

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0191.01 Christy Chase x2008

HOUSE BILL 23-1077

HOUSE SPONSORSHIP

Willford, Duran

SENATE SPONSORSHIP

Winter F. and Jaquez Lewis,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT TO OBTAIN A PATIENT'S INFORMED**
102 **CONSENT BEFORE PERFORMING AN INTIMATE EXAMINATION OF**
103 **THE PATIENT UNDER SPECIFIED CIRCUMSTANCES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits a licensed physician; licensed medical resident, intern, or fellow; licensed professional nurse; advanced practice registered nurse; registered direct-entry midwife; or medical, nursing, or direct-entry midwife student or trainee (licensee, student, or trainee) from performing, and prohibits a licensed health-care facility from permitting

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

a licensee, student, or trainee to perform, an intimate examination on a sedated or unconscious patient unless the patient has given specific informed consent to an intimate examination. Additionally, a student or trainee may perform an intimate examination on a sedated or unconscious patient for educational or training purposes only if:

- The examination is related to the planned procedure to be performed on the patient;
- The patient recognizes the student or trainee as part of the patient's care team; and
- The student or trainee is under the direct supervision of the supervising licensee.

The bill outlines the requirements for obtaining the patient's informed consent. Failure to comply with the requirements of the bill, or retaliating against a person who complains about a violation of the bill, constitutes unprofessional conduct, is grounds for discipline, and subjects the licensee, student, or trainee to discipline by the regulator that regulates the particular health-care profession. A licensed health-care facility that fails to comply with the requirements of the bill is subject to sanctions imposed by the department of public health and environment.

Additionally, liability limitations otherwise applicable to health-care professionals and institutions under current law do not apply to a licensee that performs, or a licensed health-care facility that permits a licensee to perform, an intimate examination on a sedated or unconscious patient in violation of the requirements of the bill.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 12-30-120 as
3 follows:

4 **12-30-120. Intimate examination of sedated or unconscious**
5 **patient - informed consent required - definitions.** (1) (a) (I) EXCEPT
6 AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, NEITHER A LICENSEE,
7 NOR A STUDENT OR TRAINEE UNDER THE SUPERVISION OF A LICENSEE,
8 SHALL PERFORM AN INTIMATE EXAMINATION OF A SEDATED OR
9 UNCONSCIOUS PATIENT UNLESS THE PATIENT HAS PROVIDED SPECIFIC
10 INFORMED CONSENT TO THE EXAMINATION IN ACCORDANCE WITH
11 SUBSECTION (2) OF THIS SECTION.

1 (II) IN ADDITION TO THE REQUIREMENT TO OBTAIN A PATIENT'S
2 SPECIFIC INFORMED CONSENT, A STUDENT OR TRAINEE MAY PERFORM AN
3 INTIMATE EXAMINATION OF A SEDATED OR UNCONSCIOUS PATIENT FOR
4 EDUCATIONAL OR TRAINING PURPOSES ONLY IF:

5 (A) THE EXAMINATION IS RELATED TO THE PLANNED PROCEDURE
6 TO BE PERFORMED ON THE PATIENT;

7 (B) THE STUDENT OR TRAINEE IS RECOGNIZED BY AND HAS BEEN
8 INTRODUCED TO THE PATIENT AS PART OF THE PATIENT'S CARE TEAM; AND

9 (C) THE STUDENT OR TRAINEE IS UNDER THE DIRECT SUPERVISION
10 OF THE LICENSEE RESPONSIBLE FOR SUPERVISING THE STUDENT OR
11 TRAINEE.

12 (b) A LICENSEE MAY PERFORM AN INTIMATE EXAMINATION OF A
13 PATIENT WHO IS SEDATED OR UNCONSCIOUS WITHOUT OBTAINING THE
14 PATIENT'S INFORMED CONSENT ONLY IN EMERGENCY SITUATIONS WHEN
15 THE INTIMATE EXAMINATION IS MEDICALLY NECESSARY FOR THE LIFE OR
16 WELL-BEING OF THE PATIENT. IF A LICENSEE PERFORMS AN INTIMATE
17 EXAMINATION ON A PATIENT IN ACCORDANCE WITH THIS SUBSECTION
18 (1)(b), THE LICENSEE MUST MAKE A RECORD OF PERFORMING THE
19 EXAMINATION WITHOUT OBTAINING THE PATIENT'S SPECIFIC INFORMED
20 CONSENT, INCLUDING AN EXPLANATION OF THE REASON FOR NOT
21 OBTAINING THE PATIENT'S CONSENT, AND PROVIDE THE RECORD TO THE
22 PATIENT ONCE THE PATIENT IS NO LONGER UNDER SEDATION OR
23 UNCONSCIOUS.

24 (2) TO OBTAIN SPECIFIC INFORMED CONSENT TO PERFORM AN
25 INTIMATE EXAMINATION ON A SEDATED OR UNCONSCIOUS PATIENT, A
26 HEALTH-CARE PROVIDER SHALL, DURING A PRE-OPERATIVE APPOINTMENT
27 BEFORE THE PROCEDURE AT WHICH THE EXAMINATION WILL BE

1 PERFORMED OR, IN THE ABSENCE OF A PRE-OPERATIVE APPOINTMENT, AS
2 SOON AS THE HEALTH-CARE PROVIDER DETERMINES THE NEED FOR THE
3 EXAMINATION:

4 (a) PROVIDE A WRITTEN OR ELECTRONIC DOCUMENT TO THE
5 PATIENT, SEPARATE FROM ANY OTHER NOTICE OR AGREEMENT, THAT:

6 (I) INCLUDES THE FOLLOWING HEADING AT THE TOP OF THE
7 DOCUMENT, IN NO SMALLER THAN EIGHTEEN-POINT, BOLD-FACED TYPE:
8 "CONSENT FOR EXAMINATION OF BREASTS, PELVIC REGION,
9 RECTUM, AND/OR PROSTATE";

10 (II) SPECIFIES THE NATURE AND PURPOSE OF THE INTIMATE
11 EXAMINATION;

12 (III) NAMES ONE OR MORE LICENSEES WHOM THE PATIENT MAY
13 AUTHORIZE TO PERFORM THE INTIMATE EXAMINATION;

14 (IV) STATES WHETHER THERE MAY BE ONE OR MORE STUDENTS OR
15 TRAINEES WHOM THE PATIENT MAY AUTHORIZE TO PERFORM AN INTIMATE
16 EXAMINATION FOR EDUCATIONAL OR TRAINING PURPOSES OR TO OBSERVE
17 OR OTHERWISE BE PRESENT AT THE EXAMINATION, EITHER IN PERSON OR
18 THROUGH ELECTRONIC MEANS, AND IDENTIFIES THE STUDENTS OR
19 TRAINEES BY NAME; AND

20 (V) PROVIDES THE PATIENT THE ABILITY TO CONSENT TO OR
21 DECLINE THE FOLLOWING:

22 (A) AN INTIMATE EXAMINATION FOR DIAGNOSIS OR TREATMENT,
23 TO BE PERFORMED BY A LICENSEE;

24 (B) AN INTIMATE EXAMINATION FOR EDUCATIONAL OR TRAINING
25 PURPOSES, TO BE PERFORMED BY A LICENSEE; AND

26 (C) ONE OR MORE, BUT NO MORE THAN THREE, ADDITIONAL
27 INTIMATE EXAMINATIONS FOR EDUCATIONAL OR TRAINING PURPOSES, TO

1 BE PERFORMED BY UP TO THREE DIFFERENT STUDENTS OR TRAINEES;

2 (b) OBTAIN THE SIGNATURE OF THE PATIENT ON THE WRITTEN OR
3 ELECTRONIC DOCUMENT, WHICH ACT MUST BE WITNESSED BY A THIRD
4 PARTY; AND

5 (c) SIGN THE WRITTEN OR ELECTRONIC DOCUMENT.

6 (3)(a) FOR PURPOSES OF COMPLYING WITH SUBSECTION (2) OF THIS
7 SECTION, A HEALTH-CARE PROVIDER MAY:

8 (I) DEVELOP AND USE ITS OWN WRITTEN OR ELECTRONIC
9 DOCUMENT, SO LONG AS THE DOCUMENT SATISFIES THE REQUIREMENTS OF
10 SUBSECTION (2) OF THIS SECTION; OR

11 (II) USE A WRITTEN OR ELECTRONIC DOCUMENT DEVELOPED BY
12 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, FOR USE BY
13 LICENSED HEALTH-CARE FACILITIES, OR DEVELOPED BY A REGULATOR, FOR
14 USE BY LICENSEES, SO LONG AS THE DOCUMENT SATISFIES THE
15 REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION.

16 (b) IF REGULATORS OF LICENSEES DEVELOP A WRITTEN OR
17 ELECTRONIC DOCUMENT FOR USE BY LICENSEES, THE REGULATORS SHALL
18 COORDINATE WITH EACH OTHER AND WITH THE DEPARTMENT OF PUBLIC
19 HEALTH AND ENVIRONMENT AS NECESSARY TO DEVELOP A SINGLE,
20 CONSISTENT DOCUMENT FOR USE BY ALL LICENSED HEALTH-CARE
21 FACILITIES AND ALL LICENSEES, REGARDLESS OF PRACTICE AREA, THAT
22 COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION.

23 (c) THE HEALTH-CARE PROVIDER SHALL MAKE THE COMPLETED,
24 SIGNED SPECIFIC INFORMED CONSENT DOCUMENT AVAILABLE TO THE
25 PATIENT.

26 (4) (a) A LICENSEE, STUDENT, OR TRAINEE WHO VIOLATES THIS
27 SECTION, OR WHO RETALIATES AGAINST AN INDIVIDUAL, INCLUDING A

1 WHISTLEBLOWER, FOR FILING A COMPLAINT WITH THE REGULATOR OF THE
2 LICENSEE, STUDENT, OR TRAINEE OR WITH THE DEPARTMENT OF PUBLIC
3 HEALTH AND ENVIRONMENT OR FOR OTHERWISE COMPLAINING TO THE
4 LICENSED HEALTH-CARE FACILITY WHERE THE PATIENT RECEIVED AN
5 INTIMATE EXAMINATION OR TO ANY OTHER PERSON, ENGAGES IN
6 UNPROFESSIONAL CONDUCT, COMMITS AN ACT THAT IS GROUNDS FOR
7 DISCIPLINE, AND IS SUBJECT TO DISCIPLINE PURSUANT TO SECTION
8 12-225-109, 12-240-121, OR 12-255-120, AS APPLICABLE.

9 (b) THE LIMITATION ON LIABILITY SPECIFIED IN SECTION 13-64-302
10 DOES NOT APPLY TO A LICENSEE WHO PERFORMS AN INTIMATE
11 EXAMINATION ON A SEDATED OR UNCONSCIOUS PATIENT IN VIOLATION OF
12 THIS SECTION.

13 (5) NOTHING IN THIS SECTION AFFECTS THE ABILITY TO PERFORM
14 A MEDICAL FORENSIC EXAMINATION, INCLUDING THE COLLECTION OF
15 EVIDENCE, IN CONNECTION WITH AN ALLEGED SEXUAL ASSAULT OR OTHER
16 CRIME OR THE INVESTIGATION OF AN ALLEGED SEXUAL ASSAULT OR OTHER
17 CRIME, PURSUANT TO APPLICABLE LAWS.

18 (6) AS USED IN THIS SECTION:

19 (a) "HEALTH-CARE PROVIDER" MEANS A LICENSEE OR A LICENSED
20 HEALTH-CARE FACILITY WHERE A PATIENT IS RECEIVING CARE.

21 (b) "INTIMATE EXAMINATION" MEANS A BREAST, PELVIC,
22 PROSTATE, OR RECTAL EXAMINATION.

23 (c) "LICENSED HEALTH-CARE FACILITY" MEANS A HEALTH-CARE
24 FACILITY LICENSED OR CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH
25 AND ENVIRONMENT PURSUANT TO SECTION 25-1.5-103 (1)(a) AND
26 INCLUDES AN INDIVIDUAL AUTHORIZED TO ACT ON BEHALF OF THE
27 HEALTH-CARE FACILITY.

1 (d) "LICENSEE" MEANS:
2 (I) A PHYSICIAN OR PHYSICIAN ASSISTANT LICENSED PURSUANT TO
3 ARTICLE 240 OF THIS TITLE 12;
4 (II) A PERSON WHO HOLDS A PHYSICIAN TRAINING LICENSE ISSUED
5 PURSUANT TO SECTION 12-240-128 AND IS:
6 (A) A RESIDENT ENROLLED IN AN APPROVED RESIDENCY, AS
7 DEFINED IN SECTION 12-240-104 (4);
8 (B) AN INTERN ENROLLED IN AN APPROVED INTERNSHIP, AS
9 DEFINED IN SECTION 12-240-104 (2); OR
10 (C) A FELLOW ENROLLED IN AN APPROVED FELLOWSHIP, AS
11 DEFINED IN SECTION 12-240-104 (1);
12 (III) AN ADVANCED PRACTICE REGISTERED NURSE, AS DEFINED IN
13 SECTION 12-255-104 (1); A REGISTERED NURSE, AS DEFINED IN SECTION
14 12-255-104 (11); OR A MIDWIFE, OTHER THAN A DIRECT-ENTRY MIDWIFE
15 OR CERTIFIED NURSE MIDWIFE, PRACTICING IN THIS STATE WHOSE SCOPE
16 OF PRACTICE INCLUDES PERFORMING INTIMATE EXAMINATIONS; OR
17 (IV) A DIRECT-ENTRY MIDWIFE REGISTERED PURSUANT TO
18 ARTICLE 225 OF THIS TITLE 12.
19 (e) "PATIENT" MEANS AN INDIVIDUAL UNDER THE CARE OF A
20 HEALTH-CARE PROVIDER OR THE PATIENT'S AUTHORIZED REPRESENTATIVE.
21 (f) "PATIENT'S AUTHORIZED REPRESENTATIVE" MEANS AN
22 INDIVIDUAL WHO IS AUTHORIZED TO MAKE HEALTH-CARE DECISIONS FOR
23 OR EXERCISE RIGHTS ON BEHALF OF THE PATIENT, INCLUDING, FOR A
24 PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE, THE PARENT OR LEGAL
25 GUARDIAN OF, OR THE INDIVIDUAL STANDING IN LOCO PARENTIS TO, THE
26 PATIENT.
27 (g) "REGULATOR" MEANS:

1 (I) FOR LICENSEES DESCRIBED IN SUBSECTIONS (6)(d)(I) AND
2 (6)(d)(II) OF THIS SECTION, THE COLORADO MEDICAL BOARD CREATED IN
3 SECTION 12-240-105;

4 (II) FOR LICENSEES DESCRIBED IN SUBSECTION (6)(d)(III) OF THIS
5 SECTION, THE STATE BOARD OF NURSING CREATED IN SECTION 12-255-105;
6 AND

7 (III) FOR LICENSEES DESCRIBED IN SUBSECTION (6)(d)(IV) OF THIS
8 SECTION, THE DIRECTOR;

9 (h) "STUDENT" MEANS AN INDIVIDUAL CURRENTLY ENROLLED IN:

10 (I) AN APPROVED MEDICAL COLLEGE, AS DEFINED IN SECTION
11 12-240-104 (3);

12 (II) AN APPROVED EDUCATION PROGRAM, AS DEFINED IN SECTION
13 12-255-104 (2), FOR PROFESSIONAL NURSING; OR

14 (III) A TRAINING PROGRAM APPROVED BY THE DIRECTOR, AS
15 DESCRIBED IN SECTION 12-225-104 (4)(c).

16 (i) "TRAINEE" MEANS AN INDIVIDUAL ENROLLED IN OR OTHERWISE
17 PARTICIPATING IN TRAINING, PRACTICAL EXPERIENCE, PRACTICUM, OR ANY
18 OTHER EXPERIENTIAL OR CLINICAL PROGRAM THAT IS REQUIRED PURSUANT
19 TO ARTICLE 225, 240, OR 255 OF THIS TITLE 12 FOR THE INDIVIDUAL TO
20 BECOME A LICENSEE.

21 (j) "WHISTLEBLOWER" MEANS AN INDIVIDUAL WHO HAS
22 KNOWLEDGE OF AN ALLEGED VIOLATION OF THIS SECTION.

23 **SECTION 2.** In Colorado Revised Statutes, **add 25-3-130** as
24 follows:

25 **25-3-130. Intimate examination of sedated or unconscious**
26 **patient - informed consent required - definitions.** (1) (a) (I) EXCEPT
27 AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, A HEALTH-CARE

1 FACILITY SHALL NOT PERMIT A LICENSED HEALTH-CARE PROVIDER, OR A
2 STUDENT OR TRAINEE UNDER THE SUPERVISION OF A LICENSED
3 HEALTH-CARE PROVIDER, TO PERFORM AN INTIMATE EXAMINATION OF A
4 SEDATED OR UNCONSCIOUS PATIENT AT THE HEALTH-CARE FACILITY
5 UNLESS THE PATIENT HAS PROVIDED SPECIFIC INFORMED CONSENT TO THE
6 EXAMINATION IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION.

7 (II) IN ADDITION TO THE REQUIREMENT TO OBTAIN A PATIENT'S
8 SPECIFIC INFORMED CONSENT, A HEALTH-CARE FACILITY MAY ALLOW A
9 STUDENT OR TRAINEE TO PERFORM AN INTIMATE EXAMINATION OF A
10 SEDATED OR UNCONSCIOUS PATIENT FOR EDUCATIONAL OR TRAINING
11 PURPOSES ONLY IF:

12 (A) THE EXAMINATION IS RELATED TO THE PLANNED PROCEDURE
13 TO BE PERFORMED ON THE PATIENT AT THE HEALTH-CARE FACILITY;

14 (B) THE STUDENT OR TRAINEE IS RECOGNIZED BY AND HAS BEEN
15 INTRODUCED TO THE PATIENT AS PART OF THE PATIENT'S CARE TEAM; AND

16 (C) THE STUDENT OR TRAINEE IS UNDER THE DIRECT SUPERVISION
17 OF THE LICENSED HEALTH-CARE PROVIDER RESPONSIBLE FOR SUPERVISING
18 THE STUDENT OR TRAINEE.

19 (b) A HEALTH-CARE FACILITY MAY ALLOW A LICENSED
20 HEALTH-CARE PROVIDER TO PERFORM AN INTIMATE EXAMINATION OF A
21 PATIENT WHO IS SEDATED OR UNCONSCIOUS WITHOUT OBTAINING THE
22 PATIENT'S INFORMED CONSENT ONLY IN EMERGENCY SITUATIONS WHEN
23 THE INTIMATE EXAMINATION IS MEDICALLY NECESSARY FOR THE LIFE OR
24 WELL-BEING OF THE PATIENT. IF A LICENSED HEALTH-CARE PROVIDER
25 PERFORMS AN INTIMATE EXAMINATION ON A PATIENT IN ACCORDANCE
26 WITH THIS SUBSECTION (1)(b), THE LICENSED HEALTH-CARE PROVIDER
27 MUST MAKE A RECORD OF PERFORMING THE EXAMINATION WITHOUT

1 OBTAINING THE PATIENT'S SPECIFIC INFORMED CONSENT, INCLUDING AN
2 EXPLANATION OF THE REASON FOR NOT OBTAINING THE PATIENT'S
3 CONSENT, AND PROVIDE THE RECORD TO THE PATIENT ONCE THE PATIENT
4 IS NO LONGER UNDER SEDATION OR UNCONSCIOUS.

5 (2) TO OBTAIN SPECIFIC INFORMED CONSENT TO PERFORM AN
6 INTIMATE EXAMINATION ON A SEDATED OR UNCONSCIOUS PATIENT, A
7 HEALTH-CARE FACILITY SHALL, DURING A PRE-OPERATIVE APPOINTMENT
8 BEFORE THE PROCEDURE AT WHICH THE EXAMINATION WILL BE
9 PERFORMED OR, IN THE ABSENCE OF A PRE-OPERATIVE APPOINTMENT, AS
10 SOON AS THE PATIENT'S LICENSED HEALTH-CARE PROVIDER DETERMINES
11 THE NEED FOR THE EXAMINATION:

12 (a) PROVIDE A WRITTEN OR ELECTRONIC DOCUMENT TO THE
13 PATIENT, SEPARATE FROM ANY OTHER NOTICE OR AGREEMENT, THAT:

14 (I) INCLUDES THE FOLLOWING HEADING AT THE TOP OF THE
15 DOCUMENT, IN NO SMALLER THAN EIGHTEEN-POINT, BOLD-FACED TYPE:
16 "CONSENT FOR EXAMINATION OF BREASTS, PELVIC REGION,
17 RECTUM, AND/OR PROSTATE";

18 (II) SPECIFIES THE NATURE AND PURPOSE OF THE INTIMATE
19 EXAMINATION;

20 (III) NAMES ONE OR MORE LICENSED HEALTH-CARE PROVIDERS
21 WHOM THE PATIENT MAY AUTHORIZE TO PERFORM THE INTIMATE
22 EXAMINATION;

23 (IV) STATES WHETHER THERE MAY BE ONE OR MORE STUDENTS OR
24 TRAINEES WHOM THE PATIENT MAY AUTHORIZE TO PERFORM AN INTIMATE
25 EXAMINATION FOR EDUCATIONAL OR TRAINING PURPOSES OR TO OBSERVE
26 OR OTHERWISE BE PRESENT AT THE EXAMINATION, EITHER IN PERSON OR
27 THROUGH ELECTRONIC MEANS, AND IDENTIFIES THE STUDENTS OR

1 TRAINEES BY NAME; AND

2 (V) PROVIDES THE PATIENT THE ABILITY TO CONSENT TO OR
3 DECLINE THE FOLLOWING:

4 (A) AN INTIMATE EXAMINATION FOR DIAGNOSIS OR TREATMENT,
5 TO BE PERFORMED BY A LICENSED HEALTH-CARE PROVIDER;

6 (B) AN INTIMATE EXAMINATION FOR EDUCATIONAL OR TRAINING
7 PURPOSES, TO BE PERFORMED BY A LICENSED HEALTH-CARE PROVIDER;

8 AND

9 (C) ONE OR MORE, BUT NO MORE THAN THREE, ADDITIONAL
10 INTIMATE EXAMINATIONS FOR EDUCATIONAL OR TRAINING PURPOSES, TO
11 BE PERFORMED BY UP TO THREE DIFFERENT STUDENTS OR TRAINEES;

12 (b) OBTAIN THE SIGNATURE OF THE PATIENT ON THE WRITTEN OR
13 ELECTRONIC DOCUMENT, WHICH ACT MUST BE WITNESSED BY A THIRD
14 PARTY; AND

15 (c) SIGN THE WRITTEN OR ELECTRONIC DOCUMENT.

16 (3)(a) FOR PURPOSES OF COMPLYING WITH SUBSECTION (2) OF THIS
17 SECTION, A HEALTH-CARE FACILITY MAY:

18 (I) DEVELOP AND USE ITS OWN WRITTEN OR ELECTRONIC
19 DOCUMENT, SO LONG AS THE DOCUMENT SATISFIES THE REQUIREMENTS OF
20 SUBSECTION (2) OF THIS SECTION; OR

21 (II) USE A WRITTEN OR ELECTRONIC DOCUMENT DEVELOPED BY
22 THE DEPARTMENT, FOR USE BY HEALTH-CARE FACILITIES, OR DEVELOPED
23 BY A REGULATOR, FOR USE BY LICENSED HEALTH-CARE PROVIDERS, SO
24 LONG AS THE DOCUMENT SATISFIES THE REQUIREMENTS OF SUBSECTION
25 (2) OF THIS SECTION.

26 (b) IF THE DEPARTMENT DEVELOPS A WRITTEN OR ELECTRONIC
27 DOCUMENT FOR USE BY HEALTH-CARE FACILITIES, THE DEPARTMENT

1 SHALL COORDINATE WITH THE REGULATORS OF LICENSED HEALTH-CARE
2 PROVIDERS AS NECESSARY TO DEVELOP A SINGLE, CONSISTENT DOCUMENT
3 FOR USE BY ALL HEALTH-CARE FACILITIES AND ALL LICENSED
4 HEALTH-CARE PROVIDERS, REGARDLESS OF PRACTICE AREA, THAT
5 COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION.

6 (c) THE HEALTH-CARE FACILITY SHALL MAKE THE COMPLETED,
7 SIGNED SPECIFIC INFORMED CONSENT DOCUMENT AVAILABLE TO THE
8 PATIENT.

9 (4) (a) IF A HEALTH-CARE FACILITY VIOLATES THIS SECTION, OR
10 RETALIATES AGAINST AN INDIVIDUAL, INCLUDING A WHISTLEBLOWER, FOR
11 FILING A COMPLAINT WITH THE DEPARTMENT OR A REGULATOR OR FOR
12 OTHERWISE COMPLAINING TO ANY OTHER PERSON, THE DEPARTMENT MAY
13 TAKE ACTION AUTHORIZED IN THIS ARTICLE 3 AGAINST THE HEALTH-CARE
14 FACILITY'S LICENSE OR IMPOSE RESTRICTIONS OR CONDITIONS ON THE
15 HEALTH-CARE FACILITY AS THE DEPARTMENT DETERMINES APPROPRIATE,
16 AFTER A HEARING ON THE MATTER IN ACCORDANCE WITH THE
17 REQUIREMENTS AND PROCEDURES SPECIFIED IN ARTICLE 4 OF TITLE 24.

18 (b) THE LIMITATION ON LIABILITY SPECIFIED IN SECTION 13-64-302
19 DOES NOT APPLY TO A HEALTH-CARE FACILITY OR LICENSED HEALTH-CARE
20 PROVIDER THAT PERFORMS AN INTIMATE EXAMINATION ON A SEDATED OR
21 UNCONSCIOUS PATIENT IN VIOLATION OF THIS SECTION.

22 (5) NOTHING IN THIS SECTION AFFECTS THE ABILITY TO PERFORM
23 A MEDICAL FORENSIC EXAMINATION, INCLUDING THE COLLECTION OF
24 EVIDENCE, IN CONNECTION WITH AN ALLEGED SEXUAL ASSAULT OR OTHER
25 CRIME OR THE INVESTIGATION OF AN ALLEGED SEXUAL ASSAULT OR OTHER
26 CRIME, PURSUANT TO APPLICABLE LAWS.

27 (6) AS USED IN THIS SECTION:

1 (a) "HEALTH-CARE FACILITY" MEANS A HEALTH-CARE FACILITY
2 LICENSED OR CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION
3 25-1.5-103 (1)(a) AND INCLUDES AN INDIVIDUAL AUTHORIZED TO ACT ON
4 BEHALF OF THE HEALTH-CARE FACILITY.

5 (b) "INTIMATE EXAMINATION" MEANS A BREAST, PELVIC,
6 PROSTATE, OR RECTAL EXAMINATION.

7 (c) "LICENSED HEALTH-CARE PROVIDER" MEANS:

8 (I) A PHYSICIAN OR PHYSICIAN ASSISTANT LICENSED PURSUANT TO
9 ARTICLE 240 OF TITLE 12;

10 (II) A PERSON WHO HOLDS A PHYSICIAN TRAINING LICENSE ISSUED
11 PURSUANT TO SECTION 12-240-128 AND IS:

12 (A) A RESIDENT ENROLLED IN AN APPROVED RESIDENCY, AS
13 DEFINED IN SECTION 12-240-104 (4);

14 (B) AN INTERN ENROLLED IN AN APPROVED INTERNSHIP, AS
15 DEFINED IN SECTION 12-240-104 (2); OR

16 (C) A FELLOW ENROLLED IN AN APPROVED FELLOWSHIP, AS
17 DEFINED IN SECTION 12-240-104 (1);

18 (III) AN ADVANCED PRACTICE REGISTERED NURSE, AS DEFINED IN
19 SECTION 12-255-104 (1); A REGISTERED NURSE, AS DEFINED IN SECTION
20 12-255-104 (11); OR A MIDWIFE, OTHER THAN A DIRECT-ENTRY MIDWIFE
21 OR CERTIFIED NURSE MIDWIFE, PRACTICING IN THIS STATE WHOSE SCOPE
22 OF PRACTICE INCLUDES PERFORMING INTIMATE EXAMINATIONS; OR

23 (IV) A DIRECT-ENTRY MIDWIFE REGISTERED PURSUANT TO
24 ARTICLE 225 OF TITLE 12.

25 (d) "PATIENT" MEANS AN INDIVIDUAL UNDER THE CARE OF A
26 LICENSED HEALTH-CARE PROVIDER OR HEALTH-CARE FACILITY OR THE
27 PATIENT'S AUTHORIZED REPRESENTATIVE.

1 (e) "PATIENT'S AUTHORIZED REPRESENTATIVE" MEANS AN
2 INDIVIDUAL WHO IS AUTHORIZED TO MAKE HEALTH-CARE DECISIONS FOR
3 OR EXERCISE RIGHTS ON BEHALF OF THE PATIENT, INCLUDING, FOR A
4 PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE, THE PARENT OR LEGAL
5 GUARDIAN OF, OR THE INDIVIDUAL STANDING IN LOCO PARENTIS TO, THE
6 PATIENT.

7 (f) "REGULATOR" MEANS:

8 (I) FOR LICENSED HEALTH-CARE PROVIDERS DESCRIBED IN
9 SUBSECTIONS (6)(c)(I) AND (6)(c)(II) OF THIS SECTION, THE COLORADO
10 MEDICAL BOARD CREATED IN SECTION 12-240-105;

11 (II) FOR LICENSED HEALTH-CARE PROVIDERS DESCRIBED IN
12 SUBSECTION (6)(c)(III) OF THIS SECTION, THE STATE BOARD OF NURSING
13 CREATED IN SECTION 12-255-105; AND

14 (III) FOR LICENSED HEALTH-CARE PROVIDERS DESCRIBED IN
15 SUBSECTION (6)(c)(IV) OF THIS SECTION, THE DIRECTOR OF THE DIVISION
16 OF PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY
17 AGENCIES.

18 (g) "STUDENT" MEANS AN INDIVIDUAL CURRENTLY ENROLLED IN:

19 (I) AN APPROVED MEDICAL COLLEGE, AS DEFINED IN SECTION
20 12-240-104 (3);

21 (II) AN APPROVED EDUCATION PROGRAM, AS DEFINED IN SECTION
22 12-255-104 (2), FOR PROFESSIONAL NURSING; OR

23 (III) A TRAINING PROGRAM APPROVED BY THE DIRECTOR OF THE
24 DIVISION OF PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF
25 REGULATORY AGENCIES, AS DESCRIBED IN SECTION 12-225-104 (4)(c).

26 (h) "TRAINEE" MEANS AN INDIVIDUAL ENROLLED IN OR OTHERWISE
27 PARTICIPATING IN TRAINING, PRACTICAL EXPERIENCE, PRACTICUM, OR ANY

1 OTHER EXPERIENTIAL OR CLINICAL PROGRAM THAT IS REQUIRED PURSUANT
2 TO ARTICLE 225, 240, OR 255 OF TITLE 12 FOR THE INDIVIDUAL TO BECOME
3 A LICENSED HEALTH-CARE PROVIDER.

4 (i) "WHISTLEBLOWER" MEANS AN INDIVIDUAL WHO HAS
5 KNOWLEDGE OF AN ALLEGED VIOLATION OF THIS SECTION.

6 **SECTION 3. Act subject to petition - effective date.** This act
7 takes effect January 1, 2024; except that, if a referendum petition is filed
8 pursuant to section 1 (3) of article V of the state constitution against this
9 act or an item, section, or part of this act within the ninety-day period
10 after final adjournment of the general assembly, then the act, item,
11 section, or part will not take effect unless approved by the people at the
12 general election to be held in November 2024 and, in such case, will take
13 effect on the date of the official declaration of the vote thereon by the
14 governor.