

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0572.01 Kristen Forrestal x4217

HOUSE BILL 22-1401

HOUSE SPONSORSHIP

Mullica,

SENATE SPONSORSHIP

Moreno,

House Committees

Health & Insurance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE PREPAREDNESS OF HEALTH FACILITIES TO MEET**
102 **PATIENT NEEDS.**

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://leg.colorado.gov>.)

The bill requires every hospital to establish, by September 1, 2022, a nurse staffing committee pursuant to rules promulgated by the state board of health, either by creating a new committee or assigning the nurse staffing functions to an existing hospital staffing committee. The nurse staffing committee is required to create, implement, and evaluate a nurse staffing plan and to receive, track, and resolve complaints and receive

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

feedback from direct-care nurses and other staff.

The bill requires a hospital to:

- Submit the nurse staffing plan to the department of public health and environment (department) on an annual basis;
- Post the nurse staffing plan on the hospital's website;
- Evaluate the nurse staffing plan on a quarterly basis and, based on complaints and recommendations of patients and staff, revise the nurse staffing plan accordingly; and
- Prepare a quarterly report containing the details of the evaluation.

The bill prohibits a hospital from assigning direct-care providers to a nursing unit or clinical area of a hospital unless the providers are properly trained in the unit or area assigned.

On or before September 1, 2022, in a form and manner determined by rules promulgated by the state board of health, each hospital is required to report:

- The baseline number of beds the hospital is able to staff; and
- The hospital's current bed capacity.

If the hospital's ability to meet staffed-bed capacity falls below 80% of the required baseline in a specified period, the hospital is required to notify the department and submit a plan to meet that requirement.

The bill requires the department to notify a hospital if the hospital's number of staffed beds exceeds 80% of a hospital's total licensed beds and fine the hospital if the hospital does not take corrective action.

Each hospital is required to update its emergency plan at least annually and as often as necessary, as circumstances warrant.

The bill authorizes the department to fine a hospital up to \$10,000 per day for the hospital's failure to:

- Meet the required staffed-bed capacity;
- Include the amount of necessary vaccines for administration in its annual emergency plan and have the vaccines available at each of its facilities; and
- Include the necessary testing capabilities available at each of its facilities.

The bill grants rule-making authority to the department and to the state board of health.

The bill requires the department to report certain data to its committee of reference as part of its presentation at the hearing held pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act".

The bill requires the office of saving people money on health care in the office of the lieutenant governor to study:

- The level of preparedness of health facilities to respond to post-viral illness resulting from the COVID-19 virus;

- The effects of post-viral illness resulting from the COVID-19 virus on the mental, behavioral, and physical health and the financial security of the people of Colorado; and
- The effects of the COVID-19 pandemic on the cost of health care in Colorado and on the resiliency of Colorado's public health system.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25-3-128 and
3 25-3-129 as follows:

4 **25-3-128. Hospitals - nurses, nurse aides, and EMS providers**
5 **- staffing requirements - enforcement - waiver - rules - definitions.**

6 (1) AS USED IN THIS SECTION:

7 (a) "CLINICAL STAFF NURSE" MEANS A PRACTICAL NURSE OR
8 REGISTERED PROFESSIONAL NURSE LICENSED PURSUANT TO ARTICLE 255
9 OF TITLE 12 WHO PROVIDES DIRECT CARE TO PATIENTS.

10
11 (b) "EMS PROVIDER" MEANS AN INDIVIDUAL WHO HOLDS A VALID
12 CERTIFICATE OR LICENSE ISSUED BY THE DEPARTMENT AS PROVIDED IN
13 ARTICLE 3.5 OF THIS TITLE 25.

14 (c) "NURSE AIDE" MEANS A PERSON CERTIFIED PURSUANT TO
15 ARTICLE 255 OF TITLE 12 TO PRACTICE AS A NURSE AIDE WHO PROVIDES
16 DIRECT CARE TO PATIENTS OR WHO WORKS IN AN AUXILIARY CAPACITY
17 UNDER THE SUPERVISION OF A REGISTERED NURSE.

18 (d) "STAFFING PLAN" MEANS THE MASTER NURSE STAFFING PLAN
19 DEVELOPED FOR A HOSPITAL PURSUANT TO SUBSECTION (2)(b) OF THIS
20 SECTION.

21 (2) (a) ON OR BEFORE SEPTEMBER 1, 2022, EACH HOSPITAL SHALL
22 ESTABLISH A NURSE STAFFING COMMITTEE PURSUANT TO RULES

1 PROMULGATED BY THE STATE BOARD OF HEALTH, EITHER BY CREATING A
2 NEW COMMITTEE OR ASSIGNING THE NURSE STAFFING FUNCTIONS TO AN
3 EXISTING HOSPITAL STAFFING COMMITTEE. THE NURSE STAFFING
4 COMMITTEE MUST HAVE AT LEAST SIXTY PERCENT OR GREATER
5 PARTICIPATION BY CLINICAL STAFF NURSES, IN ADDITION TO AUXILIARY
6 PERSONNEL AND NURSE MANAGERS. THE NURSE STAFFING COMMITTEE
7 MUST INCLUDE A DESIGNATED LEADER OF WORKPLACE VIOLENCE
8 PREVENTION AND REDUCTION EFFORTS.

9 (b) THE NURSE STAFFING COMMITTEE:

10 (I) SHALL ANNUALLY DEVELOP AND OVERSEE A MASTER NURSE
11 STAFFING PLAN FOR THE HOSPITAL THAT:

12 (A) IS VOTED ON AND RECOMMENDED BY AT LEAST SIXTY
13 PERCENT OF THE NURSE STAFFING COMMITTEE;

14 (B) INCLUDES MINIMUM STAFFING REQUIREMENTS AS
15 ESTABLISHED IN RULES PROMULGATED BY THE STATE BOARD OF HEALTH
16 FOR EACH INPATIENT UNIT AND EMERGENCY DEPARTMENT THAT ARE
17 ALIGNED WITH NATIONALLY RECOGNIZED STANDARDS AND GUIDELINES;

18 (C) INCLUDES STRATEGIES THAT PROMOTE THE HEALTH, SAFETY,
19 AND WELFARE OF THE HOSPITAL'S EMPLOYEES AND PATIENTS;

20 (D) INCLUDES GUIDANCE AND A PROCESS FOR REDUCING
21 NURSE-TO-PATIENT ASSIGNMENTS TO ALIGN WITH THE DEMAND BASED ON
22 PATIENT ACUITY; AND

23 (E) MAY INCLUDE INNOVATIVE STAFFING MODELS;

24 (II) (A) SHALL SUBMIT THE RECOMMENDED STAFFING PLAN TO THE
25 HOSPITAL'S SENIOR NURSE EXECUTIVE AND THE HOSPITAL'S GOVERNING
26 BODY FOR APPROVAL. IF THE FINAL PLAN APPROVED BY THE HOSPITAL
27 CHANGES MATERIALLY FROM THE RECOMMENDATIONS PUT FORTH BY THE

1 STAFFING COMMITTEE, THE SENIOR NURSE EXECUTIVE SHALL PROVIDE THE
2 NURSE STAFFING COMMITTEE WITH AN EXPLANATION FOR THE CHANGES.

3 (B) IF, AFTER RECEIVING THE EXPLANATION REFERENCED IN
4 SUBSECTION (2)(b)(II)(A) OF THIS SECTION, THE STAFFING COMMITTEE
5 BELIEVES THE FINAL PLAN DOES NOT MEET NURSE STAFFING STANDARDS
6 ESTABLISHED IN RULES PROMULGATED BY THE STATE BOARD OF HEALTH,
7 THE STAFFING COMMITTEE, WITH A VOTE OF SIXTY PERCENT OR MORE OF
8 THE MEMBERS, MAY REQUEST THE DEPARTMENT REVIEW THE FINAL
9 ADOPTED STAFFING PLAN FOR COMPLIANCE WITH RULES PROMULGATED BY
10 THE STATE BOARD OF HEALTH.

11 (III) MAY PUBLISH A REPORT THAT IS RESPONSIVE TO THE
12 CHANGES MADE TO THE RECOMMENDED PLAN PURSUANT TO SUBSECTION
13 (2)(b)(II) OF THIS SECTION, IF ANY;

14 [REDACTED]
15 (IV) SHALL DESCRIBE IN WRITING THE PROCESS FOR RECEIVING,
16 TRACKING, AND RESOLVING COMPLAINTS AND RECEIVING FEEDBACK ON
17 THE STAFFING PLAN FROM CLINICAL STAFF NURSES AND OTHER STAFF; AND

18 (V) SHALL MAKE THE COMPLAINT AND FEEDBACK PROCESS
19 AVAILABLE TO ALL [REDACTED] PROVIDERS, INCLUDING CLINICAL STAFF NURSES, [REDACTED]
20 NURSE AIDES, AND EMS PROVIDERS.

21 (c) THE DEPARTMENT IS AUTHORIZED TO AND SHALL ENTER,
22 SURVEY, AND INVESTIGATE EACH HOSPITAL AS NECESSARY TO ENSURE
23 COMPLIANCE WITH THE NURSING STAFFING STANDARDS ESTABLISHED IN
24 RULES PROMULGATED BY THE STATE BOARD OF HEALTH.

25 (3) A HOSPITAL SHALL:

26 (a) SUBMIT THE FINAL, APPROVED NURSE STAFFING PLAN TO THE
27 DEPARTMENT ON AN ANNUAL BASIS;

1 (b) ON A QUARTERLY BASIS, EVALUATE THE STAFFING PLAN AND
2 PREPARE A REPORT FOR INTERNAL REVIEW BY THE STAFFING COMMITTEE;
3 AND

4 (c) PREPARE AN ANNUAL REPORT CONTAINING THE DETAILS OF THE
5 EVALUATION REQUIRED IN SUBSECTION (2)(c) OF THIS SECTION AND
6 SUBMIT THE REPORT TO THE DEPARTMENT, IN A FORM AND MANNER
7 DETERMINED BY RULES PROMULGATED BY THE STATE BOARD OF HEALTH.

8 (4) A HOSPITAL SHALL NOT ASSIGN A CLINICAL STAFF NURSE,
9 NURSE AIDE, OR EMS PROVIDER TO A HOSPITAL UNIT UNLESS, CONSISTENT
10 WITH THE CONDITIONS OF PARTICIPATION ADOPTED FOR FEDERAL
11 MEDICARE AND MEDICAID PROGRAMS, HOSPITAL PERSONNEL RECORDS
12 INCLUDE DOCUMENTATION THAT THE TRAINING AND DEMONSTRATION OF
13 COMPETENCY WERE SUCCESSFULLY COMPLETED DURING ORIENTATION
14 AND ON A PERIODIC BASIS CONSISTENT WITH HOSPITAL POLICIES.

15 (5) (a) ON OR BEFORE SEPTEMBER 1, 2022, EACH HOSPITAL SHALL
16 REPORT, IN A FORM AND MANNER DETERMINED BY RULES PROMULGATED
17 BY THE STATE BOARD OF HEALTH, THE BASELINE NUMBER OF BEDS THE
18 HOSPITAL IS ABLE TO STAFF IN ORDER TO PROVIDE PATIENT CARE AND THE
19 HOSPITAL'S CURRENT BED CAPACITY. THE REPORTING MAY INCLUDE:

20 (I) SEASONAL OR OTHER ANTICIPATED VARIANCES IN STAFFED-BED
21 CAPACITY; AND

22 (II) ANTICIPATED FACTORS IMPACTING STAFFED-BED CAPACITY.

23 (b) IN PROMULGATING RULES PURSUANT TO SUBSECTION (5)(a) OF
24 THIS SECTION, THE STATE BOARD OF HEALTH SHALL:

25 (I) USE THE DATA PROVIDED TO THE DEPARTMENT BY EACH
26 HOSPITAL THROUGHOUT THE COVID-19 PANDEMIC THROUGH AN
27 INTERNET-BASED RESOURCE MANAGEMENT AND COMMUNICATION TOOL

1 DEVELOPED FOR AND COMMONLY USED BY HOSPITALS;

2 (II) DETERMINE THE NUMBER OF SEASONAL VARIATIONS
3 ALLOWABLE WITH REGARD TO SUBSECTION (5)(a)(I) OF THIS SECTION WITH
4 A MINIMUM OF TWO AND A MAXIMUM OF FOUR ALLOWABLE VARIANCES;
5 AND

6 (III) DEFINE "STAFFED-BED CAPACITY" FOR THE PURPOSES OF THIS
7 SECTION.

8 (c) ON OR BEFORE SEPTEMBER 1, 2022, AS DETERMINED BY RULES
9 PROMULGATED BY THE STATE BOARD OF HEALTH, IF A HOSPITAL'S ABILITY
10 TO MEET STAFFED-BED CAPACITY FALLS BELOW EIGHTY PERCENT OF THE
11 HOSPITAL'S REPORTED BASELINE FOR NOT LESS THAN SEVEN AND NOT
12 MORE THAN FOURTEEN CONSECUTIVE DAYS, THE HOSPITAL SHALL NOTIFY
13 THE DEPARTMENT AND SUBMIT:

14 (I) A PLAN TO ENSURE STAFF IS AVAILABLE, WITHIN THIRTY DAYS,
15 TO RETURN TO A STAFFED-BED CAPACITY LEVEL THAT IS EIGHTY PERCENT
16 OF THE REPORTED BASELINE; OR

17 (II) A REQUEST FOR A WAIVER DUE TO A HARDSHIP, WHICH
18 REQUEST ARTICULATES WHY THE HOSPITAL IS UNABLE TO MEET THE
19 REQUIRED STAFFED-BED CAPACITY IF:

20 (A) THE HOSPITAL'S CURRENT STAFFED-BED CAPACITY FALLS
21 BELOW EIGHTY PERCENT OF THE HOSPITAL'S REPORTED BASELINE FOR NOT
22 LESS THAN SEVEN AND NOT MORE THAN FOURTEEN CONSECUTIVE DAYS;

23 OR

24 (B) THE HOSPITAL'S CURRENT STAFFED-BED CAPACITY THREATENS
25 PUBLIC HEALTH.

26 (d) THE DEPARTMENT MAY IMPOSE FINES, NOT TO EXCEED ONE
27 THOUSAND DOLLARS PER DAY, FOR A HOSPITAL'S FAILURE TO:

1 (I) MEET THE REPORTED STAFFED-BED CAPACITY OF EIGHTY
2 PERCENT OR MORE OF THE HOSPITAL'S REPORTED BASELINE; OR

3 (II) ACCURATELY REPORT A HOSPITAL'S BASELINE STAFFED-BED
4 CAPACITY.

5 (6) EACH HOSPITAL WITH MORE THAN TWENTY-FIVE BEDS SHALL
6 ARTICULATE IN ITS EMERGENCY PLAN A DEMONSTRATED ABILITY TO
7 EXPAND THE HOSPITAL'S STAFFED-BED CAPACITY UP TO ONE HUNDRED
8 TWENTY-FIVE PERCENT OF THE HOSPITAL'S BASELINE STAFFED-BED
9 CAPACITY AND INTENSIVE CARE UNIT CAPACITY WITHIN FOURTEEN DAYS
10 AFTER:

11 (a) A STATEWIDE PUBLIC HEALTH EMERGENCY IS DECLARED OR
12 THE HOSPITAL IS NOTIFIED BY THE DEPARTMENT THAT SURGE CAPACITY IS
13 NEEDED; AND

14 (b) THE STATE HAS USED ALL AVAILABLE AUTHORITY TO EXPEDITE
15 WORKFORCE AVAILABILITY AND MAXIMIZE HOSPITAL THROUGHPUT AND
16 CAPACITY, SUCH AS:

17 (I) LICENSING OR CERTIFICATION FLEXIBILITY FOR HEALTH
18 FACILITIES;

19 (II) REDUCING REQUIREMENTS FOR LICENSING, CREDENTIALING,
20 AND THE RECEIPT OF STAFF PRIVILEGES;

21 (III) WAIVING SCOPE OF PRACTICE LIMITATIONS; AND

22 (IV) WAIVING STATE-REGULATED PAYER PROVISIONS THAT
23 CREATE BARRIERS TO TIMELY PATIENT DISCHARGE.

24 (7) EACH HOSPITAL SHALL UPDATE ITS EMERGENCY PLAN AT LEAST
25 ANNUALLY AND AS OFTEN AS NECESSARY, AS CIRCUMSTANCES WARRANT.
26 THE EMERGENCY PLAN MUST INCLUDE THE ACTIONS THE HOSPITAL WILL
27 TAKE TO MAXIMIZE STAFFED-BED CAPACITY AND APPROPRIATE

1 UTILIZATION OF HOSPITAL BEDS TO THE EXTENT NECESSARY FOR A PUBLIC
2 HEALTH EMERGENCY AND THROUGH THE FOLLOWING ACTIVITIES:

3 (a) CROSS-TRAINING, JUST-IN-TIME TRAINING, AND
4 REDEPLOYMENT OF STAFF;

5 (b) SUPPORTING ALL HOSPITAL FACILITIES, INCLUDING
6 HOSPITAL-OWNED FACILITIES, TO PROVIDE ANY NECESSARY, AVAILABLE,
7 AND APPROPRIATE PREVENTIVE CARE, VACCINE ADMINISTRATION,
8 DIAGNOSTIC TESTING, AND THERAPEUTICS;

9 (c) MAXIMIZING HOSPITAL THROUGHPUT BY DISCHARGING
10 PATIENTS TO SKILLED NURSING, POST-ACUTE, AND OTHER STEP-DOWN
11 FACILITIES; AND

12 (d) REDUCING THE NUMBER OF SCHEDULED PROCEDURES IN THE
13 HOSPITAL.

14 (8) BEGINNING SEPTEMBER 1, 2022, THE DEPARTMENT MAY FINE
15 A HOSPITAL AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS PER
16 DAY FOR THE FAILURE TO:

17 (a) ACHIEVE THE REQUIRED STAFFED-BED CAPACITY DESCRIBED IN
18 SUBSECTION (6) OF THIS SECTION WITHIN FOURTEEN DAYS AFTER A
19 DECLARED STATEWIDE PUBLIC HEALTH EMERGENCY OR OTHER
20 NOTIFICATION BY THE DEPARTMENT THAT SURGE CAPACITY IS NEEDED;

21 (b) INCLUDE THE AMOUNT OF NECESSARY VACCINES FOR
22 ADMINISTRATION IN ITS ANNUAL EMERGENCY PLAN AND HAVE THE
23 VACCINES AVAILABLE, TO THE EXTENT THAT THE VACCINES ARE
24 AVAILABLE, AT EACH OF ITS HOSPITAL FACILITIES AND HOSPITAL-OWNED
25 PRIMARY CARE SITES DURING AND OUTSIDE OF THE PUBLIC HEALTH
26 EMERGENCY, AS DETERMINED BY RULES PROMULGATED BY THE
27 DEPARTMENT; AND

1 (c) INCLUDE THE NECESSARY TESTING CAPABILITIES AVAILABLE IN
2 ITS ANNUAL EMERGENCY PLAN AND AT EACH OF ITS HOSPITAL FACILITIES
3 AND HOSPITAL-OWNED PRIMARY CARE SITES DURING AND OUTSIDE OF A
4 PUBLIC HEALTH EMERGENCY, TO THE EXTENT THAT THE TESTING IS
5 AVAILABLE, AS DETERMINED BY RULES PROMULGATED BY THE
6 DEPARTMENT.

7 (9) FOR THE PURPOSES OF THIS SECTION, THE DEPARTMENT SHALL
8 ENTER, SURVEY, AND INVESTIGATE EACH HOSPITAL:

9 (a) AS DEEMED NECESSARY BY THE DEPARTMENT;

10 (b) FOR PURPOSES OF INFECTION CONTROL AND EMERGENCY
11 PREPAREDNESS; AND

12 (c) TO ENSURE COMPLIANCE WITH THIS SECTION.

13 (10) THE DEPARTMENT SHALL ANNUALLY REPORT ON THE
14 INFORMATION CONTAINED IN THE QUARTERLY REPORT DESCRIBED IN
15 SUBSECTION (3)(d) OF THIS SECTION AS A PART OF ITS PRESENTATION TO
16 ITS COMMITTEE OF REFERENCE AT A HEARING HELD PURSUANT TO SECTION
17 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR ACCOUNTABLE,
18 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT".

19 (11) THE DEPARTMENT MAY PROMULGATE RULES TO REQUIRE
20 HEALTH FACILITIES LICENSED PURSUANT TO SECTION 25-1.5-103 TO
21 DEVELOP AND IMPLEMENT INFECTION PREVENTION PLANS THAT ALIGN
22 WITH NATIONAL BEST PRACTICES AND STANDARDS AND THAT ARE
23 RESPONSIVE TO COVID-19 AND OTHER COMMUNICABLE DISEASES. THE
24 REQUIREMENTS MAY INCLUDE TESTING, VACCINATION, AND TREATMENT
25 IN ACCORDANCE WITH APPLICABLE STATE LAWS, RULES, AND EXECUTIVE
26 ORDERS.

27 (12) THE STATE BOARD OF HEALTH SHALL PROMULGATE RULES AS

1 NECESSARY TO IMPLEMENT THIS SECTION.

2 **25-3-129. Office of saving people money on health care - study**
3 **- report.** (1) THE OFFICE OF SAVING PEOPLE MONEY ON HEALTH CARE IN
4 THE LIEUTENANT GOVERNOR'S OFFICE SHALL STUDY:

5 (a) THE LEVEL OF PREPAREDNESS OF HEALTH FACILITIES LICENSED
6 PURSUANT TO SECTION 25-1.5-103 TO RESPOND TO POST-VIRAL ILLNESS
7 RESULTING FROM THE COVID-19 VIRUS;

8 (b) THE EFFECTS OF POST-VIRAL ILLNESS RESULTING FROM THE
9 COVID-19 VIRUS ON THE MENTAL, BEHAVIORAL, AND PHYSICAL HEALTH
10 AND THE FINANCIAL SECURITY OF THE PEOPLE OF COLORADO; AND

11 (c) THE EFFECTS OF THE COVID-19 PANDEMIC ON THE COST OF
12 HEALTH CARE IN COLORADO AND ON THE ABILITY OF COLORADO'S PUBLIC
13 HEALTH SYSTEM TO RESPOND TO EMERGENCIES.

14 (2) ON OR BEFORE JANUARY 1, 2023, AND ON OR BEFORE JANUARY
15 1 EACH YEAR THEREAFTER, THE OFFICE OF SAVING PEOPLE MONEY ON
16 HEALTH CARE SHALL REPORT ITS FINDINGS TO THE GOVERNOR.

17 (3) THE OFFICE OF SAVING PEOPLE MONEY ON HEALTH CARE SHALL
18 COORDINATE, MONITOR, AND SUPPORT THE EFFORTS TO IMPROVE THE
19 AFFORDABILITY OF HEALTH CARE, HEALTH OUTCOMES, AND PUBLIC
20 HEALTH READINESS IN STATE PROGRAMS AND DEPARTMENTS.

21 **SECTION 2.** In Colorado Revised Statutes, 25-1.5-103, **amend**
22 (1)(a)(I)(C) as follows:

23 **25-1.5-103. Health facilities - powers and duties of department**
24 **- limitations on rules promulgated by department - definitions.**

25 (1) The department has, in addition to all other powers and duties
26 imposed upon it by law, the powers and duties provided in this section as
27 follows:

1 (a) (I) (C) The department shall extend the survey cycle or
2 conduct a tiered inspection or survey of a health facility licensed for at
3 least three years and against which no enforcement activity has been
4 taken, no patterns of deficient practices exist, as documented in the
5 inspection and survey reports issued by the department, and no
6 substantiated complaint resulting in the discovery of significant
7 deficiencies that may negatively affect the life, health, or safety of
8 consumers of the health facility has been received within the three years
9 prior to the date of the inspection. The department may expand the scope
10 of the inspection or survey to an extended or full survey if the department
11 finds deficient practice during the tiered inspection or survey. The
12 department, by rule, shall establish a schedule for an extended survey
13 cycle or a tiered inspection or survey system designed, at a minimum, to:
14 Reduce the time needed for and costs of licensure inspections for both the
15 department and the licensed health facility; reduce the number, frequency,
16 and duration of on-site inspections; reduce the scope of data and
17 information that health facilities are required to submit or provide to the
18 department in connection with the licensure inspection; reduce the
19 amount and scope of duplicative data, reports, and information required
20 to complete the licensure inspection; and be based on a sample of the
21 facility size. Nothing in this ~~sub-subparagraph (C)~~ SUBSECTION
22 (1)(a)(I)(C) limits the ability of the department to conduct a periodic
23 inspection or survey that is required to meet its obligations as a state
24 survey agency on behalf of the FEDERAL centers for medicare and
25 medicaid services or the department of health care policy and financing
26 to assure that the health facility meets the requirements for participation
27 in the medicare and medicaid programs OR LIMITS THE ABILITY OF THE

1 DEPARTMENT TO ENTER, SURVEY, AND INVESTIGATE HOSPITALS PURSUANT
2 TO SECTION 25-3-128.

3 **SECTION 3.** In Colorado Revised Statutes, 25-3-102.1, **amend**
4 (1)(b)(II) as follows:

5 **25-3-102.1. Deemed status for certain facilities.** (1) (b) (II) If
6 the standards for national accreditation are less stringent than the state's
7 licensure standards for a particular health facility, the department of
8 public health and environment may conduct a survey that focuses on the
9 more stringent state standards. Beginning one year after the department
10 first grants deemed status to a health facility pursuant to this ~~paragraph~~
11 ~~(b)~~ SUBSECTION (1)(b), the department may conduct validation surveys,
12 based on a valid sample methodology, of up to ten percent of the total
13 number of accredited health facilities in the industry. ~~excluding hospitals.~~
14 If the department conducts a validation survey of a health facility, the
15 validation survey is in lieu of a licensing renewal survey that the health
16 facility would have undergone if the health facility did not have deemed
17 status pursuant to this ~~paragraph~~ ~~(b)~~ SUBSECTION (1)(b).
18 NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, THE
19 DEPARTMENT MAY ENTER, SURVEY, AND INVESTIGATE HOSPITALS
20 PURSUANT TO SECTION 25-3-128.

21 **SECTION 4.** In Colorado Revised Statutes, 25-3-105, **amend**
22 (1)(a)(I)(B) and (1)(a)(I)(C) as follows:

23 **25-3-105. License - fee - rules - penalty - repeal.**
24 (1) (a) (I) (B) On or after June 4, 2012, the state board of health may
25 increase the amount of any fee on the schedule of fees established
26 pursuant to subsection (1)(a)(I)(A) of this section that is in effect on June
27 4, 2012, by an amount not to exceed the annual percentage change in the

1 United States department of labor, bureau of labor statistics, consumer
2 price index for Denver-Aurora-Lakewood for all urban consumers and all
3 goods, or its applicable predecessor or successor index. Nothing in this
4 subsection (1)(a)(I)(B) limits the ability of the state board of health to
5 reduce the amount of any fee on the schedule of fees in effect on such
6 date or to modify fees as necessary to comply with section 24-75-402.
7 NOTWITHSTANDING THE REQUIREMENTS OF THIS SUBSECTION (1)(a)(I)(B),
8 THE STATE BOARD OF HEALTH MAY ASSESS FEES NECESSARY TO COVER
9 THE COSTS ASSOCIATED WITH THE SURVEYS CONDUCTED PURSUANT TO
10 SECTION 25-3-128.

11 (C) The department of public health and environment shall
12 institute, by rule, a performance incentive system for licensed health
13 facilities under which a licensed health facility would be eligible for a
14 reduction in its license renewal fee if: The department's on-site
15 relicensure inspection demonstrates that the health facility has no
16 significant deficiencies that have negatively affected the life, safety, or
17 health of its consumers; the licensed health facility has fully and timely
18 cooperated with the department during the on-site inspection; the
19 department has found no documented actual or potential harm to
20 consumers; and, in the case where any significant deficiencies are found
21 that do not negatively affect the life, safety, or health of consumers, the
22 licensed health facility has submitted, and the department has accepted,
23 a plan of correction and the health facility has corrected the deficient
24 practice, as verified by the department, within the period required by the
25 department. NOTWITHSTANDING THE REQUIREMENTS OF THIS SUBSECTION
26 (1)(a)(I)(C), ANY FEES ASSOCIATED WITH THE SURVEYS AND
27 INVESTIGATIONS OF HOSPITALS AUTHORIZED BY SECTION 25-3-128 ARE

1 NOT SUBJECT TO A REDUCTION BASED ON THE PERFORMANCE INCENTIVE
2 SYSTEM.

3 **SECTION 5. Safety clause.** The general assembly hereby
4 finds, determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, or safety.