

Briefing Memorandum

DATE: September 18, 2018
TO: Councilwoman Black
FROM: Zach Rothmier, Legislative Analyst
SUBJECT: Stand alone Emergency Rooms

BACKGROUND: The number of health care facilities devoted primarily to emergency department (ED) services and located apart from hospitals—referred to as free-standing EDs (FSEDs) —has grown rapidly in recent years. The majority of FSEDs have opened since 2010. This growth has been driven by payment systems that reward treating lower severity cases in the higher paying ED setting, competition for patient market share, and an exemption in law that allows FSEDs to receive higher hospital outpatient payments for non-ED services. Despite being a potentially efficient way to expand access to ED services in underserved areas, very few FSEDs are in rural areas. In 2016, almost all the 566 FSEDs were in metropolitan areas that have existing ED capacity and were often located in more affluent ZIP codes with higher household incomes and higher shares of privately insured patients.¹

PROBLEM: The metro area has seen a proliferation of FSEDs, causing rerouting of emergency vehicles to FSEDs located in commercial and mixed-use zone districts, a prevalence of ‘sticker-shock’ for those seeking treatment from an urgent care facility, and opaque pricing schemes. Centura, UCHHealth, and HealthONE dominate the FSEDs in the metro area. Most FSEDs are located outside Denver’s boundaries, with only two locations within Denver.² In the last year, 311 did not log any complaints on FSEDs.

Company	Denver EDs	Regional EDs
UC Health	1	10
HealthONE	1	4
Centura	0	9

CURRENT STATUS: In 2018 the State Legislature passed SB18-146 requiring FSEDs to give certain notice and provide signage explaining treatment options. The requirements also include a transparent pricing structure for the 25 most common health care services that the FSED provides. HB18-1212 would have required licensing for FSEDs but was defeated in the State Senate. The Colorado Hospital Association opposed the bill.

Locally, Wheat Ridge has renewed the moratorium on FSEDs twice, citing ongoing state legislation addressing the issue and zoning laws that would permit FSEDs in mixed-use commercial zone districts.

¹ Report to Congress: Medicare and Health Care Delivery System. June 2017.

² Colorado Health Institute, March 2018

POLICY OPTIONS: Further regulation on the transparency issues related to FSEDs will need take place at the state level. The City may go two routes in regulating proliferation of FSEDs in Denver:

1. Pass a text amendment to the Denver Zoning Code defining FSEDs and further clarifying allowable zone districts for the facilities. Community Planning and Development (CPD) is already taking on this approach and is studying this issue.
2. Institute a licensing mechanism via Excise and Licenses (E&L) to require minimum spacing requirements for FSEDs. Preexisting FSEDs would likely be grandfathered in. A study would need to be completed to show the spacing requirements increase the welfare or safety of Denver residents, or - the licensing/spacing requirements could be challenged as arbitrary and capricious. The hospital association would most likely challenge any licensing requirements.

NEXT STEPS: The City Attorney may draft a moratorium through the zoning code to temporarily restrict the allowance of FSEDs in certain zone districts, contingent upon the timeline to complete the study from CPD or E&L.