

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 16-0824.01 Christy Chase x2008

**HOUSE BILL 16-1374**

**HOUSE SPONSORSHIP**

**McCann,** Esgar, Ginal, Lontine, Primavera, Ryden

**SENATE SPONSORSHIP**

**Kefalas,**

**House Committees**

Health, Insurance, & Environment

**Senate Committees**

**A BILL FOR AN ACT**

101 **CONCERNING DISCLOSURE REQUIREMENTS APPLICABLE TO A LICENSED**  
102 **COMMUNITY CLINIC PROVIDING EMERGENCY SERVICES TO**  
103 **PATIENTS AT A SITE THAT IS NOT ATTACHED TO A HOSPITAL.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill requires a freestanding emergency room that provides emergency services in a facility, charges a facility fee, and is not attached to a hospital to post notices throughout the facility indicating that the facility is an emergency room that provides emergency services to treat emergency medical conditions. Additionally, a freestanding emergency

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
May 4, 2016

HOUSE  
Amended 2nd Reading  
May 3, 2016

room, after performing an initial medical examination, must inform a patient who is determined not to have an emergency medical condition of, and provide to the patient a written statement containing, the following information:

- ! That the freestanding emergency room charges rates comparable to those charged by a hospital emergency room, including a facility fee of a specified amount;
- ! That the freestanding emergency room or a physician providing medical care at the center may not be a participating provider under the patient's health benefit plan;
- ! That the physician providing medical care at the freestanding emergency room may bill the patient separately from the center; and
- ! That for nonemergency medical conditions, the patient may wish to confer with his or her primary care physician or other primary care provider.

The freestanding emergency room must explain the contents of the written statement to the patient, obtain the patient's signature on the document, provide the patient with a copy of the signed document, and maintain the signed document in the patient's medical record.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 25-3-117** as  
3 follows:

4 **25-3-117. Freestanding emergency rooms - stakeholder group**  
5 **study - report - legislative declaration - repeal.** (1) THE GENERAL  
6 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

7 (a) EMERGENCY SERVICES ARE CRUCIAL TO COLORADO  
8 COMMUNITIES, PROVIDING CARE WHEN COLORADANS ARE IN CRITICAL  
9 NEED;

10 (b) EMERGENCY CARE IS NOT A SUBSTITUTE FOR PRIMARY CARE,  
11 AND PATIENTS WITH NONEMERGENT CONDITIONS MAY BE MORE  
12 APPROPRIATELY SERVED IN A PRIMARY CARE AND LESS COSTLY SETTING;

13 (c) INDIVIDUALS SHOULD BE ABLE TO MAKE INFORMED DECISIONS

1 ABOUT ACCESSING HEALTH CARE SERVICES OF THEIR CHOICE WITHOUT  
2 BARRIERS OR RESTRICTIONS;

3 (d) IT IS IN THE PUBLIC INTEREST FOR HEALTH CARE CONSUMERS  
4 TO RECEIVE BALANCED AND COMPLETE INFORMATION ABOUT THEIR  
5 RIGHTS AND RESPONSIBILITIES WITH REGARD TO EMERGENCY SERVICES;  
6 AND

7 (e) IN ORDER TO DETERMINE THE APPROPRIATE MANNER IN WHICH  
8 TO PROVIDE BALANCED AND COMPLETE INFORMATION TO CONSUMERS  
9 WITHOUT DISCOURAGING CONSUMERS FROM SEEKING THE CARE THEY  
10 NEED, IT IS IMPORTANT TO OBTAIN INPUT FROM ALL STAKEHOLDERS  
11 INVOLVED IN THE DELIVERY AND RECEIPT OF AND PAYMENT FOR  
12 EMERGENCY SERVICES, AS WELL AS STATE AND FEDERAL GOVERNMENT  
13 AGENCIES TASKED WITH ENSURING COMPLIANCE WITH APPLICABLE STATE  
14 AND FEDERAL LAWS.

15 (2) (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR HIS OR  
16 HER DESIGNEE SHALL CONVENE A STAKEHOLDER GROUP TO ADDRESS, AT  
17 A MINIMUM, THE FOLLOWING:

18 (I) PUBLIC EDUCATION ABOUT PRIMARY CARE, URGENT CARE, AND  
19 EMERGENCY CARE;

20 (II) SIGNS AND NOTIFICATIONS THAT COMPLY WITH EMTALA, AS  
21 DETERMINED THROUGH COLLABORATION AND CONSULTATION WITH THE  
22 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES;

23 (III) APPROPRIATE REGULATION OF FREESTANDING EMERGENCY  
24 ROOMS;

25 (IV) DEFINITIONS OF FREESTANDING EMERGENCY ROOMS AND  
26 URGENT CARE FACILITIES;

27 (V) CONSIDERATION OF IMPLEMENTING A CERTIFICATE OF NEED

1 PROGRAM;

2 (VI) FUTURE PROJECTIONS FOR NEIGHBORHOOD OR COMMUNITY

3 HEALTH CARE NEEDS;

4 (VII) COSTS AND FEES, INCLUDING FACILITY FEES, ASSOCIATED

5 WITH MEDICAL CARE PROVIDED AT A FREESTANDING EMERGENCY ROOM;

6 AND

7 (VIII) OTHER MATTERS THE EXECUTIVE DIRECTOR OR THE

8 STAKEHOLDER GROUP DEEMS NECESSARY TO FACILITATE THE DELIVERY

9 OF THOROUGH INFORMATION ABOUT AVAILABLE HEALTH CARE SERVICES

10 AND COSTS TO HEALTH CARE CONSUMERS.

11 (b) (I) THE EXECUTIVE DIRECTOR SHALL APPOINT TO THE

12 STAKEHOLDER GROUP REPRESENTATIVES FROM OR OF AT LEAST THE

13 FOLLOWING:

14 (A) THE DEPARTMENT;

15 (B) THE DIVISION OF INSURANCE IN THE DEPARTMENT OF

16 REGULATORY AGENCIES;

17 (C) A STATEWIDE ORGANIZATION REPRESENTING HOSPITALS;

18 (D) A HOSPITAL SYSTEM THAT OPERATES A FREESTANDING

19 EMERGENCY ROOM;

20 (E) A STATEWIDE ORGANIZATION REPRESENTING EMERGENCY

21 ROOM PHYSICIANS;

22 (F) A STATEWIDE ORGANIZATION REPRESENTING PHYSICIANS;

23 (G) A STATEWIDE ORGANIZATION REPRESENTING FAMILY

24 PHYSICIANS;

25 (H) A MEDICAID ACCOUNTABLE CARE PROVIDER;

26 (I) TWO STATEWIDE ORGANIZATIONS REPRESENTING HEALTH CARE

27 CONSUMERS;

1 (J) TWO INDIVIDUAL CONSUMERS WHO HAVE VISITED A  
2 FREESTANDING EMERGENCY ROOM;

3 (K) AN INDEPENDENT FREESTANDING EMERGENCY ROOM THAT IS  
4 NOT OWNED OR OPERATED BY A HOSPITAL SYSTEM, IF ONE EXISTS OR IS  
5 PLANNED IN COLORADO;

6 (L) TWO CARRIERS THAT ISSUE HEALTH BENEFIT PLANS IN  
7 COLORADO;

8 (M) ONE COMMUNITY HEALTH CENTER; AND

9 (N) ONE LARGE AND ONE SMALL BUSINESS.

10 (II) THE EXECUTIVE DIRECTOR SHALL ALSO APPOINT AN  
11 INDEPENDENT EMTALA EXPERT TO SERVE ON THE STAKEHOLDER GROUP.

12 (c) THE EXECUTIVE DIRECTOR SHALL CONVENE THE FIRST MEETING  
13 WITH THE STAKEHOLDERS NO LATER THAN AUGUST 1, 2016, AND AS  
14 NEEDED THEREAFTER.

15 (d) BY JANUARY 1, 2017, THE EXECUTIVE DIRECTOR OF THE  
16 DEPARTMENT OR HIS OR HER DESIGNEE SHALL PREPARE AND SUBMIT A  
17 PROGRESS REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF  
18 THE SENATE AND THE HEALTH, INSURANCE, AND ENVIRONMENT AND  
19 PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEES OF THE HOUSE  
20 OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES. BY MARCH 1,  
21 2017, THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE SHALL SUBMIT  
22 A FINAL REPORT TO THE SPECIFIED LEGISLATIVE COMMITTEES CONTAINING  
23 THE FINDINGS AND CONCLUSIONS OF THE STUDY, WHICH MAY INCLUDE  
24 LEGISLATIVE AND ADMINISTRATIVE RECOMMENDATIONS TO ADDRESS THE  
25 ISSUES STUDIED BY THE STAKEHOLDER GROUP.

26 (3) AS USED IN THIS SECTION:

27 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH

1 AND ENVIRONMENT.

2 (b) "EMTALA" MEANS THE FEDERAL "EMERGENCY MEDICAL  
3 TREATMENT AND ACTIVE LABOR ACT", 42 U.S.C. SEC. 1395dd, AND  
4 REGULATIONS ADOPTED UNDER THE ACT.

5 (c) (I) "FREESTANDING EMERGENCY ROOM" MEANS A COMMUNITY  
6 CLINIC LICENSED BY THE DEPARTMENT OF PUBLIC HEALTH AND  
7 ENVIRONMENT PURSUANT TO SECTION 25-3-101 THAT:

8 (A) OFFERS EMERGENCY SERVICES;

9 (B) CHARGES A FACILITY FEE; AND

10 (C) IS NOT ATTACHED TO OR CONTAINED WITHIN A HOSPITAL.

11 (II) THE TERM INCLUDES A HEALTH FACILITY LICENSED OR  
12 CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
13 PURSUANT TO SECTION 25-3-101 THAT:

14 (A) OFFERS EMERGENCY SERVICES;

15 (B) CHARGES A FACILITY FEE; AND

16 (C) IS AFFILIATED WITH OR OPERATED BY A HOSPITAL SYSTEM AND  
17 IS LOCATED OFF THE HOSPITAL'S MAIN CAMPUS.

18 (III) THE TERM EXCLUDES A LICENSED COMMUNITY CLINIC THAT  
19 PROVIDES EMERGENCY SERVICES AND URGENT CARE SERVICES WITHIN THE  
20 SAME LOCATION AND CHARGES DIFFERENTIAL RATES FOR THE EMERGENCY  
21 SERVICES AND URGENT CARE SERVICES IT PROVIDES.

22 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2017.

23 **SECTION 2. Safety clause.** The general assembly hereby finds,  
24 determines, and declares that this act is necessary for the immediate  
25 preservation of the public peace, health, and safety.