

CHAPTER 439

HEALTH AND ENVIRONMENT

SENATE BILL 24-121

BY SENATOR(S) Pelton R. and Roberts, Bridges, Buckner, Cutter, Exum, Gardner, Ginal, Jaquez Lewis, Kirkmeyer, Liston, Lundeen, Marchman, Michaelson Jenet, Mullica, Pelton B., Simpson, Van Winkle, Will, Zenzinger, Fenberg;
also REPRESENTATIVE(S) Young and Holtorf, Armagost, Boesenecker, Bradley, Clifford, Duran, Evans, Froelich, Hamrick, Jodeh, Lieder, Lindsay, Lynch, McCormick, Winter T.

AN ACT

CONCERNING THE CREATION OF A SEPARATE HEALTH FACILITY LICENSE FOR CRITICAL ACCESS HOSPITALS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 25-1.5-103, **amend as it will become effective July 1, 2024**, (1)(a)(I)(A) as follows:

25-1.5-103. Health facilities - powers and duties of department - rules - limitations on rules - definitions - repeal. (1) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section as follows:

(a) (I) (A) 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), freestanding emergency departments as defined in section 25-1.5-114, CRITICAL ACCESS HOSPITALS AS DEFINED IN SECTION 25-1.5-114.5, psychiatric hospitals, community clinics, rehabilitation hospitals, convalescent centers, facilities for persons with intellectual and developmental disabilities, nursing care facilities, hospice care, assisted living residences, dialysis treatment clinics, ambulatory surgical centers, birthing centers, home care agencies, and other facilities of a like nature, except those wholly owned and operated by ~~any~~ A governmental unit or agency.

SECTION 2. In Colorado Revised Statutes, **add** 25-1.5-114.5 as follows:

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.

25-1.5-114.5. Critical access hospitals - licensure - rules - definitions. (1) AS USED IN THIS SECTION:

(a) "BOARD" MEANS THE STATE BOARD OF HEALTH CREATED IN SECTION 25-1-103.

(b) "CRITICAL ACCESS HOSPITAL" MEANS A HOSPITAL THAT IS FEDERALLY DESIGNATED OR UNDERGOING FEDERAL DESIGNATION AS A CRITICAL ACCESS HOSPITAL PURSUANT TO 42 CFR 485, SUBPART F.

(2)(a) ON OR AFTER JANUARY 1, 2026, A PERSON OPERATING OR THAT WISHES TO OPERATE A CRITICAL ACCESS HOSPITAL SHALL SUBMIT TO THE DEPARTMENT ON AN ANNUAL BASIS A COMPLETED APPLICATION FOR A CRITICAL ACCESS HOSPITAL LICENSE. ON AND AFTER JULY 1, 2026, A PERSON SHALL NOT OPERATE A CRITICAL ACCESS HOSPITAL WITHOUT A CRITICAL ACCESS HOSPITAL LICENSE ISSUED BY THE DEPARTMENT.

(b) A PERSON OPERATING A HOSPITAL LICENSED BY THE DEPARTMENT AS A CRITICAL ACCESS HOSPITAL IS NOT REQUIRED TO HOLD A GENERAL HOSPITAL LICENSE TO OPERATE THE HOSPITAL.

(3) THE BOARD SHALL ADOPT RULES ESTABLISHING THE REQUIREMENTS FOR LICENSURE OF, WAIVER FROM THE REQUIREMENTS FOR LICENSURE OF, SAFETY AND CARE STANDARDS FOR, AND FEES FOR LICENSING AND INSPECTING CRITICAL ACCESS HOSPITALS. THE BOARD SHALL SET THE FEES IN ACCORDANCE WITH SECTION 25-3-105.

SECTION 3. In Colorado Revised Statutes, 25-3-101, **amend as it will become effective July 1, 2024**, (1) as follows:

25-3-101. Hospitals - health facilities - licensed - definitions. (1) It is unlawful for any person, partnership, association, or corporation to open, conduct, or maintain any general hospital; hospital unit; freestanding emergency department as defined in section 25-1.5-114; CRITICAL ACCESS HOSPITAL AS DEFINED IN SECTION 25-1.5-114.5; psychiatric hospital; community clinic; rehabilitation hospital; convalescent center; facility for persons with developmental disabilities as defined in section 25-1.5-103 (2)(c); nursing care facility; hospice care; assisted living residence, except an assisted living residence shall be assessed a license fee as set forth in section 25-27-107; dialysis treatment clinic; ambulatory surgical center; birthing center; home care agency; or other facility of a like nature, except those wholly owned and operated by ~~any~~ A governmental unit or agency, without first having obtained a license from the department.

SECTION 4. In Colorado Revised Statutes, 25-3.5-103, **amend** (8.1) as follows:

25-3.5-103. Definitions. As used in this article 3.5, unless the context otherwise requires:

(8.1) "Emergency medical services facility" means a licensed or certified facility that provides emergency medical services, including but not limited to hospitals, hospital units as defined in section 25-3-101, freestanding emergency departments

as defined in section 25-1.5-114, CRITICAL ACCESS HOSPITALS AS DEFINED IN SECTION 25-1.5-114.5, psychiatric hospitals, community clinics, community mental health centers, and acute treatment units.

SECTION 5. In Colorado Revised Statutes, 25.5-3-501, **amend** (1)(c) and (1)(d)(II); and **add** (1)(e) as follows:

25.5-3-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Health-care facility" means:

(c) Any freestanding emergency department licensed pursuant to section 25-1.5-114; ~~or~~

(d) Any outpatient health-care facility that is licensed as an on-campus department or service of a hospital or that is listed as an off-campus location under a hospital's license, except:

(II) A student-learning medical and dental clinic that is established for the purpose of student learning AND offering discounted patient care as part of a program of student learning and is physically situated within a health sciences school; OR

(e) A CRITICAL ACCESS HOSPITAL AS DEFINED IN SECTION 25-1.5-114.5.

SECTION 6. In Colorado Revised Statutes, 25.5-4-402.4, **amend** (4)(c)(I)(C) as follows:

25.5-4-402.4. Hospitals - healthcare affordability and sustainability fee - legislative declaration - Colorado healthcare affordability and sustainability enterprise - federal waiver - fund created - rules - reports - repeal.

(4) **Healthcare affordability and sustainability fee.** (c) (I) In accordance with the redistributive method set forth in 42 CFR 433.68 (e)(1) and (e)(2), the enterprise, acting in concert with or through an agreement with the state department if required by federal law, may seek a waiver from the broad-based healthcare affordability and sustainability fee requirement or the uniform healthcare affordability and sustainability fee requirement, or both. In addition, the enterprise, acting in concert with or through an agreement with the state department if required by federal law, shall seek any federal waiver necessary to fund and, in cooperation with the state department and hospitals, support the implementation of a health-care delivery system reform incentive payments program as described in subsection (8) of this section. Subject to federal approval and to minimize the financial impact on certain hospitals, the enterprise may exempt from payment of the healthcare affordability and sustainability fee certain types of hospitals, including but not limited to:

(C) Critical access hospitals that are licensed as general hospitals and are certified by the department of public health and environment under 42 CFR part 485, subpart F;

SECTION 7. In Colorado Revised Statutes, 25.5-4-402.8, **amend** (2)(c)(III) as follows:

25.5-4-402.8. Hospital transparency report - definitions. (2) (c) The state department may exempt from certain reporting requirements described in subsections (2)(b) and (2)(b.5) of this section certain types of hospitals, including but not limited to:

(III) Critical access hospitals that are licensed ~~as general hospitals~~ and are certified by the department of public health and environment pursuant to 42 CFR 485, subpart F;

SECTION 8. Appropriation. (1) For the 2024-25 state fiscal year, \$45,722 is appropriated to the department of public health and environment. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$12,285 for use by the administration and support division for payments to OIT related to administration; and

(b) \$33,437 for use by the health facilities and emergency medical services division for administration and operations related to operations management, which amount is based on an assumption that the division will require an additional 0.4 FTE.

(2) For the 2024-25 state fiscal year, \$12,285 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 public health and environment under subsection (1)(a) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of public health and environment.

SECTION 9. Act subject to petition - effective date. (1) Except as specified in subsection (2) of this section, this act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Section 25-3-101 (1), Colorado Revised Statutes, as amended in section 3 of this act; section 25-3.5-103 (8.1), Colorado Revised Statutes, as amended in section 4 of this act; section 25.5-3-501 (1)(c), (1)(d)(II), and (1)(e), Colorado Revised Statutes, as amended or enacted in section 5 of this act; section 25.5-4-402.4 (4)(c)(I)(C), Colorado Revised Statutes, as amended in section 6 of this act; and section 25.5-4-402.8 (2)(c)(III), Colorado Revised Statutes, as amended in section 7 of this act, take effect July 1, 2026.

Approved: June 6, 2024