

Colorado Department of Public Health and Environment Health Facilities & Emergency Medical Services Division Policy Manual		Section: Part:
Subject: POLICY – LICENSURE FINANCIAL RESPONSIBILITY COMPLIANCE REQUIREMENTS: HEALTH CARE AVAILABILITY ACT; AND, FEDERAL GRANTEES (Community Clinics and Community Clinic/Emergency Centers) DEEMED COVERED UNDER THE FEDERAL TORT CLAIMS ACT		Page:
Date: July 1, 2004 (Revised: October 3, 2005) (Revised: October 15, 2009) ---(Revised: May 5, 2011)	<input type="checkbox"/> Replacement page(s) of part _____ <input type="checkbox"/> Addition of page(s) to part _____ <input type="checkbox"/> New Section	

Summary

This policy establishes financial responsibility compliance requirements for health care institutions required by law to demonstrate compliance with the Health Care Availability Act and requirements applicable to community clinics and community clinic/ emergency centers that are deemed covered under the Federal Tort Claims Act. All previous policies on this subject are hereby withdrawn effective January 1, 2010. This revised policy is effective for applications received on or after January 1, 2010 for all licenses issued on or after March 1, 2010.

Applicability

This policy is applicable to all health care institutions licensed by the Department, other than the following statutory exceptions: governmental entities that fall under the Colorado Governmental Immunity Act; outpatient mental health care facilities including, but not limited to, a community mental health center or clinic; and, any extended care facility or hospice with sixteen or fewer inpatient beds, including but not limited to nursing homes or rehabilitation facilities.

Policy

1. Requirements for Health Institutions *Other Than* Community Clinics and Community Clinics with Emergency Centers. Except as provided in 6 C.C.R. 1011-1, Chapter IX, Section 12 (pertaining exclusively to community clinics and community clinics/emergency centers) each health care institution is required to establish financial responsibility by: maintaining commercial professional liability insurance coverage in minimum indemnity amounts of \$500,000 per incident and \$3,000,000 annual aggregate per year; or, in the alternative, by obtaining approval for an alternative plan of financial responsibility from the Commissioner of Insurance. [§13-64-301(1)(b)-(e), C.R.S.]
2. Requirements for Community Clinics and Community Clinics with Emergency Centers. Community clinics and community clinic/emergency centers governed by the provisions of 6 C.C.R. 1011-1, Chapter IX, Section 12 must establish financial responsibility under the Act by: maintaining commercial professional liability insurance coverage in minimum indemnity amounts of \$300,000 per incident and \$900,000 annual aggregate per year; or, in the

alternative, by obtaining approval for an alternative plan of financial responsibility from the Commissioner of Insurance.

Statutory and Regulatory Basis

1. Section 13-64-301, Colorado Revised Statutes provides, in pertinent part:
“(1) Every...health care institution...,except as provided in section 13-64-303.5, which provide health care services shall establish financial responsibility as follows:
(b) If a health care institution, by maintaining, as a condition of licensure, certification, or other authority to render health care services in this state, commercial professional liability insurance coverage with an insurance company authorized to do business in this state in a minimum indemnity amount of five hundred thousand dollars per incident and three million dollars annual aggregate per year; except that this requirement is not applicable to a certified health care institution which is a public entity under the ‘Colorado Government Immunity Act’;...
(2) Each...health care institution, as a condition of receiving and maintaining an active license, certification or other authority to provide health care services in this state, shall furnish the appropriate authority which issues and administers such license, certification, or other authority with evidence of compliance with subsection (1) of this section. No such license, certification, or other authority shall be issued or renewed unless such evidence of compliance has been furnished.”
2. Colorado Department of Public Health and Environment regulations at 6 C.C.R. 1011-1, Chapter IX, Section 12, provide: “Community clinics or community clinic and emergency centers shall submit evidence to the Colorado Department of Public Health and Environment that they maintain at least \$300,000 professional liability insurance per incident and \$900,000 annual aggregate per year in order to demonstrate compliance with the Health Care Availability Act of 1988.”

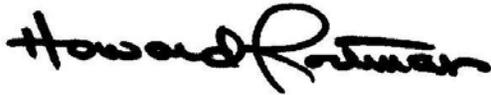
Procedure

All health care institutions must establish compliance with the Act before an initial or renewal license is issued as follows:

1. As part of its application for an initial or renewal license, the applicant must provide the following:
 - (a) A copy of the commercial professional liability insurance policy and a certificate of professional liability insurance that clearly demonstrates that the individual facility meets both the per claim and aggregate per facility coverage as required by the Act for the term of the license. A single insurance policy that lists multiple health care institutions is acceptable provided that it contains language that clearly stipulates that **each** licensed health care institution is covered for the minimum indemnity amount of \$500,000 per incident and \$3,000,000 aggregate. The insurance policy shall also include the following information: the facility name (the name on the policy shall be consistent with the name on the license application), licensed facility address, current effective dates, and the current policy number.

- (b) In the event that the health care institution does not have a commercial professional liability insurance policy or the limits of professional liability insurance coverage are in excess of any self-insured retention amount or deductible other than \$0, in addition to the certificate described in (a), the applicant shall provide the Colorado Department of Public Health and Environment evidence that the Colorado Division of Insurance has approved an alternative form of establishing financial responsibility as provided in Colorado Insurance Regulation 2-1-1, 3 CCR 702-2.
 - (c) The Colorado Department of Public Health and Environment shall be listed as the certificate holder. The certificate shall require notification to the Department of any changes in coverage.
2. Failure to comply with the provisions of section (1) above may result in denial of the license application or a delay in license issuance.

Approved by:

A handwritten signature in black ink that reads "Howard Rotman". The signature is written in a cursive, flowing style.

Health Facilities and Emergency Medical Services Division Director

May 5, 2011