

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

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 23-0191.01 Christy Chase x2008

**HOUSE BILL 23-1077**

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**House Committees**

Health & Insurance  
Appropriations

**Senate Committees**

Health & Human Services  
Appropriations

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**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, AND, IN**  
104              **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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**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

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.*

SENATE  
3rd Reading Unamended  
April 20, 2023

SENATE  
Amended 2nd Reading  
April 19, 2023

HOUSE  
3rd Reading Unamended  
March 13, 2023

HOUSE  
Amended 2nd Reading  
March 11, 2023

direct-entry midwife student or trainee (licensee, student, or trainee) from performing, and prohibits a licensed health-care facility from permitting 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.

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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

1 SUBSECTION (2) OF THIS SECTION.

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

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

8 (B) THE STUDENT OR TRAINEE     HAS BEEN INTRODUCED TO THE  
9 PATIENT AS PART OF THE PATIENT'S CARE TEAM, AND THE STUDENT'S OR  
10 TRAINEE'S ROLE IN PERFORMING AN INTIMATE EXAMINATION FOR  
11 EDUCATIONAL OR TRAINING PURPOSES HAS BEEN SHARED WITH THE  
12 PATIENT; AND

13 (C) THE STUDENT OR TRAINEE IS UNDER THE DIRECT SUPERVISION  
14 OF THE LICENSEE RESPONSIBLE FOR SUPERVISING THE STUDENT OR  
15 TRAINEE.

16 (b) THE REQUIREMENTS OF SUBSECTION (1)(a) OF THIS SECTION DO  
17 NOT APPLY TO:

18 (I) A LICENSEE WHO PERFORMS AN INTIMATE EXAMINATION OF A  
19 PATIENT WHO IS SEDATED OR UNCONSCIOUS WITHOUT OBTAINING THE  
20 PATIENT'S SPECIFIC INFORMED CONSENT     IN EMERGENCY SITUATIONS  
21 WHEN THE INTIMATE EXAMINATION IS MEDICALLY NECESSARY FOR THE  
22 LIFE OR WELL-BEING OF THE PATIENT, BUT THE LICENSEE MUST MAKE A  
23 RECORD OF PERFORMING THE EXAMINATION WITHOUT OBTAINING THE  
24 PATIENT'S SPECIFIC INFORMED CONSENT, INCLUDING AN EXPLANATION OF  
25 THE REASON FOR NOT OBTAINING THE PATIENT'S CONSENT, AND     THE  
26 RECORD MUST BE PROVIDED TO THE PATIENT PRIOR TO DISCHARGE; OR

27

1           (II) A LICENSEE WHO HAS OBTAINED THE PATIENT'S CONSENT TO  
2           PROVIDE HEALTH CARE THAT INCLUDES AN INTIMATE EXAMINATION IF THE  
3           LICENSEE HAS INFORMED THE PATIENT OF THE INTIMATE EXAMINATION IN  
4           THE COURSE OF OBTAINING THE PATIENT'S CONSENT TO THE HEALTH CARE.

5           (2) TO OBTAIN SPECIFIC INFORMED CONSENT TO PERFORM AN  
6           INTIMATE EXAMINATION ON A SEDATED OR UNCONSCIOUS PATIENT, A  
7           LICENSEE SHALL, DURING A PRE-OPERATIVE APPOINTMENT BEFORE THE  
8           PROCEDURE AT WHICH THE EXAMINATION WILL BE PERFORMED OR, IN THE  
9           ABSENCE OF A PRE-OPERATIVE APPOINTMENT, AS SOON AS POSSIBLE  
10          BEFORE THE INTIMATE EXAMINATION OCCURS:

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

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

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

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

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

27               (V) PROVIDES THE PATIENT THE ABILITY TO CONSENT TO OR

1 DECLINE THE FOLLOWING:

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

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

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

9 (b) OBTAIN THE SIGNATURE OF THE PATIENT ON THE WRITTEN OR  
10 ELECTRONIC DOCUMENT; AND

11 (c) SIGN THE WRITTEN OR ELECTRONIC DOCUMENT.

12 (3) (a) FOR PURPOSES OF COMPLYING WITH SUBSECTION (2) OF THIS  
13 SECTION, A LICENSEE MAY:

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

17 (II) USE A WRITTEN OR ELECTRONIC DOCUMENT DEVELOPED BY  
18 THE LICENSED HEALTH-CARE FACILITY WHERE THE LICENSEE WILL BE  
19 PERFORMING THE INTIMATE EXAMINATION OR DEVELOPED BY THE  
20 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, IN ACCORDANCE  
21 WITH SECTION 25-3-130 (3), FOR USE BY HEALTH-CARE PROVIDERS, SO  
22 LONG AS THE DOCUMENT SATISFIES THE REQUIREMENTS OF SUBSECTION  
23 (2) OF THIS SECTION.

24 ==

25 (b) THE LICENSEE SHALL MAKE THE COMPLETED, SIGNED SPECIFIC  
26 INFORMED CONSENT DOCUMENT AVAILABLE TO THE PATIENT.

27 (4) (a) A LICENSEE, STUDENT, OR TRAINEE WHO VIOLATES THIS

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

11 (b) A PATIENT WHO HAS BEEN SUBJECTED TO AN INTIMATE  
12 EXAMINATION IN VIOLATION OF THIS SECTION MAY FILE A CIVIL ACTION  
13 FOR DAMAGES IN A COURT OF COMPETENT JURISDICTION. SUCH ACTION IS  
14 NOT A MEDICAL MALPRACTICE ACTION, AND THE LIMITATION ON DAMAGES  
15 FOR NONECONOMIC LOSS OR INJURY ESTABLISHED PURSUANT TO SECTION  
16 13-21-102.5 APPLIES TO ANY AWARD TO THE PATIENT FOR NONECONOMIC  
17 DAMAGES.

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

23 (6) AS USED IN THIS SECTION:

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

26 (b) (I) "INTIMATE EXAMINATION" MEANS PALPATION OF A BREAST  
27 OR AN INTERNAL PELVIC, PROSTATE, OR RECTAL EXAMINATION.

1           (II) "INTIMATE EXAMINATION" DOES NOT INCLUDE A VISUAL  
2           EXAMINATION OF A PART OF THE BODY SPECIFIED IN SUBSECTION (6)(b)(I)  
3           OF THIS SECTION THAT OCCURS INCIDENTAL TO THE CARE BEING PROVIDED.

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

9           (d) "LICENSEE" MEANS:

10           (I) A PHYSICIAN OR PHYSICIAN ASSISTANT LICENSED PURSUANT TO  
11           ARTICLE 240 OF THIS TITLE 12;

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

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

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

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

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

25           (IV) A DIRECT-ENTRY MIDWIFE REGISTERED PURSUANT TO  
26           ARTICLE 225 OF THIS TITLE 12.

27           (e) "PATIENT" MEANS AN INDIVIDUAL UNDER THE CARE OF A

1 HEALTH-CARE PROVIDER OR THE PATIENT'S AUTHORIZED REPRESENTATIVE.

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

8 (g) "REGULATOR" MEANS:

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

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

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

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

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

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

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

24 (i) "TRAINEE" MEANS AN INDIVIDUAL ENROLLED IN OR OTHERWISE  
25 PARTICIPATING IN TRAINING, PRACTICAL EXPERIENCE, PRACTICUM, OR ANY  
26 OTHER EXPERIENTIAL OR CLINICAL PROGRAM THAT IS REQUIRED PURSUANT  
27 TO ARTICLE 225, 240, OR 255 OF THIS TITLE 12 FOR THE INDIVIDUAL TO



1 BECOME A LICENSEE.

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

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

6 

7              

8 **25-3-130. Intimate examination of sedated or unconscious**  
9 **patient - informed consent required - definitions.** (1) (a) (I) EXCEPT  
10 AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, A HEALTH-CARE  
11 FACILITY SHALL NOT PERMIT A LICENSED HEALTH-CARE PROVIDER, OR A  
12 STUDENT OR TRAINEE UNDER THE SUPERVISION OF A LICENSED  
13 HEALTH-CARE PROVIDER, TO PERFORM AN INTIMATE EXAMINATION OF A  
14 SEDATED OR UNCONSCIOUS PATIENT AT THE HEALTH-CARE FACILITY  
15 UNLESS THE PATIENT HAS PROVIDED SPECIFIC INFORMED CONSENT TO THE  
16 EXAMINATION IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION.

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

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

24 (B) THE STUDENT OR TRAINEE HAS BEEN INTRODUCED TO THE  
25 PATIENT AS PART OF THE PATIENT'S CARE TEAM, AND THE STUDENT'S OR  
26 TRAINEE'S ROLE IN PERFORMING AN INTIMATE EXAMINATION FOR  
27 EDUCATIONAL OR TRAINING PURPOSES HAS BEEN SHARED WITH THE

1 PATIENT; AND

2 (C) THE STUDENT OR TRAINEE IS UNDER THE DIRECT SUPERVISION  
3 OF THE LICENSED HEALTH-CARE PROVIDER RESPONSIBLE FOR SUPERVISING  
4 THE STUDENT OR TRAINEE.

5 (b) THE REQUIREMENTS OF SUBSECTION (1)(a) OF THIS SECTION DO  
6 NOT LIMIT THE ABILITY OF A HEALTH-CARE FACILITY TO ALLOW:

7 (I) A LICENSED HEALTH-CARE PROVIDER TO PERFORM AN INTIMATE  
8 EXAMINATION OF A PATIENT WHO IS SEDATED OR UNCONSCIOUS WITHOUT  
9 OBTAINING THE PATIENT'S SPECIFIC INFORMED CONSENT IN EMERGENCY  
10 SITUATIONS WHEN THE INTIMATE EXAMINATION IS MEDICALLY NECESSARY  
11 FOR THE LIFE OR WELL-BEING OF THE PATIENT, BUT THE LICENSED  
12 HEALTH-CARE PROVIDER MUST MAKE A RECORD OF PERFORMING THE  
13 EXAMINATION WITHOUT OBTAINING THE PATIENT'S SPECIFIC INFORMED  
14 CONSENT, INCLUDING AN EXPLANATION OF THE REASON FOR NOT  
15 OBTAINING THE PATIENT'S CONSENT, AND THE RECORD MUST BE PROVIDED  
16 TO THE PATIENT PRIOR TO DISCHARGE; OR

17 (II) A LICENSED HEALTH-CARE PROVIDER WHO HAS OBTAINED THE  
18 PATIENT'S CONSENT TO PROVIDE HEALTH CARE THAT INCLUDES AN  
19 INTIMATE EXAMINATION TO PERFORM THE INTIMATE EXAMINATION IF THE  
20 LICENSED HEALTH-CARE PROVIDER HAS INFORMED THE PATIENT OF THE  
21 INTIMATE EXAMINATION IN THE COURSE OF OBTAINING THE PATIENT'S  
22 CONSENT TO THE HEALTH CARE.

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

1 SOON AS POSSIBLE BEFORE THE INTIMATE EXAMINATION OCCURS:

2 (a) PROVIDE A WRITTEN OR ELECTRONIC DOCUMENT TO THE

3 PATIENT, SEPARATE FROM ANY OTHER NOTICE OR AGREEMENT, THAT:

4 (I) INCLUDES THE FOLLOWING HEADING AT THE TOP OF THE

5 DOCUMENT, IN NO SMALLER THAN EIGHTEEN-POINT, BOLD-FACED TYPE:

6 "CONSENT FOR EXAMINATION OF BREASTS, PELVIC REGION,

7 RECTUM, AND/OR PROSTATE";

8 (II) SPECIFIES THE NATURE AND PURPOSE OF THE INTIMATE

9 EXAMINATION;

10 (III) NAMES ONE OR MORE LICENSED HEALTH-CARE PROVIDERS

11 WHOM THE PATIENT MAY AUTHORIZE TO PERFORM THE INTIMATE

12 EXAMINATION;

13 (IV) STATES WHETHER THERE MAY BE ONE OR MORE STUDENTS OR

14 TRAINEES WHOM THE PATIENT MAY AUTHORIZE TO PERFORM AN INTIMATE

15 EXAMINATION FOR EDUCATIONAL OR TRAINING PURPOSES OR TO OBSERVE

16 OR OTHERWISE BE PRESENT AT THE EXAMINATION, EITHER IN PERSON OR

17 THROUGH ELECTRONIC MEANS, AND IDENTIFIES THE STUDENTS OR

18 TRAINEES BY NAME; AND

19 (V) PROVIDES THE PATIENT THE ABILITY TO CONSENT TO OR

20 DECLINE THE FOLLOWING:

21 (A) AN INTIMATE EXAMINATION FOR DIAGNOSIS OR TREATMENT,

22 TO BE PERFORMED BY A LICENSED HEALTH-CARE PROVIDER;

23 (B) AN INTIMATE EXAMINATION FOR EDUCATIONAL OR TRAINING

24 PURPOSES, TO BE PERFORMED BY A LICENSED HEALTH-CARE PROVIDER;

25 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; AND

4 (c) SIGN THE WRITTEN OR ELECTRONIC DOCUMENT.

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

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

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

14 (b) IF THE DEPARTMENT DEVELOPS A WRITTEN OR ELECTRONIC  
15 DOCUMENT FOR USE BY HEALTH-CARE FACILITIES, THE DEPARTMENT  
16 SHALL DEVELOP A SINGLE, CONSISTENT DOCUMENT FOR USE BY ALL  
17 HEALTH-CARE FACILITIES AND ALL LICENSED HEALTH-CARE PROVIDERS,  
18 REGARDLESS OF PRACTICE AREA, THAT COMPLIES WITH THE  
19 REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION.

20 (c) THE HEALTH-CARE FACILITY SHALL MAKE THE COMPLETED,  
21 SIGNED SPECIFIC INFORMED CONSENT DOCUMENT AVAILABLE TO THE  
22 PATIENT.

23 (4)(a) (I) IF A HEALTH-CARE FACILITY VIOLATES THIS SECTION, OR  
24 RETALIATES AGAINST AN INDIVIDUAL, INCLUDING A WHISTLEBLOWER, FOR  
25 FILING A COMPLAINT REGARDING A VIOLATION OF THIS SECTION WITH THE  
26 DEPARTMENT OR A REGULATOR OR FOR OTHERWISE COMPLAINING TO ANY  
27 OTHER PERSON, THE AGGRIEVED INDIVIDUAL MAY FILE A COMPLAINT WITH

1 THE DEPARTMENT. THE DEPARTMENT MAY RECEIVE AND INVESTIGATE  
2 COMPLAINTS FILED PURSUANT TO THIS SUBSECTION (4)(a) AGAINST A  
3 HEALTH-CARE FACILITY AND, AS APPROPRIATE, MAY REFER MATTERS  
4 RELATED TO A LICENSED HEALTH-CARE PROVIDER OR A STUDENT OR  
5 TRAINEE UNDER THE SUPERVISION OF A LICENSED HEALTH-CARE PROVIDER  
6 TO THE APPROPRIATE REGULATOR.

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

18 (III) THE STATE BOARD OF HEALTH MAY ADOPT RULES AS  
19 NECESSARY TO ENFORCE THIS SECTION. \_\_\_

20 (b) A PATIENT WHO HAS BEEN SUBJECTED TO AN INTIMATE  
21 EXAMINATION IN VIOLATION OF THIS SECTION MAY FILE A CIVIL ACTION  
22 FOR DAMAGES IN A COURT OF COMPETENT JURISDICTION. SUCH ACTION IS  
23 NOT A MEDICAL MALPRACTICE ACTION, AND THE LIMITATION ON DAMAGES  
24 FOR NONECONOMIC LOSS OR INJURY ESTABLISHED PURSUANT TO SECTION  
25 13-21-102.5 APPLIES TO ANY AWARD TO THE PATIENT FOR NONECONOMIC  
26 DAMAGES.

27 (5) NOTHING IN THIS SECTION AFFECTS THE ABILITY TO PERFORM

1 A MEDICAL FORENSIC EXAMINATION, INCLUDING THE COLLECTION OF  
2 EVIDENCE, IN CONNECTION WITH AN ALLEGED SEXUAL ASSAULT OR OTHER  
3 CRIME OR THE INVESTIGATION OF AN ALLEGED SEXUAL ASSAULT OR OTHER  
4 CRIME, PURSUANT TO APPLICABLE LAWS.

5 (6) AS USED IN THIS SECTION:

6 (a) "HEALTH-CARE FACILITY" MEANS A HEALTH-CARE FACILITY  
7 LICENSED OR CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION  
8 25-1.5-103 (1)(a) AND INCLUDES AN INDIVIDUAL AUTHORIZED TO ACT ON  
9 BEHALF OF THE HEALTH-CARE FACILITY.

10 (b) (I) "INTIMATE EXAMINATION" MEANS PALPATION OF A BREAST  
11 OR AN INTERNAL PELVIC, PROSTATE, OR RECTAL EXAMINATION.

12 (II) "INTIMATE EXAMINATION" DOES NOT INCLUDE A VISUAL  
13 EXAMINATION OF A PART OF THE BODY SPECIFIED IN SUBSECTION (6)(b)(I)  
14 OF THIS SECTION THAT OCCURS INCIDENTAL TO THE CARE BEING PROVIDED.

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

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

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

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

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

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

26 (III) AN ADVANCED PRACTICE REGISTERED NURSE, AS DEFINED IN  
27 SECTION 12-255-104 (1); A REGISTERED NURSE, AS DEFINED IN SECTION

1 12-255-104 (11); OR A MIDWIFE, OTHER THAN A DIRECT-ENTRY MIDWIFE  
2 OR CERTIFIED NURSE MIDWIFE, PRACTICING IN THIS STATE WHOSE SCOPE  
3 OF PRACTICE INCLUDES PERFORMING INTIMATE EXAMINATIONS; OR

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

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

9 (e) "PATIENT'S AUTHORIZED REPRESENTATIVE" MEANS AN  
10 INDIVIDUAL WHO IS AUTHORIZED TO MAKE HEALTH-CARE DECISIONS FOR  
11 OR EXERCISE RIGHTS ON BEHALF OF THE PATIENT, INCLUDING, FOR A  
12 PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE, THE PARENT OR LEGAL  
13 GUARDIAN OF, OR THE INDIVIDUAL STANDING IN LOCO PARENTIS TO, THE  
14 PATIENT.

15 (f) "REGULATOR" MEANS:

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

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

22 (III) FOR LICENSED HEALTH-CARE PROVIDERS DESCRIBED IN  
23 SUBSECTION (6)(c)(IV) OF THIS SECTION, THE DIRECTOR OF THE DIVISION  
24 OF PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY  
25 AGENCIES.

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

27 (I) AN APPROVED MEDICAL COLLEGE, AS DEFINED IN SECTION

1 12-240-104 (3);

2 (II) AN APPROVED EDUCATION PROGRAM, AS DEFINED IN SECTION  
3 12-255-104 (2), FOR PROFESSIONAL NURSING; OR

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

7 (h) "TRAINEE" MEANS AN INDIVIDUAL ENROLLED IN OR OTHERWISE  
8 PARTICIPATING IN TRAINING, PRACTICAL EXPERIENCE, PRACTICUM, OR ANY  
9 OTHER EXPERIENTIAL OR CLINICAL PROGRAM THAT IS REQUIRED PURSUANT  
10 TO ARTICLE 225, 240, OR 255 OF TITLE 12 FOR THE INDIVIDUAL TO BECOME  
11 A LICENSED HEALTH-CARE PROVIDER.

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

14 **SECTION 3. Appropriation.** For the 2023-24 state fiscal year,  
15 \$32,915 is appropriated to the department of public health and  
16 environment for use by the health facilities and emergency medical  
17 services division. This appropriation is from the general fund and is based  
18 on an assumption that the department will require an additional 0.4 FTE.  
19 To implement this act, the division may use this appropriation for  
20 administration and operations related to operations management.

21 **SECTION 4. Act subject to petition - effective date.** This act  
22 takes effect January 1, 2024; except that, if a referendum petition is filed  
23 pursuant to section 1 (3) of article V of the state constitution against this  
24 act or an item, section, or part of this act within the ninety-day period  
25 after final adjournment of the general assembly, then the act, item,  
26 section, or part will not take effect unless approved by the people at the



1 general election to be held in November 2024 and, in such case, will take  
2 effect on the date of the official declaration of the vote thereon by the  
3 governor.