



Office of the County Attorney

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BOARD OF COUNTY COMMISSIONERS

January 3, 2023, 3:00 p.m.

Hearing Room, 3rd Floor

Boulder County Courthouse

Report on the proposed adoption of the Boulder County Secured Transportation Regulations

Staff: Kathy Gissel, Permit & License Operations Manager, Community Permitting and Planning; Michael Koertje, Assistant County Attorney

BACKGROUND:

Colorado House Bill 21-1085 created a Secured Transportation Services program in the State of Colorado. Pursuant to C.R.S. §25-3.5-309(1)(a), as of January 1, 2023, any entity providing “secure transportation services” to a person experiencing a “behavioral health crisis” must be licensed by the Board of County Commissioners in the county in which the service is based. Law enforcement agencies and ambulances services are generally exempt from the licensing requirement.

Boards of county commissioners are entitled to set fees for their licensing program. Licenses are effective for three years. Each vehicle utilized by the service must also obtain a permit, effective for one year, after an inspection. C.R.S. §25-3.5-309, 310.

The legislature delegated rulemaking to the State Board of Health. C.R.S. §25-3.5-311. Extensive regulations have been promulgated and are found at 6 CCR 1011-4, Standards for Secure Transportation Services [“the Standards”]. Most of the Standards contain operating standards for the services which are to be included in each county’s regulations.

It was determined that the Permitting and Licensing Programs division of Community Planning and Permitting would be responsible for the program in Boulder County. Staff determined that the most effective way to manage the program would be for the BOCC to appoint a Secured Transportation Services Authority to perform the extensive administrative tasks mandated by the Standards. Kathy Gissel already serves as Co-Marijuana Authority for Boulder County and thus has a relevant background for this task. Staff also determined that rather than specifically list every single item required by the Standards, the Boulder County regulations should just reference the appropriate sections of the Standards. This will avoid the necessity of amending the Boulder County regulations every time a Standard is amended. The proposed Boulder County regulations are Exhibit A to the proposed Resolution

Section 3.1(B) of the Standards allow counties to enter into reciprocal licensing agreements with other counties. Staff anticipates bringing such an agreement to the BOCC in the near future to allow reciprocal licensing among several counties and to provide a central entity to conduct vehicle inspections for all the counties who are party to the agreement.

RECOMMENDATION:

Staff recommends the Board adopt the proposed Boulder County Secured Transportation Services Licensing Regulations, effective January 3, 2023. Staff also recommends that Kathy Gissel be appointed as the initial Boulder County Secured Transportation Services Authority.

Attachments

- 1) Exhibit A: Proposed Boulder County Secured Transportation Services Regulations.
- 2) Proposed Resolution 2022-097, with the proposed regulations as Exhibit A.

BOULDER COUNTY SECURE TRANSPORTATION SERVICES LICENSING REGULATIONS

Article 1: Purpose and Intent

In House Bill 21-1085, the General Assembly enacted sections 309 to 313 of article 3.5 of title 25, C.R.S. to provide for county licensing of secured transportation services for individuals experiencing behavioral health crises. In addition, the Colorado Department of Public Health and Environment adopted 6 CCR 1101-4, Standards for Secure Transportation Services (“the SSTS”). These statutes and the SSTS authorize counties to determine whether to license entities to provide secure transportation services within their jurisdictions and to issue permits for the providers’ vehicles.

The purpose of these regulations is to authorize licensing in Boulder County as provided in §§ 25-3.5-309 & 310, C.R.S., as amended, and to establish specific standards and procedures for local licensing of Secure Transportation Services.

Article 2: Defined Terms

The definitions in the § 25-3.5-103, C.R.S., as amended, and the SSTS, Part 2, as amended, shall apply to these regulations.

Article 3: Local Licensing

- a) *Effective date.* Commencing January 1, 2023, no secure transportation service, public or private, shall transport a person experiencing a behavioral health crisis from any point within Boulder County unless that secure transportation service holds a valid license and vehicle permit. Law enforcement, ground ambulance agencies licensed pursuant to Section 25-3.5-301, C.R.S., transportation services offered by the Office of Behavioral Health (OBH) within the Colorado Department of Human Services (DHS), and emergency service patrols established pursuant to Section 27-81-115, C.R.S. shall be exempt from this licensure requirement.
- b) *Reciprocal agreements.* Boulder County may enter into reciprocal licensing and permitting agreements with other counties.

Article 4: Relationship to Other Laws

Boulder County intends to follow and incorporate the requirements and procedures in 309 to 313 of article 3.5 of title 25 and the SSTS. Licensees shall comply with all applicable laws and regulations to operate a secure transportation service in Colorado.

Article 5: Authority

The Boulder County Board of County Commissioners (the “Board”) may designate, in its discretion, a person or persons to act as the Boulder County Secure Transportation

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Services Licensing Authority. The Authority shall serve at the pleasure of the Board and be compensated on terms mutually agreeable to the Board and the Authority. The Authority shall accept and determine applications and fees, investigate potential licensing violations, take action against licensees, and perform other duties as provided by these Regulations.

Article 6: Licensing Procedure

- a) General procedure. The Authority shall consider and act upon all complete local license applications and vehicle permit applications as authorized by these regulations. The Authority shall grant or deny a license or permit based solely upon the Authority's investigation and findings, and no public hearing shall be required. The Authority shall deny any application or permit that is not in full compliance with these Regulations. The Authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these regulations.
- b) Application forms.
 - 1. All applications for a new Secure Transportation Services license or vehicle permit shall be made upon current forms provided by the Authority. The burden of proving an Applicant's qualifications for licensure or a permit rests at all times with the Applicant.
 - 2. All applications must be complete before being accepted or considered by the Authority.
 - 3. All applications must include all attachments or supplemental information required by the form.
 - 4. All applications must be accompanied by a full remittance for the entire amount of the application and license or permit fees.
 - 5. The Authority may refuse to accept an incomplete application.
 - 6. An Applicant's failure to provide any requested information by the Authority deadline may be grounds for denial of the application.

Article 7: Licensing Requirements

- a) Before issuing a local license for a new Secure Transportation Service, the Authority shall determine that all of the requirements in the SSTS, Part 3.3, have been met.
- b) Boulder County may grant reciprocity to any license or permit as provided in an agreement with other Colorado counties without additional fees to the licensee.

Article 8: Licenses

- a) Types of licenses. Licenses may be issued for either:

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1. Class A – services that may use physical restraint during secure transport pursuant to the parameters set forth in the SSTS, Part 8.3, or
 2. Class B – services that shall not use physical restraint during secure transport.
- b) Term. Licenses shall be issued for a period of three years, unless revoked earlier.
- c) Licenses not to be transferred. A secure transportation service license may not be assigned, sold, or otherwise transferred.

Article 9: Vehicle Permits

- a) Types of permits. Secure transportation vehicles have the following two (2) permit options:
1. Type 1 – vehicle with a safety partition that separates the driver from the passenger compartment, or
 2. Type 2 – non-partitioned vehicle.
- b) Term of permit. All permits shall be issued for a period of one year, unless revoked earlier.
- c) Vehicle permits not to be transferred. A vehicle permit may not be assigned, sold, or otherwise transferred.
- d) Inspections. All permitted vehicles shall be inspected annually by the Authority or its representative pursuant to any agreement with other Colorado counties, in compliance with the SSTS, Part 3.3(B). The Authority shall give reasonable notice of an inspection.

Article 10: Decision and Appeal

Once the Authority has completed a review of the application, it shall either issue a local license or a denial letter that specifies the reasons for denial. Within ten days of a denial letter, the applicant may request that the Authority reconsider its decision by submitting a letter to the Authority clearly stating the grounds for the request. In response, the Authority may deny the request, issue a revised denial letter, or issue a local license.

Article 11: Renewals of Licenses and Permits

- a) Renewal applications. Licensees must submit applications for renewals of licenses and vehicle permits at least forty-five (45) days prior to the expiration of a license or permit on forms provided by the Authority, accompanied by the required fee. Failure to timely submit a renewal application may result in the suspension or revocation of a license or permit. If a renewal permit has not been submitted by the expiration date of any license or permit, that license or permit shall be revoked.
- b) Standards for renewal: If the Licensee is in violation of these Regulations, the Authority may deny the renewal. Renewal of any local license or permit is subject to the laws and

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regulations effective at the time of renewal, which may be substantially different than the regulations currently in place.

- c) Administrative continuances. If the Licensee timely applies for the renewal of an existing license or permit, the Authority may administratively continue the license or permit beyond the expiration date while it completes the renewal process.
- a) License or permit not renewed or administratively continued.
 1. In the event the license or permit is not renewed prior to expiration, the Licensee may not operate unless the license or permit has been administratively continued.
 2. If a Licensee files a renewal application after the date of expiration, the application will be treated as a new license application. Licenses that are not timely renewed will expire.

Article 12: Changes

If a licensee changes ownership, a new license application shall be required at least thirty (30) days prior to the change in ownership. Any vehicles not previously used to provide secure transportation services require a new permit prior to being put into service. The licensee shall inform the Authority if any vehicle will no longer be used for secure transportation services and the permit for that vehicle shall be revoked.

Article 13: Operational Requirements

- a) Staffing and training requirements: All licensees shall comply with the staffing requirements contained in the SSTS, Part 7.
- b) Clinical, medical and operating standards and procedures. All licensees shall comply with the clinical, medical and operating requirements contained in the SSTS, Part 8.
- c) Client rights. All licensees shall comply with the written client rights provisions of the SSTS, Part 9 and shall provide written copies of these rights to all clients at the initiation of services.
- d) Quality management program. All licensees shall comply with the provisions regarding a quality management program contained in the SSTS, Part 10.
- e) Background checks: If requested by the Authority, licensees shall provide any documents related to the background checks required by the SSTS, Parts 7.1 and 7.6.

Article 14: Fee Structure

- a) Secure Transportation Services licenses. The fee for all new and renewal applications for licenses shall be \$200.
- b) Vehicle permits. The fee for all new and renewal applications for permits shall be \$125.

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The Board of County Commissioners has authority to set and amend fees.

Article 15: Complaints and Violations

- a) Public complaints.
1. Members of the public may submit complaints regarding a Licensee by utilizing the form on the Authority's website. The Authority shall provide a copy of the complaint to the Licensee. The Authority shall contact the complainant to verify the allegations in the complaint.
 2. The Authority shall conduct an investigation, including contacting the Licensee to discuss the complaint.
 3. If appropriate, the Authority will develop a plan to remedy the complaint with the Licensee and notify the complainant in writing of the remedy. If the complaint is found to lack validity, the Licensee and complainant shall be notified in writing. If the investigation reveals a violation of these Regulations, then part (b) below shall be followed.
- b) Order to Show Cause. If the Authority has reasonable cause to believe that a license has violated these Regulations, it shall issue an Order to Show Cause, specifically identifying the alleged violation(s), advising that action may be taken against the license, and giving the licensee ten days to provide a response in writing. The Authority may also temporarily suspend a license and/or vehicle permits, for a period not to exceed thirty (30) days, whereby the licensee receives a written notice of temporary suspension and a hearing no later than ten (10) days after the temporary suspension.
- c) Decision. Based on the licensee's response and any other evidence that has been presented, the Authority shall determine if a violation has occurred, and if so, the appropriate penalty. The Authority may take into consideration any aggravating and mitigating factors surrounding the violation which could impact the type or severity of penalty imposed. The Authority shall issue the decision in writing to the licensee and complainant. The licensee shall have ten (10) days to request a hearing before the Authority if the licensee disagrees with the decision of the Authority, or the decision shall be final.
- d) Penalties. Depending on the severity of the violation, the following penalties shall apply:
1. Suspension of any license or vehicle permit after any temporary suspension period, for any portion of or for the remainder of the license or permit period; or
 2. Permanent revocation of such a license or vehicle permit upon the licensee receiving a second violation.

Article 16: Severability

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If any provision of these regulations is found to be invalid by a court of competent jurisdiction, only the provision subject to the court decision shall be repealed or amended. All other provisions shall remain in full force and effect.

RESOLUTION NO. 2022-097

A Resolution of the Board of County Commissioners of Boulder County establishing the Boulder County Secured Transportation Services Regulations pursuant to C.R.S. § 25-3.5-309 & 310

Recitals

A. The Legislature promulgated and the Governor approved House Bill 21-1085, which provides for county licensing of secure licensing transportation services, effective January 1, 2023.

B. C.R.S. § 25-3.5-311 provides that the State Board of Health establish rules for secure transportation services licensing. Consequently, the Colorado Department of Public Health and Environment, Health Facilities and Emergency Medical Services Division adopted Standards for Secure Transportation Services (“the SSTS”) in 6 CCR 1101-4. The STTS imposes duties on each Colorado county regarding the licensing of secure transportation services.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Boulder County Secured Transportation Services Regulations, attached as Exhibit A, are hereby adopted, effectively immediately.

2. Pursuant to Article 5 of the Regulations, Kathy Gissel is hereby appointed as the Boulder County Secured Transportation Services Authority and empowered to carry out the duties provided in the Regulations.

A motion to approve this Resolution 2022-097 was made by Commissioner _____, seconded by Commissioner _____, and passed by a _____ vote.

ADOPTED this 3rd day of January, 2023.

**BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:**

Marta Loachamin, Chair

Claire Levy, Vice Chair

Matt Jones, Commissioner

ATTEST:

Clerk to the Board: _____