

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

March 10, 2023
Date

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

HB23-1077 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 3, line 12, after "(b)" insert "(I)".
- 2 Page 3, line 14, after "PATIENT'S" insert "SPECIFIC".
- 3 Page 3, line 18, strike "(1)(b)," and substitute "(1)(b)(I),".
- 4 Page 3, after line 23 insert:
 - 5 "(II) IF A LICENSEE HAS OBTAINED THE PATIENT'S SPECIFIC
 - 6 INFORMED CONSENT TO HEALTH CARE, AND AN INTIMATE EXAMINATION
 - 7 IS NECESSARY TO OR INCLUDED IN THE HEALTH CARE TO WHICH THE
 - 8 PATIENT HAS PREVIOUSLY CONSENTED, THE LICENSEE NEED NOT OBTAIN
 - 9 A SEPARATE SPECIFIC INFORMED CONSENT FROM THE PATIENT IN ORDER TO
 - 10 PERFORM THE INTIMATE EXAMINATION."
- 11 Page 3, line 26, strike "HEALTH-CARE PROVIDER" and substitute
- 12 "LICENSEE".
- 13 Page 4, line 2, strike "HEALTH-CARE PROVIDER" and substitute
- 14 "LICENSEE".
- 15 Page 5, line 7, strike "HEALTH-CARE PROVIDER" and substitute
- 16 "LICENSEE".
- 17 Page 5, strike lines 12 and 13 and substitute "THE LICENSED HEALTH-CARE
- 18 FACILITY WHERE THE LICENSEE WILL BE PERFORMING THE INTIMATE
- 19 EXAMINATION OR DEVELOPED BY A REGULATOR FOR".

1 Page 5, lines 18 and 19, strike "AND WITH THE DEPARTMENT OF PUBLIC
2 HEALTH AND ENVIRONMENT".

3 Page 5, lines 20 and 21, strike "ALL LICENSED HEALTH-CARE FACILITIES
4 AND".

5 Page 5, line 23, strike "HEALTH-CARE PROVIDER" and substitute
6 "LICENSEE".

7 Page 8, strike lines 25 through 27.

8 Strike pages 9 through 11.

9 Page 12, strike lines 1 through 8 and substitute:

10 **"25-3-130. Intimate examination of sedated or unconscious**
11 **patient - health-care facility requirements - policy against or develop**
12 **informed consent form - required reporting of provider violations -**
13 **definitions.** (1) (a) A HEALTH-CARE FACILITY SHALL EITHER:

14 (I) DEVELOP A POLICY PROHIBITING A LICENSED HEALTH-CARE
15 PROVIDER, OR A STUDENT OR TRAINEE UNDER THE SUPERVISION OF A
16 LICENSED HEALTH-CARE PROVIDER, FROM PERFORMING AN INTIMATE
17 EXAMINATION OF A SEDATED OR UNCONSCIOUS PATIENT AT THE
18 HEALTH-CARE FACILITY IF THE INTIMATE EXAMINATION IS FOR
19 EDUCATIONAL OR TRAINING PURPOSES; OR

20 (II) DEVELOP A WRITTEN OR ELECTRONIC SPECIFIC INFORMED
21 CONSENT DOCUMENT FOR A LICENSED HEALTH-CARE PROVIDER TO USE IN
22 OBTAINING A PATIENT'S SPECIFIC INFORMED CONSENT, AS REQUIRED BY
23 AND CONSISTENT WITH SECTION 12-30-120, BEFORE PERFORMING OR
24 ALLOWING A STUDENT OR TRAINEE UNDER THE LICENSED HEALTH-CARE
25 PROVIDER'S SUPERVISION TO PERFORM AN INTIMATE EXAMINATION OF A
26 SEDATED OR UNCONSCIOUS PATIENT FOR EDUCATIONAL OR TRAINING
27 PURPOSES AT THE HEALTH-CARE FACILITY. A WRITTEN OR ELECTRONIC
28 DOCUMENT THAT A HEALTH-CARE FACILITY DEVELOPS MUST SATISFY THE
29 REQUIREMENTS OF SECTION 12-30-120 (2).

30 (b) IF A HEALTH-CARE FACILITY DEVELOPS A POLICY IN
31 ACCORDANCE WITH SUBSECTION (1)(a)(I) OF THIS SECTION, THE
32 HEALTH-CARE FACILITY SHALL MAKE THE POLICY AVAILABLE TO THE
33 PUBLIC, INCLUDING ON THE HEALTH-CARE FACILITY'S PUBLIC-FACING
34 WEBSITE.

35 (c) IF A HEALTH-CARE FACILITY DEVELOPS A SPECIFIC INFORMED
36 CONSENT DOCUMENT PURSUANT TO SUBSECTION (1)(a)(II) OF THIS
37 SECTION, THE HEALTH-CARE FACILITY SHALL MAKE THE DOCUMENT

1 AVAILABLE FOR USE BY LICENSED HEALTH-CARE PROVIDERS, AND SHALL
2 DIRECT LICENSED HEALTH-CARE PROVIDERS TO USE THE DOCUMENT TO
3 OBTAIN A PATIENT'S SPECIFIC INFORMED CONSENT, BEFORE PERFORMING
4 OR ALLOWING STUDENTS OR TRAINEES UNDER THE LICENSED
5 HEALTH-CARE PROVIDERS' SUPERVISION TO PERFORM INTIMATE
6 EXAMINATIONS FOR EDUCATIONAL OR TRAINING PURPOSES ON SEDATED OR
7 UNCONSCIOUS PATIENTS.

8 (2) (a) A HEALTH-CARE FACILITY SHALL PROMPTLY REPORT TO THE
9 COLORADO MEDICAL BOARD ANY LICENSED HEALTH-CARE PROVIDER THAT
10 HAS VIOLATED THE HEALTH-CARE FACILITY'S POLICY DEVELOPED UNDER
11 SUBSECTION (1)(a)(I) OF THIS SECTION OR HAS FAILED TO OBTAIN A
12 PATIENT'S SPECIFIC INFORMED CONSENT, AS REQUIRED BY AND
13 CONSISTENT WITH SECTION 12-30-120 AND EXCEPT AS PROVIDED IN
14 SUBSECTION (2)(b) OF THIS SECTION, BEFORE PERFORMING AN INTIMATE
15 EXAMINATION FOR EDUCATIONAL OR TRAINING PURPOSES ON A SEDATED
16 OR UNCONSCIOUS PATIENT.

17 (b) A LICENSED HEALTH-CARE PROVIDER DOES NOT VIOLATE THE
18 HEALTH-CARE FACILITY'S POLICY UNDER SUBSECTION (1)(a)(I) OF THIS
19 SECTION OR SECTION 12-30-120, AND THE HEALTH-CARE FACILITY SHALL
20 NOT REPORT THE LICENSED HEALTH-CARE PROVIDER TO THE COLORADO
21 MEDICAL BOARD, IF THE LICENSED HEALTH-CARE PROVIDER, AS SPECIFIED
22 IN SECTION 12-30-120 (1)(b), PERFORMS AN INTIMATE EXAMINATION ON
23 A SEDATED OR UNCONSCIOUS PATIENT WITHOUT FIRST OBTAINING THE
24 PATIENT'S SPECIFIC INFORMED CONSENT:

25 (I) IN AN EMERGENCY WHEN THE INTIMATE EXAMINATION IS
26 MEDICALLY NECESSARY FOR THE LIFE OR WELL-BEING OF THE PATIENT; OR

27 (II) WHEN THE PATIENT HAS PREVIOUSLY CONSENTED TO HEALTH
28 CARE AND AN INTIMATE EXAMINATION IS NECESSARY TO OR INCLUDED IN
29 THE CARE TO WHICH THE PATIENT HAS CONSENTED."

30 Renumber succeeding subsections accordingly.

31 Page 14, line 9, strike "(6)(c)(I) AND (6)(c)(II)" and substitute "(5)(c)(I)
32 AND (5)(c)(II)".

33 Page 14, line 12, strike "(6)(c)(III)" and substitute "(5)(c)(III)".

34 Page 14, line 15, strike "(6)(c)(IV)" and substitute "(5)(c)(IV)".

35 Page 15, after line 5 insert:

36 "SECTION 3. Appropriation. For the 2023-24 state fiscal year,
37 \$25,218 is appropriated to the department of public health and

1 environment for use by the health facilities and emergency medical
2 services division. This appropriation is from the general fund and is based
3 on an assumption that the department will require an additional 0.3 FTE.
4 To implement this act, the division may use this appropriation for
5 administration and operations related to operations management."

6 Renumber succeeding section accordingly.

7 Page 1, line 103, strike "CIRCUMSTANCES." and substitute
8 "CIRCUMSTANCES, AND, IN CONNECTION THEREWITH, MAKING AN
9 APPROPRIATION."

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