

RESOLUTION NO. R-022- 125

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

**RESOLUTION ADOPTING STANDARDS, REQUIREMENTS, AND PROCEDURES
FOR THE REGULATION OF SECURE TRANSPORTATION SERVICES.**

WHEREAS, House Bill 21-1085, adopted in June 2021, created a regulatory and service system to provide public or private secure transportation services to individuals experiencing a behavioral health crisis; and,

WHEREAS, the Bill directed each county's Board of County Commissioners to implement a program, including issuing licenses and vehicle permits for such transports, processing complaints and enforcement of the rules associated with the program; and,

WHEREAS, the Bill directed each county to have such a program in place by January 1, 2023; and

WHEREAS, the Colorado Board of Health adopted *Standards for Secure Transportation Services* into the Code of Colorado Regulations 6 CCR 1011-4, on June 15, 2022; now, therefore,

BE IT RESOLVED, THAT THE BOARD OF COUNTY COMMISSIONER OF THE COUNTY OF DOUGLAS, COLORADO, that the Board hereby adopts standards, requirements, and procedures regarding Secure Transportation Services in accordance with HB21-1085 and 6 CCR1011-4. The policy is attached hereto as Exhibit A.

PASSED AND ADOPTED this day of December 15th, 2022, in Castle Rock, Douglas County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

BY:

DocuSigned by:

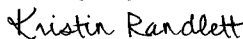


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ABE LAYDON, Chair

ATTEST:

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KRISTIN RANDETT, Clerk to the Board

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DOUGLAS COUNTY, STATE OF COLORADO
REGULATIONS CONCERNING LICENSING OF
SECURE TRANSPORTATION SERVICES

ARTICLE I. AUTHORITY, PURPOSE AND INTENT

These Regulations are adopted pursuant to the authority granted to the Board of County Commissioners (“Board”) of Douglas County (“County”) under C.R.S. § 25-3.5-309, *et seq*, and the Code of Colorado Regulations, 6 CCR 1011-4, Standards for Secure Transportation Services, as such statute and regulations may be amended from time to time.

The purpose of these Regulations is to set forth the requirements for the inspection, licensure and operation of secure transportation services for individuals experiencing behavioral health crises, in order to ensure high-quality behavioral health transportation within Douglas County.

The Board reserves the right to amend these Regulations, and any other individual conditions of licensing as applied to any particular license, as needed in keeping with its legislative function and in order to implement the policy of the State of Colorado that the regulation and control of secure transportation licenses be in the exclusive purview of the Boards of County Commissioners.

Nothing in these Regulations shall be construed to create a cause of action or civil liability remedy in any person. These Regulations shall not be construed to create a duty to any third party where no such duty otherwise existed. It is the express intention of the Board that any third party receiving services or benefits under these Regulations shall be deemed to be an incidental beneficiary only.

If any of the provisions of these Regulations are determined to be invalid, such determination shall not affect the remaining provisions of these Regulations.

ARTICLE II: DEFINITIONS

As used in these Regulations, unless the context otherwise requires all definitions will be the same as set forth by the state in 6 CCR 1011-4, as may be amended in its most current form, unless expressly stated otherwise herein.

ARTICLE III: LICENSES AND PERMITS REQUIRED

- 3.1 Secure Transportation License Required: On or after January 1, 2023, in accordance with 6 CCR 1011-4, § 3.1, no person or agency, public or private, shall transport a patient experiencing a behavioral health crisis from any point within Douglas County to any point within or outside Douglas County unless that person or agency holds a valid license issued by the county in which the secure transportation service is based, except as provided in Section 3.5 of these Regulations, below.
- 3.2 Types of Service Licenses: A Secure Transportation Service shall elect either a Class A License, for services which may use physical restraint during the provision of secure

transportation, or a Class B License, for services which shall not use physical restraint during the provision of secure transportation.

- 3.3 Vehicle Permit Required: On or after January 1, 2023, in accordance with 6 CCR 1011-4, § 3.1, no person or agency, public or private, shall transport a patient experiencing a behavioral health crisis from any point within Douglas County to any point within or outside Douglas County in a vehicle unless that person or agency holds a valid vehicle permit issued by the county in which the secure transportation service is based, except as provided in Section 3.5 of these Regulations, below. Accordingly, every Secure Transportation Service based in Douglas County must secure a permit, issued by the County in which the Secure Transportation Service is based, pursuant to these Regulations, for every vehicle it operates as part of its Secured Transport Service.
- 3.4 Types of Vehicle Permits: A Secure Transportation Service shall elect to permit each of its vehicles as either a Type 1 vehicle, for a vehicle with a safety partition that separates the driver from the passenger department, or a Type 2 vehicle, which does not contain a safety partition.
- 3.4 Reciprocal Agreements: Douglas County reserves the right to enter into reciprocal licensing and permitting agreements with other counties or neighboring states providing out-of-state secure transport services that comply with these rules or substantially equivalent out-of-state secure transport rules.
- 3.4 Terms:
- (A) Each Secure Transportation License shall be valid for three (3) years from the issue date, unless revoked or the Secure Transportation Service changes ownership. Licenses may not be sold, assigned, or otherwise transferred.
 - (B) Each Secure Vehicle Permit shall be valid from one (1) year from issue date, unless earlier revoked or the vehicle changes ownership. Permits may not be sold, assigned, or otherwise transferred.
 - (C) Each application must be submitted no later than thirty (30) days before the request effective date of the License or Permit, for a new License or Permit, or thirty (30) days before the expiration of the existing term, for renewals.
- 3.5 Exceptions to Licensing and Permits Required: The provisions of the licensing and permit requirements in this resolution shall not apply to the following:
- (A) Ground Ambulance Agencies licensed pursuant to C.R.S. § 25-3.5-301,
 - (B) Transportation services provided by the Office of Behavioral Health within the Department of Human Services,
 - (C) Emergency service patrols established pursuant to C.R.S. § 27-81-115, and
 - (D) Law enforcement

ARTICLE IV: LICENSURE REQUIREMENTS

Before issuing a new or renewed license to a Secure Transportation Service pursuant to these Regulations, the County shall ensure the following requirements have been met:

- 4.1 The Secure Transportation Service has certified that it is compliant with all applicable laws and regulations required to operate a secure transportation service in Colorado, and the County does not have information to the contrary.
- 4.2 The Secure Transportation Service has completed the County's application form.
- 4.3 The Secure Transportation Service has provided the following to the County:
 - (A) Name and contact information of the Manager and Administrator of the Secure Transportation Service
 - (B) Submission of all written policies and procedures, including any operational protocols, medical protocols, training procedures, client rights, background check policy and any other relevant documents requested by the County.
 - (C) Statement of understanding that if the Secure Transportation Service is sold or transferred, the new owner shall be required to obtain licensing and permits prior to beginning operations.
 - (D) List of current staff and certification that staffing requirements in 6 CCR 1011-4, § 7.7 have been met.
- 4.4 The Secure Transportation Service has submitted the appropriate application fee, as specified in Section 13, below.
- 4.5 The Secure Transportation Service has demonstrated that it has the following insurance coverage from an insurance company authorized to write liability insurance in Colorado, and that Douglas County is identified as a certificate holder:
 - (A) General liability and applicable professional liability insurance coverage, in the following minimum amounts:
 - (1) Liability insurance for injuries in the amount of one million dollars (\$1,000,000.00) for each individual claim.
 - (2) Liability insurance in the amount of three million dollars (\$3,000,000.00) for all claims made against the secure transportation service or against its personnel.
 - (B) Demonstration by the applicant of proof of a minimum level of worker's compensation consistent with the Colorado Worker's Compensation Act in Articles 40-47 of Title 8, C.R.S., as applicable.

ARTICLE V: PERMIT REQUIREMENTS

Before issuing a new or renewed Vehicle Permit to a Secured Transportation Service pursuant to these Regulations, the County shall ensure the following requirements have been met:

- 5.1 The Secure Transportation Service is properly licensed and has completed the County's Vehicle Permit form.
- 5.2 The Secure Transportation Service has provided the following to the County:
 - (A) Certificate of Mechanical Inspection, completed by a qualified motor vehicle mechanic, for each vehicle for which a permit is sought.
 - (B) Vehicle Inspection Report, to be signed by an authorized representative of Douglas County upon successful completion of an inspection of each vehicle. Douglas County may delegate or contract the vehicle inspection process.
- 5.3 The Secure Transportation Service has demonstrated that it has the minimum vehicle insurance coverage as defined by Section 10-4-609 and Section 42-7-103(2), C.R.S., and that Douglas County is identified as a certificate holder.
- 5.4 The Secure Transportation Service has submitted the appropriate vehicle permit fee, as specified in Section 13, below, for each vehicle permit sought.
- 5.5 Compliance with client and crew vehicle safety standards as established in 6 CCR 1011-4, § 3.3 (10).

ARTICLE VI: MANAGER AND ADMINISTRATOR REQUIREMENTS

- 6.1 Each Secure Transportation Service based in Douglas County must have a Manager and an Administrator. The Manager and Administrator positions may be held by the same person.
- 6.2 The Secure Transportation Service must notify Douglas County of its Manager and Administrator, and any changes regarding the Manager or Administrator during the licensing term must be provided to the County within fourteen (14) business days of the change.
- 6.3 Each Manager and Administrator must meet the minimum qualifications established in 6 CCR 1011-4, § 7.
- 6.4 Manager Responsibilities. The responsibilities of the manager include but are not limited to those established in 6 CCR 1011-4, § 7.3.
- 6.5 Administrator Responsibilities. The responsibilities of the administrator include, but are not limited to those established in 6 CCR 1011-4, § 7.2.

ARTICLE VII: STAFFING REQUIREMENTS

- 7.1 Every Secure Transportation Service shall have staffing requirements which include, at a minimum:
- (A) All drivers must possess a current and valid Colorado driver's license.
 - (B) Ratios of clients to staff members in accordance with 6 CCR 1011-4, § 7.6(A).
- 7.2 Each staff member with direct client contact must possess a certification or proof of having completed all required coursework in accordance with 6 CCR 1011-4, § 7.7.
- 7.3 Each Secure Transportation Service must have a policy related to background checks for all staff members. Such background checks shall take place prior to an individual providing secure transportation services. The policy shall include, at a minimum:
- (A) Standards regarding hiring staff with prior convictions of a violent, fraudulent, or abusive nature, to include further inquiry by the Manager or Administrator to determine the potential impact on client safety in accordance with the policies developed by the secure transportation service.
 - (B) A procedure by which if an individual is hired despite a background check that reveals a prior conviction of a violent, fraudulent, or abuse nature, the Manager or Administrator documents the reasons for hire and plans for supervision.
- 7.4 Each Secure Transportation Service must have established the minimum staff training requirements in accordance with 6 CCR 1011-4, § 7.7. All staff must be completed prior to providing secure transportation services, and annually thereafter, or as recommended by the relevant training organizations.
- 7.5 All staff training must be documented by the Secure Transportation Service and provided to the County.

ARTICLE VIII: OPERATING STANDARDS AND PROCEDURES

- 8.1 Secure transport clients may only be transported in the circumstances identified in 6 CCR 1011-4, § 8.1. Client must be experiencing a behavioral health crisis and be in need of urgent transportation to a facility that is defined at Part 2.22(C), 6 CCR 1011-4. During transport, the client must not need medical treatment, active or ongoing medical monitoring, or chemical restraint as a behavioral intervention.
- 8.2 Required Policies and Procedures.
- (A) General Policies and Procedures. Each Secure Transportation Service must have established policies and procedures that follow national best practice guidelines where available, and address, at a minimum, the requirements of 6 CCR 1011-4, Part 8.2(A).

- (B) Class A Specific Procedures. Each Class A Secure Transportation Service must have the following policies and procedures that address, at a minimum, the requirements of 6 CCR 1011-4, Part 8.2(B).
 - (C) Client Rights. Each Secure Transportation Service must have written client rights which assures that each client has the right to be treated with consideration, respect, and full recognition of human dignity and individuality, and that includes, at a minimum, the requirements of 6 CCR 1011-4, Part 9.1.
 - (D) Client Rights' Policies and Procedures. Each Secure Transportation Service must have an established client rights policies and procedures that include, at a minimum, the requirements of 6 CCR 1011-4, Part 9.2.
 - (E) The Secure Transportation Service shall provide each client with written documentation of its Client Rights and Client Rights' Policies and Procedures, including the right to file a complaint with the County, to clients at the initiation of the secure transportation service. If the client is unable to read the rights, they shall be read the rights in a language they understand.
 - (F) The Secure Transportation Service shall designate a staff member as responsible for complaint intake and problem resolution, and shall inform the County of that person's name, title, and contact information at the time of licensing or renewal, or in the event of any changes in that position.
- 8.3 Restraint of Secure Transportation clients may only occur in accordance with 6 CCR 1011-4, § 8.3.
- 8.4 Capacity, Documentation, and Availability.
- (A) The secure transportation service shall transport one (1) client per vehicle transport, except under the following circumstances established in 6 CCR 1011-4, § 8.4.
 - (B) The secure transportation service shall create and maintain accurate and detailed logs of client transports, including professional incident reports.
 - (C) To ensure the needs of clients are met, secure transportation services that do not provide 24/7 services shall provide the client with their after-hours contact information and with contact information for the secure transportation service's back-up providers.

ARTICLE IX - QUALITY MANAGEMENT PROGRAM (QMP)

- 9.1 Each Secure Transportation Service must have an ongoing quality management program ("QMP") that is appropriate to the size and type of the service. The program shall incorporate a plan that evaluates the quality of client care and safety and has policies and procedures including, at a minimum, the requirements of 6 CCR 1011-4, Part 10.1.

- 9.2 The secure transportation service shall make available the quality management plan to the County during the initial license application and include the QMP with renewal applications if the plan has been revised.
- 9.3 Douglas County, the Colorado Department of Public Health and Environment or any other appropriate regulatory agency having jurisdiction for disciplinary or licensing sanctions shall have access to any records, reports, and other information of the quality management program.

ARTICLE V: COMPLAINTS

10.1 Origination of Complaints:

- (A) Alleged violation of this Regulation by a Licensed Secure Transportation Service or of a Secure Transportation Service operating in the County without a license, may be made by any person or agency or may be initiated by a representative of Douglas County.
- (B) Such Complaint shall be made to the County verbally or in writing. Reasonable accommodations shall be made for individuals in need of language and communication assistance
- (C) The County shall provide to the Complainant the name and contact information of the person who is designated to handle complaints for the Secure Transportation Service, as required in Section 8.2(F), above.
- (D) Any individual bringing a matter of medical competency to the County shall waive the right of patient confidentiality as a condition of complaint submission and subsequent investigation.
- (E) If any legal action is filed against a licensed secure transportation service in a court of the United States, the State of Colorado or any of its political subdivisions, the licensee shall notify the County within ten (10) business days. A violation of these Regulations shall not be presumed based on an allegation. In the event that a judgment is entered against the licensee, the licensee shall file a copy of the findings of fact, conclusions of law and order of the court with the County within ten (10) business days.
- (F) If an action against a Secure Transportation Service is undertaken by another jurisdiction, the licensee shall notify the County within ten (10) business days. A violation of these Regulations shall not be presumed based on the action. If the action results in a suspension or revocation of the secure transportation service license by another jurisdiction, the licensee shall file a copy of the record of the adverse action with the County within ten (10) business days.

10.2 Validation of Complaints:

- (A) The County shall provide a copy of the complaint to the Secure Transportation Service within seven (7) days of its receipt.
- (B) The County shall complete an initial review of the complaint, judgment or adverse action, and, if warranted, interview the complainant, within seven (7) days of receipt to determine if it may constitute a violation of this Regulation and has sufficient foundation to warrant further investigation.
- (C) Allegations of violations outside the purview of the County or these Regulations shall be returned to the complainant for referral to the appropriate authority or jurisdiction.
- (D) The County shall notify the complainant and the Secure Transportation Service in writing, whether it is determined that the allegation shall be further investigated or that it lacks sufficient basis.

10.3 Investigation of Complaints:

- (A) Upon initiation of a further investigation, the County shall take actions which may include interview of witnesses, collection of records, and any other lawful action deemed appropriate. Such investigation shall be completed no later than thirty (30) days after the decision to further investigate.
- (B) Investigative findings shall be presented in writing to the Board of County Commissioners within thirty (30) days of the decision to investigate. A copy of the County's findings shall be mailed to the complainant and the Secure Transportation Service.

10.4 Review by the Board of County Commissioners ("Board")

- (A) Upon receipt of the written report, the Board shall meet within fourteen (14) days, and shall vote: 1) to take no further action on the complaint; 2) to allow a reasonable time for the Secure Transportation Service to cure its violation; or 3) to hold a public hearing regarding the complaint. The Board's decision shall be communicated to the Secure Transportation Service and complainant in writing.
- (B) If the Board determines that a hearing is warranted, such a hearing shall be held within fourteen (14) days of such a determination, or within fourteen (14) days of a temporary suspension of any license.
- (C) All hearings before the Board shall be open to the public and shall be conducted in accordance with the Colorado Open Meetings Act. The Board shall be authorized to request the attendance of witnesses and the production of papers, books, and records necessary to the determination of any issue at any hearing. The Secure Transportation Service shall be given the opportunity to be heard at the hearing and to provide its own evidence.

- (D) At the conclusion of the hearing, the Board may dismiss the complaint, or make findings that the complaint is substantiated. In the event of a substantiated complaint, the Board may suspend or revoke the Secure Transportation Service's license or require remediation of the violation, as specified in Section 10.5 below.
- (E) The outcome of the public hearing shall be documented and sent to the Secure Transportation Service and complainant in writing.
- (F) In the event of a revocation or suspension of the license of a Secure Transportation Service, the County shall notify the Colorado Department of Public Health and Environment, Colorado Department of Regulatory Agencies, Colorado Department of Health Care Policy and Financing, other counties in which the Secure Transportation Service is known to operate, other relevant jurisdictions, local law enforcement authorities, dispatch centers, hospitals, fire departments, and any other entities to whom the Secure Transportation Service provides services, or other interested parties as applicable.

10.5 Revocation, Suspension, and Time to Cure

- (A) The Board has the authority to suspend or revoke, temporarily or permanently, any license or permit issued pursuant to these Regulations.
- (B) Temporary Suspension: Without prior notice to the Secure Transportation Service, if the Board determines, based on the complaint, that there is an immediate threat to the public health, safety, and/or welfare by continued operations, the Board may, without a hearing, temporarily suspend any license or permit issued pursuant to these Regulations. Such temporary suspension shall be effective upon delivery of written notice to the licensed secure transportation service by the Board. No temporary suspension shall be valid for more than thirty (30) days or until a final decision by the Board concerning suspension or revocation, after a hearing pursuant to Section 10.4, above, whichever period is longer. Except upon written consent of the licensee, the hearing shall be held not more than ten (30) business days following the effective date of the temporary suspension.
- (C) Suspension for Definite Period or Revocation of License: Following notice to the Secure Transportation Service and a hearing at which the licensee is afforded an opportunity to participate, pursuant to Section 10.4, above, the Board may suspend or revoke any license or permit. Any suspension or revocation shall require a finding by the Board of a violation of these Regulations based upon the evidence presented at the hearing. Issuance of a temporary suspension shall not be a prerequisite to the conduct of a hearing to consider the suspension or revocation of a license or permit.
- (D) Length of Suspension or Revocation: For a first complaint, suspension shall be for a specific and definite period of time not to exceed any remaining current license period. If the license or permit is revoked for the remainder of its life, the Secure Transportation Service may reapply for the license or permit during the next licensing period. However, if a second complaint regarding the same Secure Transportation Service is subsequently received and sustained, the Board may for a

longer period or even permanently revoke the related license or permit, and the Secure Transportation Service may, at the Board's discretion, be prohibited from obtaining a license or permit in the future.

- (E) Surrender of License or Permit: Following receipt of a written notice of suspension or revocation, the licensee shall surrender and deliver its license and all secure transportation vehicle permits to the County within forty-eight (48) hours.
- (F) Time to Remediate: If the Board determines that a Secure Transportation Service has violated these Regulations, it may, in its sole discretion, allow the Secure Transportation Service a period of time to remedy the violation. Such period shall not exceed thirty (30) days. In the event that the violation is not cured within that time period, the Board shall reconvene and make a subsequent determination regarding whether the license or permit of the Secure Transportation Service should be revoked or suspended.

ARTICLE XI: DATA COLLECTION AND REPORTING REQUIREMENTS

- 11.1 Any secure transport resulting in the serious injury, illness, or death of a client or staff member during transport or resulting in injury to the client as a result of the use of physical restraint during transport shall be reported to the receiving facility immediately and to the County within twenty-four (24) hours of the incident. Each report shall identify and describe the circumstances leading to the serious injury, illness, or death of a client or staff member during transport.
- 11.2 All secure transportation services in Colorado shall provide the Colorado Department of Public Health and Environment the required data and information in a form and manner determined by the Department and in accordance with 6 CCR 1011-4 Part 6.

ARTICLE XII: ASSIGNMENT

Assignment, sale or transfer of a secure transportation service license or vehicle permit is strictly prohibited.

ARTICLE XIII: FEES

- 13.1 Douglas County shall charge non-refundable, flat fees for licensing and permitting pursuant to these Regulations as follows:

3 Year Secure Transportation Service License	<u>\$125</u>
1 Year Vehicle Permit	<u>\$125</u>
- 13.2 Fees are non-refundable, not transferrable, and will not be pro-rated.
- 13.3 Payment of the total fee is required at the time of submission of the application.

ARTICLE XIV: REVIEW OF REGULATIONS

These Regulations shall be reviewed periodically as necessary to maintain compliance with State law and regulations governing the licensing and permitting of ground Secure Transportation Service and vehicles. The Board retains full right to revise, add to, amend, and/or delete from the Regulations from time to time as the Board in its sole discretion sees fit.