

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB25-130 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add** 25-3-132 as
4 follows:

5 **25-3-132. Emergency medical condition - emergency medical**
6 **services - transfer - discharge - nonliability - enforcement -**
7 **definitions.** (1) **Requirements.** A FACILITY SHALL PROVIDE EMERGENCY
8 MEDICAL SERVICES TO A PERSON WHO PRESENTS TO THE EMERGENCY
9 DEPARTMENT WHEN THE PERSON REQUESTS OR A REQUEST IS MADE ON THE
10 PERSON'S BEHALF FOR EMERGENCY MEDICAL SERVICES. IN THE ABSENCE
11 OF A REQUEST, A FACILITY SHALL PROVIDE EMERGENCY MEDICAL SERVICES
12 TO A PERSON IF A PRUDENT LAYPERSON WOULD BELIEVE, BASED ON THE
13 PERSON'S APPEARANCE OR BEHAVIOR, THAT THE PERSON IS IN NEED OF
14 EMERGENCY MEDICAL SERVICES.

15 (2) **Central log required.** FOR EACH PERSON WHO PRESENTS TO
16 A FACILITY AND REQUESTS EMERGENCY MEDICAL SERVICES OR A REQUEST
17 IS MADE ON THE PERSON'S BEHALF FOR EMERGENCY MEDICAL SERVICES,
18 THE FACILITY SHALL INPUT INTO A CENTRAL LOG WHETHER THE PERSON
19 REFUSED TREATMENT, WAS DENIED TREATMENT, WHETHER NO TREATMENT
20 WAS REQUIRED, OR WHETHER THE PERSON WAS TRANSFERRED, ADMITTED
21 AND TREATED, STABILIZED AND TRANSFERRED, OR DISCHARGED.

22 (3) **Nondiscrimination.** A FACILITY IS A PLACE OF PUBLIC
23 ACCOMMODATION SUBJECT TO PART 6 OF ARTICLE 34 OF TITLE 24 AND
24 SHALL NOT DENY EMERGENCY MEDICAL SERVICES OR DISCRIMINATE IN
25 PROVIDING EMERGENCY MEDICAL SERVICES TO A PATIENT FOR A
26 DISCRIMINATORY OR UNLAWFUL REASON AS DESCRIBED IN PART 6 OF
27 ARTICLE 34 OF TITLE 24.

28 (4) **Provider protections.** (a) A FACILITY SHALL NOT PENALIZE
29 OR TAKE ANY ADVERSE ACTION AGAINST A HEALTH-CARE PROVIDER FOR
30 REFUSING TO TRANSFER A PATIENT WITH AN EMERGENCY MEDICAL
31 CONDITION THAT HAS NOT BEEN STABILIZED.

32 (b) THIS SUBSECTION (4) DOES NOT ALTER OR LIMIT THE RIGHTS
33 AND PROTECTIONS AFFORDED TO A PERSON PURSUANT TO SECTION
34 24-34-402 (1).

35 (5) **Financial inquiry.** A FACILITY SHALL NOT DELAY PROVIDING
36 EMERGENCY MEDICAL SERVICES TO A PERSON IN ORDER TO INQUIRE ABOUT
37 THE PERSON'S ABILITY TO PAY FOR EMERGENCY MEDICAL SERVICES.

38 (6) **Appropriate transfer.** IF A PATIENT HAS RECEIVED AN
39 APPROPRIATE MEDICAL SCREENING EXAMINATION AS DESCRIBED IN

1 SUBSECTION (10)(c)(I)(A) OF THIS SECTION AND THE EXAMINING
2 HEALTH-CARE PROVIDER DETERMINES THAT AN EMERGENCY MEDICAL
3 CONDITION EXISTS AND THE CONDITION HAS NOT BEEN STABILIZED, THE
4 FACILITY SHALL NOT TRANSFER THE PATIENT UNLESS ALL OF THE
5 FOLLOWING CONDITIONS ARE MET:

6 (a) THE PATIENT IS PROVIDED MEDICAL TREATMENT WITHIN THE
7 FACILITY'S CAPACITY THAT MINIMIZES THE RISKS TO THE PATIENT'S
8 HEALTH;

9 (b) THE RECEIVING FACILITY HAS THE SPACE AND QUALIFIED
10 PERSONNEL AVAILABLE FOR TREATING THE PATIENT AND HAS AGREED TO
11 ACCEPT TRANSFER OF THE PATIENT AND TO PROVIDE APPROPRIATE
12 MEDICAL TREATMENT;

13 (c) THE TRANSFER IS EFFECTED THROUGH QUALIFIED PERSONNEL
14 AND TRANSPORTATION EQUIPMENT, INCLUDING THE USE OF NECESSARY
15 AND MEDICALLY APPROPRIATE LIFE SUPPORT MEASURES DURING THE
16 TRANSFER;

17 (d) THE TRANSFERRING FACILITY SENDS ALL MEDICAL RECORDS,
18 OR COPIES OF THE MEDICAL RECORDS, RELATED TO THE PATIENT'S
19 EMERGENCY MEDICAL CONDITION THAT THE PATIENT PRESENTED TO THE
20 FACILITY FOR, THAT ARE AVAILABLE AT THE TIME OF THE TRANSFER,
21 INCLUDING MEDICAL RECORDS, OR COPIES OF THE MEDICAL RECORDS,
22 RELATED TO OBSERVATIONS OF SIGNS AND SYMPTOMS; PRELIMINARY
23 DIAGNOSIS; TREATMENT PROVIDED TO THE PATIENT; TEST RESULTS; THE
24 INFORMED WRITTEN REQUEST OR CERTIFICATION PROVIDED PURSUANT TO
25 SUBSECTION (6)(f) OF THIS SECTION, OR A COPY OF THE REQUEST OR
26 CERTIFICATION; AND, IF RELEVANT, THE NAME AND ADDRESS OF ANY
27 ON-CALL PHYSICIAN WHO REFUSED OR FAILED TO APPEAR AT THE FACILITY
28 WITHIN A REASONABLE AMOUNT OF TIME TO PROVIDE THE PATIENT WITH
29 NECESSARY STABILIZING TREATMENT;

30 (e) THE TRANSFER CONFORMS WITH APPLICABLE FACILITY
31 STANDARDS ESTABLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND
32 ENVIRONMENT PURSUANT TO SECTION 25-1.5-103 AND APPLICABLE
33 FEDERAL RULES ADOPTED PURSUANT TO 42 CFR 489.24; AND

34 (f) (I) AFTER BEING INFORMED OF THE FACILITY'S OBLIGATIONS
35 PURSUANT TO THIS SECTION AND THE RISK OF TRANSFER, THE PATIENT OR
36 THE PATIENT'S REPRESENTATIVE REQUESTS THE TRANSFER IN WRITING;

37 (II) A PHYSICIAN HAS SIGNED A CERTIFICATION THAT INCLUDES A
38 SUMMARY OF THE RISKS AND BENEFITS OF TRANSFERRING THE PATIENT
39 AND A STATEMENT THAT, BASED UPON THE INFORMATION AVAILABLE AT
40 THE TIME OF THE TRANSFER, THE MEDICAL BENEFITS REASONABLY
41 EXPECTED FROM THE PROVISION OF APPROPRIATE MEDICAL TREATMENT AT
42 ANOTHER FACILITY OUTWEIGH THE INCREASED RISKS TO THE PATIENT
43 FROM BEING TRANSFERRED; OR

1 (III) IF A PHYSICIAN IS NOT PHYSICALLY PRESENT IN THE FACILITY
2 AT THE TIME A PATIENT IS TRANSFERRED, THE EXAMINING HEALTH-CARE
3 PROVIDER HAS SIGNED A CERTIFICATION THAT INCLUDES THE
4 INFORMATION DESCRIBED IN SUBSECTION (6)(f)(II) OF THIS SECTION AND
5 THE PHYSICIAN, AFTER CONSULTING WITH THE EXAMINING HEALTH-CARE
6 PROVIDER, AGREES WITH THE CERTIFICATION AND SUBSEQUENTLY
7 COUNTERSIGNS THE CERTIFICATION.

8 (7) **Appropriate discharge.** (a) IF A PATIENT HAS RECEIVED AN
9 APPROPRIATE MEDICAL SCREENING EXAMINATION AS DESCRIBED IN
10 SUBSECTION (10)(c)(I)(A) OF THIS SECTION AND THE EXAMINING
11 HEALTH-CARE PROVIDER DETERMINES THAT AN EMERGENCY MEDICAL
12 CONDITION EXISTS, THE FACILITY SHALL NOT DISCHARGE THE PATIENT
13 UNLESS ALL OF THE FOLLOWING CONDITIONS ARE MET:

14 (I) THE PATIENT'S EMERGENCY MEDICAL CONDITION HAS BEEN
15 STABILIZED; AND

16 (II) THE DISCHARGE CONFORMS WITH APPLICABLE FACILITY
17 STANDARDS ESTABLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND
18 ENVIRONMENT PURSUANT TO SECTION 25-1.5-103 AND APPLICABLE
19 FEDERAL RULES ADOPTED PURSUANT TO 42 CFR 489.24.

20 (b) IF A PATIENT HAS NOT BEEN STABILIZED, DISCHARGING THE
21 PATIENT IS ONLY PERMITTED IF:

22 (I) AFTER BEING INFORMED OF THE FACILITY'S OBLIGATIONS
23 PURSUANT TO THIS SECTION AND THE RISK OF DISCHARGE, THE PATIENT OR
24 THE PATIENT'S REPRESENTATIVE REQUESTS A DISCHARGE IN WRITING; OR

25 (II) THE FACILITY OFFERS THE PATIENT FURTHER MEDICAL
26 EXAMINATION AND TREATMENT AND INFORMS THE PATIENT OR THE
27 PATIENT'S REPRESENTATIVE OF THE RISKS AND BENEFITS OF THE
28 EXAMINATION AND TREATMENT BUT THE PATIENT OR THE PATIENT'S
29 REPRESENTATIVE DOES NOT CONSENT TO THE MEDICAL EXAMINATION AND
30 TREATMENT. THE PATIENT'S MEDICAL RECORD MUST CONTAIN A
31 DESCRIPTION OF THE EXAMINATION AND, IF APPLICABLE, THE TREATMENT,
32 AND A STATEMENT THAT THE PATIENT OR THE PATIENT'S REPRESENTATIVE
33 REFUSED. THE FACILITY SHALL TAKE ALL REASONABLE STEPS TO SECURE
34 THE PATIENT'S WRITTEN INFORMED REFUSAL, WHICH MUST INDICATE THE
35 PATIENT HAS BEEN INFORMED OF THE RISKS AND BENEFITS OF THE
36 EXAMINATION AND TREATMENT, IF APPLICABLE.

37 (8) **Nonliability.** A FACILITY OR HEALTH-CARE PROVIDER DOES
38 NOT VIOLATE THIS SECTION IF:

39 (a) THE PATIENT IS PROVIDED AN APPROPRIATE MEDICAL
40 SCREENING EXAMINATION AS DESCRIBED IN SUBSECTION (10)(c)(I)(A) OF
41 THIS SECTION BY A HEALTH-CARE PROVIDER AND THE EXAMINING
42 HEALTH-CARE PROVIDER DETERMINES THAT NO EMERGENCY MEDICAL
43 CONDITION EXISTS AND RECORDS THE DETERMINATION IN THE PATIENT'S

1 MEDICAL RECORD;

2 (b) THE PATIENT IS PROVIDED AN APPROPRIATE MEDICAL
3 SCREENING EXAMINATION AS DESCRIBED IN SUBSECTION (10)(c)(I)(A) OF
4 THIS SECTION BY A HEALTH-CARE PROVIDER AND THE EXAMINING
5 HEALTH-CARE PROVIDER DETERMINES THAT AN EMERGENCY MEDICAL
6 CONDITION EXISTS AND THE PATIENT IS APPROPRIATELY TRANSFERRED OR
7 DISCHARGED PURSUANT TO SUBSECTION (6) OR (7) OF THIS SECTION; OR

8 (c) THE PATIENT IS PROVIDED AN APPROPRIATE MEDICAL
9 SCREENING EXAMINATION AS DESCRIBED IN SUBSECTION (10)(c)(I)(A) OF
10 THIS SECTION BY A HEALTH-CARE PROVIDER AND THE EXAMINING
11 HEALTH-CARE PROVIDER DETERMINES THAT AN EMERGENCY MEDICAL
12 CONDITION EXISTS AND THE PATIENT IS ADMITTED IN GOOD FAITH TO THE
13 FACILITY AS AN INPATIENT FOR FURTHER STABILIZING TREATMENT.

14 (9) **Enforcement.** (a) (I) THE ATTORNEY GENERAL MAY BRING A
15 CIVIL ACTION ON BEHALF OF THE STATE TO SEEK INJUNCTIVE RELIEF OR
16 THE IMPOSITION OF A CIVIL MONETARY PENALTY AGAINST A FACILITY OR
17 A PHYSICIAN FOR NEGLIGENTLY VIOLATING THIS SECTION. THE COURT,
18 UPON FINDING A VIOLATION OF THIS SECTION, SHALL IMPOSE A CIVIL
19 MONETARY PENALTY IN AN AMOUNT NOT TO EXCEED FIFTY THOUSAND
20 DOLLARS FOR EACH VIOLATION.

21 (II) THE MAXIMUM CIVIL MONETARY PENALTY AMOUNT IMPOSED
22 PURSUANT TO SUBSECTION (9)(a)(I) OF THIS SECTION MUST BE REDUCED
23 BY ANY CIVIL MONETARY PENALTY IMPOSED PURSUANT TO THE FEDERAL
24 "EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT", 42 U.S.C.
25 1395dd (d) FOR THE SAME VIOLATION.

26 (III) THIS SUBSECTION (9)(a) APPLIES TO A PHYSICIAN WHO:

27 (A) SIGNS A CERTIFICATION PURSUANT TO SUBSECTION (6)(f)(II)
28 OF THIS SECTION THAT STATES THE MEDICAL BENEFITS REASONABLY
29 EXPECTED FROM APPROPRIATE MEDICAL TREATMENT AT ANOTHER
30 FACILITY OUTWEIGH THE INCREASED RISKS TO THE PATIENT FROM BEING
31 TRANSFERRED IF THE PHYSICIAN KNEW OR SHOULD HAVE KNOWN THE
32 BENEFITS DID NOT OUTWEIGH THE RISKS;

33 (B) MISREPRESENTS A PATIENT'S CONDITION OR OTHER
34 INFORMATION, INCLUDING A FACILITY'S OBLIGATIONS PURSUANT TO THIS
35 SECTION; OR

36 (C) IS THE ON-CALL PHYSICIAN AND FAILS OR REFUSES TO PRESENT
37 TO THE FACILITY WITHIN A REASONABLE PERIOD OF TIME PURSUANT TO
38 SUBSECTION (10)(c)(I)(B) OF THIS SECTION AFTER BEING CONTACTED.

39 (b) THIS SECTION DOES NOT CREATE A SEPARATE PRIVATE RIGHT
40 OF ACTION BUT DOES NOT LIMIT THE ABILITY OF A PATIENT WHO SUFFERS
41 PERSONAL HARM AS A DIRECT RESULT OF A VIOLATION OF THIS SECTION
42 FROM BRINGING A PRIVATE RIGHT OF ACTION PURSUANT TO EXISTING
43 STATE LAW.

1 (10) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
2 OTHERWISE REQUIRES:
3 (a) "ABORTION" HAS THE SAME MEANING AS SET FORTH IN SECTION
4 25-6-402.
5 (b) (I) "EMERGENCY MEDICAL CONDITION" MEANS:
6 (A) A MEDICAL CONDITION MANIFESTING ITSELF BY ACUTE SIGNS
7 AND SYMPTOMS OF SUFFICIENT SEVERITY, INCLUDING SEVERE PAIN, SUCH
8 THAT THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION COULD
9 REASONABLY BE EXPECTED TO RESULT IN PLACING THE HEALTH OF THE
10 PERSON IN SERIOUS JEOPARDY, SERIOUS IMPAIRMENT OF BODILY
11 FUNCTIONS, OR SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART;
12 OR
13 (B) WITH RESPECT TO A PREGNANT PERSON WHO IS HAVING
14 CONTRACTIONS, THERE IS INADEQUATE TIME TO EFFECTUATE A SAFE
15 TRANSFER TO ANOTHER FACILITY BEFORE DELIVERY, OR THAT
16 TRANSFERRING THE PATIENT MAY POSE A THREAT TO THE HEALTH OR
17 SAFETY OF THE PATIENT.
18 (II) "EMERGENCY MEDICAL CONDITION" INCLUDES, BUT IS NOT
19 LIMITED TO, LABOR, ECTOPIC PREGNANCY, A COMPLICATION RESULTING
20 FROM PREGNANCY LOSS, AND EMERGENT HYPERTENSIVE DISORDERS WHEN
21 THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION COULD REASONABLY BE
22 EXPECTED TO RESULT IN PLACING THE HEALTH OF THE PATIENT IN SERIOUS
23 JEOPARDY, SERIOUS IMPAIRMENT TO BODILY FUNCTIONS, OR SERIOUS
24 DYSFUNCTION OF ANY BODILY ORGAN OR PART.
25 (c) (I) "EMERGENCY MEDICAL SERVICES" MEANS:
26 (A) AN APPROPRIATE MEDICAL SCREENING EXAMINATION WITHIN
27 THE CAPABILITY OF THE FACILITY, INCLUDING ANCILLARY SERVICES
28 ROUTINELY AVAILABLE TO THE FACILITY, TO DETERMINE IF AN
29 EMERGENCY MEDICAL CONDITION EXISTS; AND
30 (B) WHEN THE EXAMINING HEALTH-CARE PROVIDER DETERMINES
31 THAT AN EMERGENCY MEDICAL CONDITION EXISTS, THE MEDICAL
32 TREATMENT NECESSARY TO STABILIZE THE EMERGENCY MEDICAL
33 CONDITION THAT IS WITHIN THE CAPABILITY OF THE FACILITY. IF THE
34 PATIENT'S EMERGENCY MEDICAL CONDITION REQUIRES THE SERVICES OF
35 AN ON-CALL PHYSICIAN, THE EXAMINING HEALTH-CARE PROVIDER SHALL
36 ATTEMPT TO CONTACT THE ON-CALL PHYSICIAN.
37 (II) "EMERGENCY MEDICAL SERVICES" INCLUDES PROVIDING AN
38 ABORTION OR STERILIZATION PROCEDURES WHEN A PATIENT HAS AN
39 EMERGENCY MEDICAL CONDITION AND AN ABORTION OR STERILIZATION
40 PROCEDURES ARE NECESSARY TO STABILIZE THE PATIENT AND ARE WITHIN
41 THE CAPABILITY AND CAPACITY OF THE FACILITY.
42 (d) "FACILITY" MEANS A HOSPITAL LICENSED PURSUANT TO
43 SECTION 25-3-101; A FREESTANDING EMERGENCY DEPARTMENT, AS

1 DEFINED IN SECTION 25-1.5-114 (5)(b); OR A COMMUNITY CLINIC, AS
2 DEFINED IN SECTION 25-3-101 (2)(a).

3 (e) "LABOR" MEANS THE PROCESS OF CHILDBIRTH BEGINNING WITH
4 THE LATENT OR EARLY PHASE OF LABOR AND CONTINUING THROUGH THE
5 DELIVERY OF THE PLACENTA. A PERSON EXPERIENCING CONTRACTIONS IS
6 IN LABOR UNLESS A PHYSICIAN, CERTIFIED NURSE MIDWIFE, OR OTHER
7 QUALIFIED MEDICAL PERSONNEL, ACTING WITHIN THE PERSON'S SCOPE OF
8 PRACTICE AS DEFINED IN THE FACILITY'S MEDICAL STAFF BYLAWS AND
9 STATE LAW, CERTIFIES AFTER A REASONABLE TIME OF OBSERVATION THAT
10 THE PERSON IS IN FALSE LABOR.

11 (f) "STABILIZE" MEANS TO PROVIDE MEDICAL TREATMENT THAT
12 MAY BE NECESSARY TO ENSURE, WITHIN REASONABLE MEDICAL
13 PROBABILITY, THAT NO MATERIAL DETERIORATION OF THE PATIENT'S
14 CONDITION, SERIOUS IMPAIRMENT OF BODILY FUNCTIONS OR DYSFUNCTION
15 OF ANY BODILY ORGAN OR PART, OR A THREAT TO THE PATIENT'S LIFE IS
16 LIKELY TO RESULT FROM OR OCCUR DURING THE TRANSFER OR DISCHARGE
17 OF THE PATIENT.

18 **SECTION 2.** In Colorado Revised Statutes, 24-31-101, **amend**
19 (1)(i)(XXII) and (1)(i)(XXIII); and **add** (1)(i)(XXIV) as follows:

20 **24-31-101. Powers and duties of attorney general.** (1) The
21 attorney general:

22 (i) May independently initiate and bring civil and criminal actions
23 to enforce state laws, including actions brought pursuant to:

24 (XXII) Part 14 of article 12 of title 38; ~~and~~

25 (XXIII) Section 24-34-806; AND

26 (XXIV) SECTION 25-3-132.

27 **SECTION 3. Severability.** If any provision of this act or the
28 application of this act to any person or circumstance is held invalid, the
29 invalidity does not affect other provisions or applications of the act that
30 can be given effect without the invalid provision or application, and to
31 this end the provisions of this act are declared to be severable.

32 **SECTION 4. Safety clause.** The general assembly finds,
33 determines, and declares that this act is necessary for the immediate
34 preservation of the public peace, health, or safety or for appropriations for
35 the support and maintenance of the departments of the state and state
36 institutions."

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