSESSED A LICENSE FEE AS SET FORTH IN SECTION 25-27-107, DIALYSIS TREATMENT CLINIC, AMBULATORY SURGICAL CENTER, BIRTHING CENTER, or other ~~institution~~ FACILITY of a like nature, except those wholly owned and operated by any governmental unit or agency, without first having obtained a license therefor from the department of public health and environment.

(2) "Hospital unit" means a physical portion of a licensed or certified general hospital, psychiatric hospital, maternity hospital, or rehabilitation hospital which is leased or otherwise occupied pursuant to a contractual agreement by a person other than the licensee of the host ~~institution~~ FACILITY for the purpose of providing outpatient or inpatient services.

(3) Nothing in this section shall be construed to require the licensing of individual services provided by a licensed or certified provider on its own premises.

SECTION 3. 25-3-102 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-3-102. License - application - issuance. (1) An application for ~~such~~ A license DESCRIBED IN SECTION 25-3-101 shall be made to the department of public health and environment annually upon such form and in such manner as prescribed by the department; EXCEPT THAT A COMMUNITY RESIDENTIAL HOME SHALL MAKE APPLICATION FOR A LICENSE PURSUANT TO SECTION 27-10.5-109, C.R.S. The department has authority to administer oaths, subpoena witnesses OR DOCUMENTS, and take testimony in all matters relating to issuing, ~~refusing~~, DENYING, LIMITING, SUSPENDING, or revoking such license. The department shall issue licenses to applicants furnishing satisfactory evidence of fitness to conduct and maintain ~~such institution~~ A FACILITY DESCRIBED IN SECTION 25-3-101 in accordance with the provisions of this part 1 and the rules and regulations adopted by such department. The license shall be signed by the president and attested by the secretary of the state board of health and have the seal thereof affixed thereto. Such license expires one year from the date of issuance.

SECTION 4. 25-3-103 (1) and (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

25-3-103. License denial or revocation - provisional license. (1) Application for a new or renewal license under this part 1 may be ~~refused~~ DENIED to an applicant not meeting the requirements of this part 1 and the rules and regulations of the department of public health and environment. A license may be revoked for like reasons. The department of public health and environment may, upon such ~~refusal~~ DENIAL or revocation, grant a provisional license, valid for ninety days, upon payment of a fee of ~~ten~~ ONE HUNDRED FIFTY dollars to allow such applicant to comply with the requirements for a regular license. A second provisional license may be issued, for a like term and fee, if necessary in the opinion of the department of public health and environment, to effect compliance. No further provisional licenses may be issued for the then current year after the second issuance.

(2) Upon a finding of reasonable compliance by an applicant holding a provisional license, a regular license shall be issued upon receipt of the regular ~~thirty-dollar~~ ONE-HUNDRED-FIFTY-DOLLAR fee.

SECTION 5. Part 1 of article 3 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

25-3-103.1. Health facilities general licensure cash fund. (1) ALL FEES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE HEALTH FACILITIES GENERAL LICENSURE CASH FUND, WHICH FUND IS HEREBY CREATED.

(2) THE GENERAL ASSEMBLY SHALL MAKE ANNUAL APPROPRIATIONS FROM THE HEALTH FACILITIES GENERAL LICENSURE CASH FUND TO PARTIALLY REIMBURSE THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR THE DIRECT AND INDIRECT COSTS OF THE DEPARTMENT INCURRED IN THE PERFORMANCE OF ITS DUTIES UNDER THIS ARTICLE. NO APPROPRIATION SHALL BE MADE OUT OF THE CASH FUND FOR EXPENDITURES INCURRED BY THE DEPARTMENT PURSUANT TO SECTION 25-1-107 (1) (I) (II) IN CARRYING OUT DUTIES RELATING TO HEALTH FACILITIES WHOLLY OWNED AND OPERATED BY A GOVERNMENTAL UNIT OR AGENCY.

SECTION 6. 25-3-104, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-3-104. Reports. Any person, partnership, association, or corporation maintaining any hospital ~~dispensary~~, or other ~~institution~~ FACILITY for the treatment or care of the sick or injured ~~on the first day of January, April, July, and October~~ shall make a report to the department of public health and environment ~~of the number and names of the people in charge or employed in such institution. If any such persons are physicians, the report shall include the number of their licenses to practice medicine in this state and such other information as required by the rules and regulations of the department of public health and environment~~ UPON REQUEST BUT NOT MORE FREQUENTLY THAN QUARTERLY. The department of public health and environment shall have power to investigate and shall have free access to such ~~institutions at any time~~ FACILITIES CONSISTENT WITH SECTION 25-1-107 (1) (I).

SECTION 7. 25-3-105, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

25-3-105. License - fee - penalty - study and report - repeal. (1) All licenses shall be issued annually upon the payment of a fee of ~~thirty~~ ONE HUNDRED FIFTY dollars and may be revoked at any time by said board for any of the causes set forth in section 25-3-103 or for the failure of the holders thereof to comply with any of the rules and regulations of said board or to make the reports as provided for in section 25-3-104; and any person, partnership, association, company, or corporation opening, conducting, or maintaining any ~~institution~~ FACILITY for the treatment and care of the sick or injured without having a provisional or regular license therefor is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars.

(2) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL MAINTAIN A FULL, TRUE, AND ACCURATE COST OF PROVIDING SERVICES UNDER THIS ARTICLE, INCLUDING INDIRECT COSTS. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL REGULARLY EVALUATE AND UPDATE ITS COST-ACCOUNTING METHODS. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL FILE A REPORT CONTAINING THE COSTS INCURRED BY THE DEPARTMENT IN THE LICENSURE OF HEALTH FACILITIES AND A SUMMARY OF ALL LICENSE FEES ASSESSED AND THE REVENUES GENERATED FROM SUCH FEES WITH THE STATE AUDITOR, THE JOINT BUDGET COMMITTEE, AND THE HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES ON OR BEFORE AUGUST 1 OF EACH YEAR.

(3) (a) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL CONDUCT A STUDY OF THE FEASIBILITY OF RESTRUCTURING ITS LICENSURE PROGRAM AND THE IDENTIFICATION OF AN APPROPRIATE FUNDING STRUCTURE BASED ON THE COST OF THE OPERATIONS OF THE DIVISION THAT LICENSES HEALTH FACILITIES. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL SOLICIT INPUT FROM AND PARTICIPATION OF ALL INTERESTED PARTIES IN SUCH STUDY. THE DEPARTMENT SHALL REPORT ON THE RESULTS OF THE STUDY AND ITS RECOMMENDATIONS TO THE GENERAL ASSEMBLY ON OR BEFORE DECEMBER 15, 1995.

(b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 1996.

SECTION 8. Appropriations in long bill to be adjusted. For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 1995, shall be adjusted as follows:

(1) There is hereby appropriated, out of the health facilities general licensure cash fund created in section 25-3-103.1, Colorado Revised Statutes, to the department of public health and environment, for the fiscal year beginning July 1, 1995, the sum of ninety-six thousand seven hundred fifty dollars (\$96,750), or so much thereof as may be necessary, for the implementation of this act.

(2) In the appropriation to the department of public health and environment, the amount appropriated from the general fund is to be decreased by nineteen thousand ten dollars (\$19,010).

SECTION 9. Effective date. This act shall take effect July 1, 1995.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 25, 1995