



Dedicated to protecting and improving the health and environment of the people of Colorado

To: Members of the State Board of Health

From: Laurie Schoder, Policy Analyst, Health Facilities and Emergency Medical Services Division

Through: D. Randy Kuykendall, MLS; Director *DRK*

Date: October 15, 2014

Subject: Proposed Repeal of 6 CCR 1011-1, Standards for Hospitals and Health Facilities, Chapter 11, Convalescent Centers, with a Request for the Rulemaking Hearing to occur on December 17, 2014

The Division is proposing repeal of Chapter 11, Convalescent Centers. The standards for convalescent centers that are contained in Chapter 11 are insufficient, extremely out-dated and no longer in line with current practice. The definition of a convalescent care center lacks clarity and contains the unnecessary requirement that a convalescent care center maintain an affiliation with a general hospital.

There are currently 11 licensed convalescent centers in Colorado. Each center has a patient capacity that ranges from 3 to 10 beds, for a total of 58 licensed convalescent center beds in the state. Each of these convalescent centers is operated in conjunction with an ambulatory surgery center. Therefore, the Division is proposing repeal of Chapter 11 and, in a separate rule-making, amending Chapter 20, Ambulatory Surgery Centers, to allow for the licensing of a convalescent center only in conjunction with an ambulatory surgical center license.

The Division has been meeting with stakeholders from currently licensed ambulatory surgical centers and convalescent centers, as well as representatives of the Colorado Hospital Association and all have agreed that the Department's proposal is an appropriate course of action.

**STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY**

For Repeal of 6 CCR 1011-1, Standards for Hospitals and Health Facilities,
Chapter 11, Convalescent Centers
October 15, 2014

Basis and Purpose:

Pursuant to the Governor's Executive Order D2012-002 regarding regulatory efficiency reviews, the Division undertook a thorough review of this rule and determined that changes were necessary. Specifically, the standards for convalescent centers that are contained in Chapter 11 are insufficient, extremely out-dated and no longer in line with current practice. The definition of a convalescent care center lacks clarity and contains the unnecessary requirement that a convalescent care center maintain an affiliation with a general hospital. The Division is proposing repeal of Chapter 11, Convalescent Centers and, in a separate rule-making, amending Chapter 20, Ambulatory Surgery Centers, to allow for the licensing of a convalescent center only in conjunction with an ambulatory surgical center license.

These rules are promulgated pursuant to the following statutes:

Section 25-1.5-103, C.R.S. (2014).
Section 25-3-101, *et seq.*, C.R.S. (2014).

SUPPLEMENTAL QUESTIONS

Is this rulemaking due to a change in state statute?

Yes
 No

Is this rulemaking due to a federal statutory or regulatory change?

Yes
 No

Does this rule incorporate materials by reference?

Yes
 No

Does this rule create or modify fines or fees?

Yes
 No

REGULATORY ANALYSIS

For Repeal of 6 CCR 1011-1, Standards for Hospitals and Health Facilities,
Chapter 11, Convalescent Centers
October 15, 2014

- 1. A description of the classes of persons who will be affected by the rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the rule.**

The classes of persons affected by the repeal will be the owners and operators of convalescent care centers, ambulatory surgical centers and their patients. There is no cost to repealing the rule. The affected health care entities, their patients and the Department will all benefit from repealing this regulation and relocation of revised standards into a more appropriate regulation.

- 2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected class of persons.**

Because the current rule is out-dated, contrary to the current standard of practice and has insufficient standards, repeal of this rule and relocation of revised standards into the relevant regulation set should have a beneficial quantitative and qualitative impact on all affected parties.

- 3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**

The Department does not anticipate there will be any costs to it or any other agency regarding repeal of this rule.

- 4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.**

Inaction would result in the continuation of out-dated and inappropriate standards for convalescent centers, which could result in physical harm to patients and monetary harm to the convalescent center. Repeal of this rule and incorporation of new standards into the appropriate regulation will benefit the industry and public alike because they will have a clear understanding of the standards for convalescent centers.

- 5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.**

The Department has determined that repeal and relocation in another rule is the least costly and least intrusive method for achieving the purpose of updating these standards.

- 6. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.**

The Division considered not repealing this regulation and completely revising it. However, since the current practice is to only license convalescent centers that are affiliated with licensed ambulatory surgery centers, stakeholders agreed with the Department that the best course of action was to repeal the regulation in its entirety, revise the standards for convalescent centers and add them to the regulation for ambulatory surgical centers with which a convalescent care center must be affiliated.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The Department analyzed the type and number of health care entities affected by this repeal, as well as the number of in-patient beds involved. There are currently 11 licensed convalescent centers in Colorado. Each center has a patient capacity that ranges from 3 to 10 beds, for a total of 58 licensed convalescent center beds in the state. Each of these convalescent centers is already operated in conjunction with an ambulatory surgery center. Therefore, repeal of this regulation and relocation of revised standards into the regulation concerning ambulatory surgical centers makes sense in both the short term and long term.

STAKEHOLDER Comment

For Repeal of 6 CCR 1011-1, Standards for Hospitals and Health Facilities,
Chapter 11, Convalescent Centers

The following individuals and/or entities were included in the development of these proposed rules: The Colorado Ambulatory Surgical Center Association, the Colorado Hospital Association, and representatives from currently licensed ambulatory surgical centers and convalescent centers.

The following individuals and/or entities will be notified of this proposed rule-making by the Board of Health on or before the date of publication of the notice in the Colorado Register: All currently licensed ambulatory surgical centers and convalescent care centers. The Division will send notice to persons and/or groups considered by the division to be interested parties to the proposed rule-making, and those who have requested notification/information from the division regarding the proposed rule-making? X Yes No.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request. Thus far there have been no major factual or policy issues that the Division and stakeholders have been unable to resolve. All parties involved in the rule-making process thus far have agreed regarding repeal of this Chapter.

Please identify health equity and environmental justice (HEEJ) impacts. Does this proposal impact Coloradoans equally or equitably? Does this proposal provide an opportunity to advance HEEJ? Are there other factors that influenced these rules?

The Division is unaware of any health equity or environmental justice impacts.

1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

2
3 **Health Facilities and Emergency Medical Services Division**

4
5 **STANDARDS FOR HOSPITALS AND HEALTH FACILITIES: CHAPTER 11 - CONVALESCENT**
6 **CENTERS - REPEALED**

7
8 **6 CCR 1011-1 Chap 11**
9

10
11 ~~These chapters of regulation incorporate by reference (as indicated within) material originally published~~
12 ~~elsewhere. Such incorporation, however, excludes later amendments to or editions of the referenced material.~~
13 ~~Pursuant to 24-4-103 (12.5), C.R.S., the Health Facilities Division of the Colorado Department of Public Health~~
14 ~~and Environment maintains copies of the incorporated texts in their entirety which shall be available for public~~
15 ~~inspection during regular business hours at:~~

16 ~~Division Director~~
17 ~~Colorado Department of Public Health and Environment~~
18 ~~Health Facilities Division~~
19 ~~4300 Cherry Creek Drive South~~
20 ~~Denver, Colorado 80222-1530~~
21 ~~Main switchboard: (303) 692-2800~~

22 ~~Certified copies of material shall be provided by the division, at cost, upon request. Additionally, any material~~
23 ~~that has been incorporated by reference after July 1, 1994 may be examined in any state publications~~
24 ~~depository library. Copies of the incorporated materials have been sent to the state publications depository and~~
25 ~~distribution center, and are available for interlibrary loan.~~

26
27 **DEFINITIONS**

28 ~~Convalescent Center—Convalescent center means a health facility planned, organized, operated, and~~
29 ~~maintained to offer facilities and services to inpatients requiring restorative care and treatment, and that is either~~
30 ~~an integral patient care unit of a general hospital or a facility physically separated from, but maintaining an~~
31 ~~affiliation with, all services in a general hospital.~~

32 ~~Convalescence is considered to be period of recovery after injury or illness, either mental or physical, and/or~~
33 ~~following excessive strain on psychological process which produce exhaustion or fatigue. It is a gradual process~~
34 ~~which may be interrupted by relapses or for necessary therapy. In some cases the recovery may be only partial,~~
35 ~~but in any event, important mental and physical improvements in the patient, regardless of the injury or disease,~~
36 ~~is required criterion of convalescence. Thus a license for a Convalescence Center will be used only when a~~
37 ~~facility demonstrates that their services and condition of patients are such that there is some promise of full or~~
38 ~~partial recovery to a former state of well-being and that the facility has arrangements and programs to promote~~
39 ~~this return. Code of Colorado Regulations 2~~

40
41 **1.1 LICENSE**

42 ~~All Convalescent Centers shall be licensed in accordance with the requirements specified in Chapter II.~~

43
44 **1.2 APPLICABILITY OF OTHER SECTIONS.**

45 ~~Convalescent Centers shall conform to all applicable sections of Chapter IV, General Hospital, with regard to~~
46 ~~area and operational requirements, environmental sanitation, physical plant maintenance, safety, food service,~~
47 ~~and patient care units and services.~~

48
49 **1.3 FACILITIES AND SERVICES**

50 ~~The facilities and services shall include provision for prompt transfer of patients between the General Hospital~~
51 ~~and the Convalescent Center, utilization of the General Hospital's diagnostic and treatment facilities, and~~
52 ~~sharing of knowledge and skills between personnel in the General Hospital and Convalescent Center.~~

53
54 **1.4 INTEGRATION WITH GENERAL HOSPITAL**

55 ~~When the Convalescent Center and the General Hospital have separate and distinct governing boards or~~
56 ~~authorities, an integrated affiliation shall be established by written agreement.~~

1.5 WRITTEN AGREEMENT

The written agreement shall include names of the owner or corporate officers authorized to sign the agreement, and accurate, clear statements which reflect that the operations provide: 1) Continuity and evaluation of patient care; 2) Emergency care of patients; 3) Administrative and medical staff organization and integration; 4) Review and appraisal of the quality and appropriateness of medical care including the frequency with which patients are to be seen by their physicians; and 5) Procedural policies.

1.6 COMPLIANCE WITH FGI GUIDELINES

Effective July 1, 2013, all convalescent centers shall be constructed in conformity with the standards adopted by the Director of the Division of Fire Prevention and Control (DFPC) at the Colorado Department of Public Safety. For construction initiated or systems installed on or after July 1, 2013, that affect patient health and safety and for which DFPC has no applicable standards, each facility shall conform to the relevant section(s) of the Guidelines for Design and Construction of Health Care Facilities, (2010 Edition), Facilities Guidelines Institute. The Guidelines for Design and Construction of Health Care Facilities, (2010 Edition), Facilities Guidelines Institute (FGI), is hereby incorporated by reference and excludes any later amendments to or editions of the Guidelines. The 2010 FGI Guidelines are available at no cost in a read only version at: http://openpub.realread.com/rrserver/browser?title=/FGI/2010_Guidelines