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SENATE BILL 25-130

BY SENATOR(S) Gonzales J. and Weissman, Amabile, Ball, Bridges, Cutter, Danielson, Daugherty, Exum, Hinrichsen, Jodeh, Kipp, Kolker, Marchman, Michaelson Jenet, Roberts, Rodriguez, Snyder, Sullivan, Winter F., Wallace;

also REPRESENTATIVE(S) Froelich and Zokaie, Bacon, Boesenecker, Brown, Camacho, Clifford, Duran, Garcia, Gilchrist, Hamrick, Jackson, Joseph, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Martinez, Mauro, McCormick, Phillips, Rutinel, Rydin, Sirota, Smith, Stewart K., Stewart R., Story, Titone, Valdez, Velasco, Willford, Woodrow, Bird, Carter, Espenoza, Paschal, McCluskie.

CONCERNING PROVIDING EMERGENCY MEDICAL SERVICES, 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, **add** 25-3-133 as follows:

25-3-133. Emergency medical condition - emergency medical services - transfer - discharge - nonliability - enforcement - definitions.

(1) **Requirements.** A FACILITY SHALL PROVIDE EMERGENCY MEDICAL

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.

SERVICES TO A PERSON WHO PRESENTS TO THE FACILITY WHEN THE PERSON REQUESTS OR A REQUEST IS MADE ON THE PERSON'S BEHALF FOR EMERGENCY MEDICAL SERVICES. IN THE ABSENCE OF A REQUEST, A FACILITY SHALL PROVIDE EMERGENCY MEDICAL SERVICES TO A PERSON IF A PRUDENT LAYPERSON WOULD BELIEVE, BASED ON THE PERSON'S APPEARANCE OR BEHAVIOR, THAT THE PERSON IS IN NEED OF EMERGENCY MEDICAL SERVICES.

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

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

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

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

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

(6) **Appropriate transfer.** IF A PATIENT HAS RECEIVED AN APPROPRIATE MEDICAL SCREENING EXAMINATION AS DESCRIBED IN SUBSECTION (10)(c)(I)(A) OF THIS SECTION AND THE EXAMINING HEALTH-CARE PROVIDER DETERMINES THAT AN EMERGENCY MEDICAL CONDITION EXISTS AND THE CONDITION HAS NOT BEEN STABILIZED, THE FACILITY SHALL NOT TRANSFER THE PATIENT UNLESS ALL OF THE FOLLOWING CONDITIONS ARE MET:

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

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

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

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

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

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

(III) IF A PHYSICIAN IS NOT PHYSICALLY PRESENT IN THE FACILITY AT THE TIME A PATIENT IS TRANSFERRED, THE EXAMINING HEALTH-CARE PROVIDER HAS SIGNED A CERTIFICATION THAT INCLUDES THE INFORMATION

DESCRIBED IN SUBSECTION (6)(e)(II) OF THIS SECTION AND THE PHYSICIAN, AFTER CONSULTING WITH THE EXAMINING HEALTH-CARE PROVIDER, AGREES WITH THE CERTIFICATION AND SUBSEQUENTLY COUNTERSIGNS THE CERTIFICATION.

(7) **Appropriate discharge.** (a) IF A PATIENT HAS RECEIVED AN APPROPRIATE MEDICAL SCREENING EXAMINATION AS DESCRIBED IN SUBSECTION (10)(c)(I)(A) OF THIS SECTION AND THE EXAMINING HEALTH-CARE PROVIDER DETERMINES THAT AN EMERGENCY MEDICAL CONDITION EXISTS, THE FACILITY SHALL NOT DISCHARGE THE PATIENT UNLESS THE PATIENT'S EMERGENCY MEDICAL CONDITION HAS BEEN STABILIZED.

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

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

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

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

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

RECORDS THE DETERMINATION IN THE PATIENT'S MEDICAL RECORD;

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

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

(9) **Investigation and penalty.** (a) THE DEPARTMENT MAY INVESTIGATE A FACILITY THAT NEGLIGENTLY VIOLATES THIS SECTION PURSUANT TO SECTION 25-1.5-103 (1)(a).

(b) (I) A PHYSICIAN WHO NEGLIGENTLY VIOLATES THIS SECTION ENGAGES IN UNPROFESSIONAL CONDUCT AND IS SUBJECT TO DISCIPLINE PURSUANT TO SECTION 12-240-121.

(II) THIS SUBSECTION (9)(b) APPLIES TO A PHYSICIAN WHO:

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

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

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

(c) IF A CIVIL MONETARY PENALTY IS IMPOSED PURSUANT TO SECTION 25-1.5-103 OR 12-240-121, THE MAXIMUM CIVIL MONETARY PENALTY AMOUNT MUST BE REDUCED BY ANY CIVIL MONETARY PENALTY IMPOSED PURSUANT TO THE FEDERAL "EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT", 42 U.S.C. 1395dd (d) FOR THE SAME VIOLATION.

(10) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ABORTION" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-6-402.

(b) (I) "EMERGENCY MEDICAL CONDITION" MEANS:

(A) A MEDICAL CONDITION MANIFESTING ITSELF BY ACUTE SIGNS AND SYMPTOMS OF SUFFICIENT SEVERITY, INCLUDING SEVERE PAIN, SUCH THAT THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION COULD REASONABLY BE EXPECTED TO RESULT IN PLACING THE HEALTH OF THE PERSON IN SERIOUS JEOPARDY, SERIOUS IMPAIRMENT OF BODILY FUNCTIONS, OR SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART; OR

(B) WITH RESPECT TO A PREGNANT PERSON WHO IS HAVING CONTRACTIONS, THERE IS INADEQUATE TIME TO EFFECTUATE A SAFE TRANSFER TO ANOTHER FACILITY BEFORE DELIVERY, OR THAT TRANSFERRING THE PATIENT MAY POSE A THREAT TO THE HEALTH OR SAFETY OF THE PATIENT.

(II) "EMERGENCY MEDICAL CONDITION" INCLUDES, BUT IS NOT LIMITED TO, LABOR, ECTOPIC PREGNANCY, A COMPLICATION RESULTING FROM PREGNANCY OR PREGNANCY LOSS, AND EMERGENT HYPERTENSIVE DISORDERS WHEN THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION COULD REASONABLY BE EXPECTED TO RESULT IN PLACING THE HEALTH OF THE PERSON IN SERIOUS JEOPARDY, SERIOUS IMPAIRMENT TO BODILY FUNCTIONS, OR SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART.

(c) (I) "EMERGENCY MEDICAL SERVICES" MEANS:

(A) AN APPROPRIATE MEDICAL SCREENING EXAMINATION WITHIN THE CAPABILITY OF THE FACILITY, INCLUDING ANCILLARY SERVICES ROUTINELY AVAILABLE TO THE FACILITY, TO DETERMINE IF AN EMERGENCY

MEDICAL CONDITION EXISTS; AND

(B) WHEN THE EXAMINING HEALTH-CARE PROVIDER DETERMINES THAT AN EMERGENCY MEDICAL CONDITION EXISTS, THE MEDICAL TREATMENT NECESSARY TO STABILIZE THE EMERGENCY MEDICAL CONDITION THAT IS WITHIN THE CAPABILITY OF THE FACILITY. IF THE PATIENT'S EMERGENCY MEDICAL CONDITION REQUIRES THE SERVICES OF AN ON-CALL PHYSICIAN, THE EXAMINING HEALTH-CARE PROVIDER SHALL ATTEMPT TO CONTACT THE ON-CALL PHYSICIAN, IF APPLICABLE.

(II) "EMERGENCY MEDICAL SERVICES" INCLUDES PROVIDING AN ABORTION OR STERILIZATION PROCEDURES WHEN A PATIENT HAS AN EMERGENCY MEDICAL CONDITION AND AN ABORTION OR STERILIZATION PROCEDURES ARE NECESSARY TO STABILIZE THE PATIENT AND ARE WITHIN THE CAPABILITY AND CAPACITY OF THE FACILITY.

(d) "FACILITY" MEANS AN EMERGENCY DEPARTMENT OF A HOSPITAL LICENSED PURSUANT TO SECTION 25-3-101; A FREESTANDING EMERGENCY DEPARTMENT, AS DEFINED IN SECTION 25-1.5-114; OR ANY OTHER LICENSED HEALTH-CARE FACILITY, OR AREA OF A HOSPITAL OR HEALTH-CARE FACILITY, THAT HOLDS ITSELF OUT TO THE PUBLIC AS PROVIDING EMERGENCY CARE.

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

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

SECTION 2. In Colorado Revised Statutes, 12-240-121, **add** (1)(jj) as follows:

12-240-121. Unprofessional conduct - definitions.

(1) "Unprofessional conduct" as used in this article 240 means:

(jj) NEGLIGENTLY VIOLATING SECTION 25-3-133.

SECTION 3. Appropriation. (1) For the 2025-26 state fiscal year, \$82,768 is appropriated to the department of public health and environment for use by the health facilities and emergency medical services division. This appropriation is from the health facilities general licensure cash fund created in section 25-3-103.1 (1), C.R.S. To implement this act, the division may use this appropriation as follows:

(a) \$19,796 for administration and operations, which amount is based on an assumption that the division will require an additional 0.2 FTE; and

(b) \$62,972 for the health facility survey, which amount is based on an assumption that the division will require an additional 0.5 FTE.

SECTION 4. Severability. If any provision of this act or the application of this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 5. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate

preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO