

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 19-0500.01 Yelana Love x2295

HOUSE BILL 19-1010

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A BILL FOR AN ACT

101 **CONCERNING THE LICENSING OF FREESTANDING EMERGENCY**
102 **DEPARTMENTS, AND IN CONNECTON THEREWITH, MAKING AN**
103 **APPROPRIATION.**

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 creates a new license, referred to as a "freestanding emergency department license", for the department of public health and environment to issue on or after July 1, 2022, to a health facility that offers emergency care, that may offer primary and urgent care services, and that is either:

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.

SENATE
3rd Reading Unamended
April 12, 2019

SENATE
2nd Reading Unamended
April 11, 2019

HOUSE
3rd Reading Unamended
February 15, 2019

HOUSE
Amended 2nd Reading
February 14, 2019

! Owned or operated by, or affiliated with, a hospital or hospital system and located more than 250 yards from the main campus of the hospital; or

! Independent from and not operated by or affiliated with a hospital or hospital system and not attached to or situated within 250 yards of, or contained within, a hospital.

A facility licensed as a community clinic before July 1, 2010, and that serves a rural community or ski area is excluded from the definition of "freestanding emergency department".

The bill allows the department to waive the licensure requirements for a facility that is licensed as a community clinic or that is seeking community clinic licensure and serves an underserved population in the state.

The state board of health is to adopt rules regarding the new license, including rules to set licensure requirements and fees and safety and care standards.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25-1.5-114 as
3 follows:

4 **25-1.5-114. Freestanding emergency departments - licensure**
5 **- requirements - rules - definition.** (1) ON OR AFTER DECEMBER 1,
6 2021, A PERSON THAT WISHES TO OPERATE A FREESTANDING EMERGENCY
7 DEPARTMENT MUST SUBMIT TO THE DEPARTMENT ON AN ANNUAL BASIS A
8 COMPLETED APPLICATION FOR LICENSURE AS A FREESTANDING
9 EMERGENCY DEPARTMENT. ON OR AFTER JULY 1, 2022, A PERSON SHALL
10 NOT OPERATE A FREESTANDING EMERGENCY DEPARTMENT THAT IS
11 REQUIRED TO BE LICENSED PURSUANT TO THIS SECTION WITHOUT A
12 LICENSE ISSUED BY THE DEPARTMENT.

13 (2) THE DEPARTMENT MAY GRANT A WAIVER OF THE LICENSURE
14 REQUIREMENTS SET FORTH IN THIS SECTION AND IN RULES ADOPTED BY
15 THE BOARD FOR EITHER A LICENSED COMMUNITY CLINIC OR COMMUNITY
16 CLINIC SEEKING LICENSURE THAT IS SERVING AN UNDERSERVED

1 POPULATION IN THE STATE.

2 (3) (a) THE BOARD SHALL ADOPT RULES ESTABLISHING THE
3 REQUIREMENTS FOR LICENSURE OF, WAIVER FROM THE REQUIREMENT FOR
4 LICENSURE OF, SAFETY AND CARE STANDARDS FOR, AND FEES FOR
5 LICENSING AND INSPECTING FREESTANDING EMERGENCY DEPARTMENTS.
6 THE BOARD MUST SET THE FEES IN ACCORDANCE WITH SECTION 25-3-105.

7 (b) THE RULES ADOPTED BY THE BOARD SHALL INCLUDE A
8 REQUIREMENT THAT EACH INDIVIDUAL SEEKING TREATMENT AT THE
9 FREESTANDING EMERGENCY DEPARTMENT RECEIVE A MEDICAL SCREENING
10 EXAMINATION AND A PROHIBITION AGAINST DELAYING A MEDICAL
11 SCREENING EXAMINATION IN ORDER TO INQUIRE ABOUT THE INDIVIDUAL'S
12 ABILITY TO PAY OR INSURANCE STATUS.

13 (c) THE RULES ADOPTED BY THE BOARD MUST TAKE EFFECT BY
14 JULY 1, 2021, AND THEREAFTER THE BOARD SHALL AMEND THE RULES AS
15 NECESSARY.

16 (4) A FREESTANDING EMERGENCY DEPARTMENT LICENSED
17 PURSUANT TO THIS SECTION IS SUBJECT TO THE REQUIREMENTS IN SECTION
18 25-3-119.

19 (5) (a) AS USED IN THIS SECTION, "FREESTANDING EMERGENCY
20 DEPARTMENT" MEANS A HEALTH FACILITY THAT OFFERS EMERGENCY
21 CARE, THAT MAY OFFER PRIMARY AND URGENT CARE SERVICES, AND THAT
22 IS EITHER:

23 (I) OWNED OR OPERATED BY, OR AFFILIATED WITH, A HOSPITAL OR
24 HOSPITAL SYSTEM AND LOCATED MORE THAN TWO HUNDRED FIFTY YARDS
25 FROM THE MAIN CAMPUS OF THE HOSPITAL; OR

26 (II) INDEPENDENT FROM AND NOT OPERATED BY OR AFFILIATED
27 WITH A HOSPITAL OR HOSPITAL SYSTEM AND NOT ATTACHED TO OR

1 SITUATED WITHIN TWO HUNDRED FIFTY YARDS OF, OR CONTAINED WITHIN,
2 A HOSPITAL.

3 (b) "FREESTANDING EMERGENCY DEPARTMENT" DOES NOT
4 INCLUDE A HEALTH FACILITY DESCRIBED IN SUBSECTION (5)(a) OF THIS
5 SECTION THAT WAS LICENSED BY THE DEPARTMENT PURSUANT TO SECTION
6 25-1.5-103 AS A COMMUNITY CLINIC PRIOR TO JULY 1, 2010, IF THE
7 FACILITY IS SERVING A RURAL COMMUNITY OR A SKI AREA, AS DEFINED IN
8 BOARD RULES.

9 **SECTION 2.** In Colorado Revised Statutes, 25-1.5-103, **amend**
10 (1)(a)(I)(A) and (2)(a.5)(II); and **add** (2)(a.5)(III) as follows:

11 **25-1.5-103. Health facilities - powers and duties of department**
12 **- limitations on rules promulgated by department - definitions.**

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

16 (a) (I) (A) To annually license and to establish and enforce
17 standards for the operation of general hospitals, hospital units as defined
18 in section 25-3-101 (2), FREESTANDING EMERGENCY DEPARTMENTS AS
19 DEFINED IN SECTION 25-1.5-114, psychiatric hospitals, community clinics,
20 rehabilitation hospitals, convalescent centers, community mental health
21 centers, acute treatment units, facilities for persons with intellectual and
22 developmental disabilities, nursing care facilities, hospice care, assisted
23 living residences, dialysis treatment clinics, ambulatory surgical centers,
24 birthing centers, home care agencies, and other facilities of a like nature,
25 except those wholly owned and operated by any governmental unit or
26 agency.

27 (2) For purposes of this section, unless the context otherwise

1 requires:

2 (a.5) "Community clinic" has the same meaning as set forth in
3 section 25-3-101 and does not include:

4 (II) A rural health clinic, as defined in section 1861 (aa)(2) of the
5 federal "Social Security Act", 42 U.S.C. sec. 1395x (aa)(2); OR

6 (III) A FREESTANDING EMERGENCY DEPARTMENT AS DEFINED IN
7 AND REQUIRED TO BE LICENSED UNDER SECTION 25-1.5-114.

8 **SECTION 3.** In Colorado Revised Statutes, 25-3-101, **amend** (1)
9 (2)(a)(I)(B), and (2)(a)(III)(C); and **add** (2)(a)(III)(D) as follows:

10 **25-3-101. Hospitals - health facilities - licensed - definitions.**

11 (1) It is unlawful for any person, partnership, association, or corporation
12 to open, conduct, or maintain any general hospital, hospital unit,
13 FREESTANDING EMERGENCY DEPARTMENT AS DEFINED IN SECTION
14 25-1.5-114, psychiatric hospital, community clinic, rehabilitation hospital,
15 convalescent center, community mental health center, acute treatment
16 unit, facility for persons with developmental disabilities, as defined in
17 section 25-1.5-103 (2)(c), nursing care facility, hospice care, assisted
18 living residence, except an assisted living residence shall be assessed a
19 license fee as set forth in section 25-27-107, dialysis treatment clinic,
20 ambulatory surgical center, birthing center, home care agency, or other
21 facility of a like nature, except those wholly owned and operated by any
22 governmental unit or agency, without first having obtained a license from
23 the department. ~~of public health and environment.~~

24 (2) As used in this section, unless the context otherwise requires:

25 (a) (I) "Community clinic" means a health care facility that
26 provides health care services on an ambulatory basis, is neither licensed
27 as an on-campus department or service of a hospital nor listed as an

1 off-campus location under a hospital's license, and meets at least one of
2 the following criteria:

3 (B) Provides emergency services at the facility AND IS NOT
4 OTHERWISE REQUIRED TO OBTAIN LICENSURE AS A FREESTANDING
5 EMERGENCY DEPARTMENT IN ACCORDANCE WITH SECTION 25-1.5-114; or

6 (III) "Community clinic" does not include:

7 (C) A facility that functions only as an office for the practice of
8 medicine or the delivery of primary care services by other licensed or
9 certified practitioners; OR

10 (D) A FREESTANDING EMERGENCY DEPARTMENT AS DEFINED IN
11 AND REQUIRED TO BE LICENSED UNDER SECTION 25-1.5-114.

12 **SECTION 4.** In Colorado Revised Statutes, 25-3-119, **amend**
13 **(8)(c)** as follows:

14 **25-3-119. Freestanding emergency departments - required**
15 **notices - disclosures - rules - definitions.** (8) As used in this section:

16 (c) ~~(F) "Freestanding emergency department" means a health~~
17 ~~facility that offers emergency care, that may offer primary and urgent care~~
18 ~~services, that is licensed by the department pursuant to section~~
19 ~~25-1.5-103, and that is either:~~ HAS THE SAME MEANING AS SECTION
20 25-1.5-114 (5).

21 ~~(A) Owned or operated by, or affiliated with, a hospital or hospital~~
22 ~~system and is located more than two hundred fifty yards from the main~~
23 ~~campus of the hospital; or~~

24 ~~(B) Independent from and not operated by or affiliated with a~~
25 ~~hospital or hospital system and is not attached to or situated within two~~
26 ~~hundred fifty yards of, or contained within, a hospital.~~

27 ~~(H) "Freestanding emergency department" does not include a~~

1 ~~health facility described in subsection (8)(c)(I) of this section that was~~
2 ~~licensed by the department pursuant to section 25-1.5-103 as a community~~
3 ~~clinic prior to July 1, 2010, if the facility is serving a rural community or~~
4 ~~a ski area, as defined in state board rules.~~

5 **SECTION 5. Appropriation.** For the 2019-20 state fiscal year,
6 \$43,248 is appropriated to the department of public health and
7 environment for use by the health facilities and emergency medical
8 services division. This appropriation is from the health facilities general
9 licensure cash fund created in section 25-3-103.1 (1), C.R.S., and is based
10 on an assumption that the division will require an additional 0.5 FTE. To
11 implement this act, the division may use this appropriation for the nursing
12 facility survey.

13 **SECTION 6. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2020 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.