

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

INTRODUCED

LLS NO. 21-0243.01 Kristen Forrestal x4217

SENATE BILL 21-127

SENATE SPONSORSHIP

Ginal,

HOUSE SPONSORSHIP

Mullica,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE AUTHORITY OF A REGULATOR OF HEALTH CARE**
102 **PROFESSIONALS DURING A DISASTER EMERGENCY DECLARED BY**
103 **THE GOVERNOR.**

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 authorizes the director of the division of professions and occupations or the applicable regulatory board in the department of regulatory agencies (regulator) to suspend or waive statutes or rules governing a health care profession or occupation over which a regulator has authority during a disaster emergency declared by the governor. The

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.

suspension or waiver of a statute or rule is limited to those in which strict compliance would prevent, hinder, or delay necessary action in coping with or responding to the disaster emergency and may not suspend, waive, or modify any supervisory requirements.

The bill allows a regulator to promulgate emergency rules commensurate with the nature of the disaster emergency and within the limits of the declaration and the applicable practice act for a health care profession or occupation. The emergency rules automatically expire 60 days after the termination of the declared disaster emergency.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) In the wake of the COVID-19 pandemic, it has become
5 increasingly apparent that there is a need for quick and flexible regulatory
6 action under many emergency circumstances, including a pandemic
7 situation;

8 (b) While Colorado's response to the COVID-19 pandemic has
9 been widely recognized as a national model, the challenges that the state
10 faced revealed a need for additional regulatory flexibility in the face of
11 emergencies;

12 (c) Countering a statewide or regional emergency in a timely
13 manner is critical to the state's response to an emergency; and

14 (d) "Best practices" established in the law have created
15 unnecessary obstacles in the state's efforts to respond to a statewide
16 emergency and to the speed at which regulators are able to meet the needs
17 of the people served by the persons working in regulated health care
18 professions and occupations.

19 (2) Therefore, the general assembly declares that during a disaster
20 emergency declared by the governor, it is necessary to allow regulators

1 of health care professions and occupations to suspend or waive statutes
2 or rules governing a health care profession or occupation over which a
3 regulator has authority.

4 **SECTION 2.** In Colorado Revised Statutes, **add** 12-30-116 as
5 follows:

6 **12-30-116. Declared disaster emergency - regulator's**
7 **authority - rules.** (1) (a) IF THE GOVERNOR DECLARES A DISASTER
8 EMERGENCY PURSUANT TO SECTION 24-33.5-704 (4), A REGULATOR MAY,
9 DURING THE DECLARED DISASTER EMERGENCY, PROMULGATE EMERGENCY
10 RULES IN ACCORDANCE WITH SECTION 24-4-103 (6) THAT TEMPORARILY
11 SUSPEND OR WAIVE SPECIFIC STATUTES OR RULES CONCERNING THE
12 PRACTICE OF A PROFESSION OR OCCUPATION OVER WHICH THE REGULATOR
13 HAS REGULATORY AUTHORITY PURSUANT TO THIS TITLE 12 IF STRICT
14 COMPLIANCE WITH THE STATUTE OR RULE WOULD PREVENT, HINDER, OR
15 DELAY NECESSARY ACTION IN COPING WITH OR RESPONDING TO THE
16 DISASTER EMERGENCY.

17 (b) DURING THE DECLARED DISASTER EMERGENCY, THE
18 REGULATOR MAY PROMULGATE EMERGENCY RULES THAT ARE:

19 (I) COMMENSURATE WITH THE NATURE OF THE DISASTER
20 EMERGENCY AND ALL RELEVANT CIRCUMSTANCES THAT LED TO THE
21 DECLARED DISASTER EMERGENCY; AND

22 (II) CONSISTENT WITH THE TERMS AND LIMITATIONS SET FORTH IN
23 THE EXECUTIVE ORDER OR PROCLAMATION DECLARING THE DISASTER
24 EMERGENCY AND SET FORTH IN THE APPLICABLE PART OR ARTICLE OF THIS
25 TITLE 12 THAT REGULATES THE PROFESSION OR OCCUPATION.

26 (c) AN EMERGENCY RULE PROMULGATED PURSUANT TO THIS
27 SUBSECTION (1) TO SUSPEND OR WAIVE A STATUTE OR RULE:

1 (I) MUST INCLUDE A STATEMENT SUBSTANTIATING THE
2 REGULATOR'S DETERMINATION THAT STRICT COMPLIANCE WITH THE
3 SUSPENDED OR WAIVED STATUTE OR RULE WOULD PREVENT, HINDER, OR
4 DELAY NECESSARY ACTION IN COPING WITH OR RESPONDING TO THE
5 DECLARED DISASTER EMERGENCY; AND

6 (II) MUST NOT SUSPEND, WAIVE, OR MODIFY ANY REQUIREMENT
7 WITHIN THE REGULATOR'S PRACTICE ACT THAT PRESCRIBES DIRECTION OR
8 SUPERVISORY REQUIREMENTS OVER OR BY A LICENSEE, REGISTRANT, OR
9 CERTIFICATE HOLDER OR AN UNREGULATED PERSON.

10 (2) THE AUTHORITY OF A REGULATOR TO SUSPEND OR WAIVE A
11 STATUTE OR RULE PURSUANT TO SUBSECTION (1) OF THIS SECTION IS
12 LIMITED TO REGULATORY REQUIREMENTS PLACED ON A PROFESSION OR
13 OCCUPATION IN THE STATUTES OF THE APPLICABLE PART OR ARTICLE OF
14 THIS TITLE 12 AND IN THE RULES ADOPTED IN ACCORDANCE WITH THE PART
15 OR ARTICLE. A SUSPENSION OR WAIVER OF A STATUTE OR RULE AND ANY
16 EMERGENCY RULES PROMULGATED MUST BE CONSISTENT WITH STATE AND
17 FEDERAL LAWS AND MUST BE REASONABLY NECESSARY TO PROTECT THE
18 PUBLIC HEALTH AND WELFARE UNDER THE CIRCUMSTANCES THAT LED TO
19 THE DECLARED DISASTER EMERGENCY.

20 (3) NOTWITHSTANDING SECTION 24-4-103 (6)(a), AN EMERGENCY
21 RULE PROMULGATED PURSUANT TO THIS SECTION EXPIRES SIXTY DAYS
22 AFTER THE DATE THE DECLARED DISASTER EMERGENCY IS TERMINATED.

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