

## CHAPTER 120

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**HEALTH AND ENVIRONMENT**


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**SENATE BILL 07-035**

BY SENATOR(S) Shaffer, Morse, Bacon, Boyd, Fitz-Gerald, Groff, Kester, May R., Mitchell S., Romer, Schwartz, Tapia, Taylor, Tochtrop, Ward, Williams, and Windels;  
 also REPRESENTATIVE(S) Witwer, Borodkin, Buescher, Carroll M., Frangas, Gardner B., Green, Hicks, Jahn, Labuda, Liston, Madden, Massey, McGihon, Roberts, Stephens, Summers, and Todd.

**AN ACT****CONCERNING THE EMPLOYMENT OF PHYSICIANS BY A HOSPICE.**

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

**SECTION 1.** 25-3-103.7 (1), (2), (3), (4), (5), (6), and (7), Colorado Revised Statutes, are amended to read:

**25-3-103.7. Employment of physicians - when permissible - conditions.**  
 (1) For purposes of this section:

(a) "HOSPICE" MEANS AN ENTITY THAT ADMINISTERS SERVICES TO A TERMINALLY ILL PERSON UTILIZING PALLIATIVE CARE OR TREATMENT AND THAT IS CURRENTLY LICENSED AND REGULATED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO THE DEPARTMENT'S AUTHORITY UNDER SECTION 25-1.5-103 (1) (a).

~~(a)~~ (b) "Hospital" means a hospital currently licensed or certified by the department of public health and environment pursuant to the department's authority under section 25-1.5-103 (1) (a).

~~(b)~~ (c) "Physician" means a person duly licensed to practice under article 32, 35, or 36 of title 12, C.R.S.

(2) A hospital OR HOSPICE may employ physicians, subject to the limitations set forth in subsections (3) to (6) of this section.

(3) Nothing in this section shall be construed to allow any hospital ~~which~~ OR

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

HOSPICE THAT employs a physician to limit or otherwise exercise control over the physician's independent professional judgment concerning the practice of medicine or diagnosis or treatment or to require physicians to refer exclusively to the hospital OR HOSPICE or TO the hospital's OR HOSPICE'S employed physicians. Any hospital ~~which~~ OR HOSPICE THAT knowingly or recklessly so limits or controls a physician in such manner or attempts to do so shall be deemed to have violated hospital OR HOSPICE standards of operation and may be held liable to the patient or the physician, or both, for such violations, including proximately caused damages. Nothing in this section shall be construed to affect any ~~such~~ hospital's OR HOSPICE'S decisions with respect to the availability of services, technology, equipment, facilities, or treatment programs, or as requiring any ~~such~~ hospital OR HOSPICE to make available to patients or physicians additional services, technology, equipment, facilities, or treatment programs.

(4) Nothing in this section shall be construed to allow a hospital ~~which~~ OR HOSPICE THAT employs a health care professional to offer the health care professional any percentage of fees charged to patients by the hospital OR HOSPICE or other financial incentive to artificially increase services provided to patients.

(5) The medical staff bylaws or policies or hospital policies of any hospital, ~~which~~ OR THE MEDICAL STAFF BYLAWS OR POLICIES OR HOSPICE POLICIES OF ANY HOSPICE, THAT employs physicians shall not discriminate with regard to credentials or staff privileges on the basis of whether a physician is an employee of, a physician with staff privileges at, or a contracting physician with, the hospital OR HOSPICE. Any hospital OR HOSPICE that discriminates with regard to credentials or staff privileges on the basis of whether a physician is an employee of, a physician with staff privileges at, or a contracting physician with, the hospital OR HOSPICE shall be deemed to have violated hospital OR HOSPICE standards of operation and may be held liable to the physician for such violations, including proximately caused damages. This subsection (5) shall not affect the terms of any contract or written employment arrangement ~~which~~ THAT provides that the credentials or staff and clinical privileges of any practitioner are incident to or coterminous with the contract or employment arrangement or the individual's association with a group holding the contract.

(6) Every hospital ~~which~~ OR HOSPICE THAT employs a physician shall report to the department of public health and environment when applying for initial facility licensure and upon each application for license renewal, the number of physicians on the hospital's medical staff and shall separately identify the number of such physicians who are employed by the hospital OR HOSPICE under separate contract to the hospital OR HOSPICE, and independent of the hospital OR HOSPICE.

(7) The medical staff bylaws or policies or hospital policies of any hospital, OR THE MEDICAL STAFF BYLAWS OR POLICIES OR HOSPICE POLICIES OF ANY HOSPICE, that employs physicians shall contain a procedure by which complaints by physicians alleging a violation of subsection (3), (4), or (5) of this section may be heard and resolved, which procedure shall ensure that the due process rights of the parties are protected. A physician who believes he or she has been the subject of a violation of subsection (3), (4), or (5) of this section has a right to complain and request review of the matter pursuant to such procedure.

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

Approved: April 11, 2007