

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 24-0029.01 Josh Schultz x5486

HOUSE BILL 24-1217

HOUSE SPONSORSHIP

Amabile and Ricks,

SENATE SPONSORSHIP

Mullica,

House Committees

Health & Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE DISSEMINATION OF PATIENT HEALTH-CARE**
102 **INFORMATION, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

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 requires the behavioral health administration in the department of human services (BHA) to create a universal behavioral health consent form for disclosure of an individual's protected health information in compliance with the federal "Health Insurance Portability

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.

HOUSE
Amended 2nd Reading
April 24, 2024

and Accountability Act of 1996".

The office of e-health innovation in the governor's office is required to convene a working group to determine how to most effectively create a centralized digital consent repository that allows patients to provide, extend, deny, and revoke consent for sharing their medical data and information between physical and behavioral health-care providers, family members, community organizations, payers, and state agencies at any time.

The BHA is required to create a friends and family input form (form) to allow an individual to provide a treating professional or a licensed or designated facility or organization with information related to a patient receiving mental health or substance use services. The bill prohibits an individual from knowingly and intentionally making a false statement on the form; performing this act constitutes an unclassified misdemeanor penalized by a fine of not more than \$1,000.

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

SECTION 1. In Colorado Revised Statutes, 27-50-101, **add** (11.5), (13.7), and (14.5) as follows:

27-50-101. Definitions. As used in this article 50, unless the context otherwise requires:

(11.5) "COVERED ENTITY" MEANS AN ENTITY SUBJECT TO HIPAA.

(13.7) "FRIENDS AND FAMILY INPUT FORM" MEANS A FORM CREATED PURSUANT TO SECTION 27-50-110 TO ALLOW FAMILY AND FRIENDS TO PROVIDE HEALTH OR BACKGROUND INFORMATION ABOUT AN INDIVIDUAL RECEIVING MENTAL HEALTH OR SUBSTANCE USE SERVICES.

(14.5) "HIPAA" MEANS THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SECS. 1320d TO 1320d-9, AS AMENDED.

SECTION 2. In Colorado Revised Statutes, **add** 27-50-109 and 27-50-110 as follows:

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27-50-109. Centralized digital consent repository working group - duties - report - repeal. (1) THE OFFICE OF E-HEALTH INNOVATION IN THE GOVERNOR'S OFFICE SHALL CONVENE A WORKING GROUP TO EVALUATE THE FEASIBILITY OF CREATING A CENTRALIZED DIGITAL CONSENT REPOSITORY THAT:

(a) ALLOWS PATIENTS TO PROVIDE, EXTEND, DENY, AND REVOKE CONSENT FOR SHARING THEIR MEDICAL DATA AND INFORMATION BETWEEN PHYSICAL AND BEHAVIORAL HEALTH-CARE PROVIDERS, FAMILY MEMBERS, COMMUNITY ORGANIZATIONS, PAYERS, AND STATE AGENCIES AT ANY TIME;

(b) ENHANCES CARE COORDINATION AMONG PATIENTS, PROVIDERS, AND FAMILY MEMBERS; AND

(c) ENSURES PATIENT DATA IS ACCURATELY RECORDED AND SECURELY STORED.

(2) THE WORKING GROUP SHALL:

(a) REVIEW THE STATE'S EXISTING EFFORTS TO DEVELOP A CENTRALIZED DIGITAL CONSENT REPOSITORY;

(b) DETERMINE THE PROCESS REQUIRED TO ESTABLISH A CENTRALIZED DIGITAL CONSENT REPOSITORY;

(c) EVALUATE THE POTENTIAL COST OF IMPLEMENTING A CENTRALIZED DIGITAL CONSENT REPOSITORY;

(d) IDENTIFY THE INFRASTRUCTURE NEEDED TO ESTABLISH A CENTRALIZED DIGITAL CONSENT REPOSITORY;

(e) IDENTIFY BEST PRACTICES FOR PROTECTING PATIENT DATA;

(f) IDENTIFY SOLUTIONS FOR THE SECURE STORAGE OF DATA AND FOR PATIENT AND PROVIDER ACCESS TO THE DATA;

1 (g) DISCUSS THE ROLE OF THE CENTRALIZED DIGITAL CONSENT
2 REPOSITORY IN CRISIS SITUATIONS AND HOW TO ENSURE EMERGENT
3 INFORMATION IS COMMUNICATED IN A TIMELY MANNER BETWEEN A
4 PATIENT, A PROVIDER OR FACILITY, AND OTHER AUTHORIZED PERSONS;

5 (h) ENGAGE WITH THE DEPARTMENT OF REGULATORY AGENCIES
6 REGARDING IMPLEMENTATION OF THE RELEASE FORMS; AND

7 (i) MAKE RECOMMENDATIONS ON ANY OTHER TOPICS THE
8 WORKING GROUP DEEMS RELEVANT.

9 (3) THE WORKING GROUP MAY CONSULT WITH ADDITIONAL
10 STAKEHOLDERS AND EXPERTS AS NEEDED TO INFORM THE WORKING
11 GROUP'S DISCUSSIONS AND TO ANSWER QUESTIONS TO ASSIST THE
12 WORKING GROUP IN FINALIZING ITS FINDINGS AND RECOMMENDATIONS.

13 (4) THE WORKING GROUP MUST INCLUDE INDIVIDUALS WITH LEGAL
14 EXPERTISE REGARDING 42 CFR 2, OR SUCCESSOR FEDERAL REGULATIONS,
15 AND HIPAA; A REPRESENTATIVE FROM THE BHA; A REPRESENTATIVE OF
16 A HEALTH INFORMATION ORGANIZATION NETWORK; A REPRESENTATIVE OF
17 A HOSPITAL; LICENSED BEHAVIORAL HEALTH PROVIDERS, INCLUDING
18 BEHAVIORAL HEALTH SAFETY NET PROVIDERS; SUBSTANCE USE
19 PROVIDERS; REPRESENTATIVES OF CONSUMER ADVOCACY ORGANIZATIONS;
20 REPRESENTATIVES OF DISABILITY ADVOCACY ORGANIZATIONS; AND ANY
21 OTHER INDIVIDUALS THAT THE OFFICE OF E-HEALTH INNOVATION
22 DETERMINES ARE NECESSARY.

23 (5) BEGINNING SEPTEMBER 1, 2024, THE WORKING GROUP SHALL
24 MEET AT LEAST ONCE IN EACH QUARTER OF THE CALENDAR YEAR TO
25 DEVELOP THE REPORT CREATED PURSUANT TO SUBSECTION (6) OF THIS
26 SECTION.

27 (6) (a) ON OR BEFORE JANUARY 1, 2026, THE WORKING GROUP

1 SHALL SUBMIT A REPORT INCLUDING RECOMMENDATIONS REGARDING THE
2 FEASIBILITY OF CREATING A CENTRALIZED DIGITAL CONSENT REPOSITORY
3 TO THE HOUSE OF REPRESENTATIVES HEALTH AND HUMAN SERVICES
4 COMMITTEE, THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE, AND
5 THE JOINT TECHNOLOGY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

6 (b) THE OFFICE OF E-HEALTH INNOVATION SHALL MAKE THE
7 REPORT AVAILABLE TO THE PUBLIC ON THE OFFICE'S WEBSITE.

8 (7) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2026.

9 **27-50-110. Friends and family input form - rules - definition.**

10 (1) (a) ON OR BEFORE JULY 1, 2025, THE BHA SHALL CREATE A FRIENDS
11 AND FAMILY INPUT FORM TO ALLOW AN INDIVIDUAL TO PROVIDE A
12 TREATING PROFESSIONAL OR A LICENSED OR DESIGNATED FACILITY OR
13 ORGANIZATION WITH INFORMATION RELATED TO A PATIENT RECEIVING
14 MENTAL HEALTH OR SUBSTANCE USE SERVICES, INCLUDING:

- 15 (I) INFORMATION ABOUT A PATIENT'S:
 - 16 (A) DIAGNOSIS;
 - 17 (B) PAST HOSPITALIZATIONS;
 - 18 (C) DE-ESCALATION TECHNIQUES;
 - 19 (D) CURRENT AND PAST PROVIDERS AND THEIR CONTACT
20 INFORMATION;
 - 21 (E) POTENTIAL TRIGGERS;
 - 22 (F) HOUSING STATUS;
 - 23 (G) FAMILY HISTORY, RELATIONSHIPS, OR SOCIAL CONTEXT;
 - 24 (H) CURRENT MEDICAL CONDITIONS; AND
 - 25 (I) CURRENT AND PAST MEDICATIONS; AND
 - 26 (II) ANY OTHER INFORMATION AS DETERMINED BY THE BHA
27 BASED ON FEEDBACK RECEIVED FROM STAKEHOLDERS.

1 (b) THE FRIENDS AND FAMILY INPUT FORM MUST INCLUDE A CLEAR
2 STATEMENT THAT THE FRIENDS AND FAMILY INPUT FORM MAY BECOME
3 PART OF THE PATIENT'S MEDICAL RECORD.

4 (2) ON OR BEFORE OCTOBER 1, 2024, THE BHA SHALL CONVENE
5 ONE OR MORE MEETINGS TO OBTAIN INPUT AND RECOMMENDATIONS FROM
6 STAKEHOLDERS, INCLUDING CONSUMER ADVOCATES; BEHAVIORAL
7 HEALTH PROVIDERS, INCLUDING BEHAVIORAL HEALTH SAFETY NET
8 PROVIDERS; REPRESENTATIVES FROM THE DEPARTMENT OF PUBLIC HEALTH
9 AND ENVIRONMENT AND THE DEPARTMENT OF CORRECTIONS; INDIVIDUALS
10 WITH EXPERTISE IN STATE AND FEDERAL PRIVACY LAW; AND INDIVIDUALS
11 WHO HAVE ACCESSED MENTAL HEALTH OR SUBSTANCE USE SERVICES,
12 CONCERNING THE BEST PRACTICES FOR CREATION AND USE OF THE FRIENDS
13 AND FAMILY INPUT FORM DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

14 (3) (a) THE FRIENDS AND FAMILY INPUT FORM MAY BE ACCEPTED
15 IN WRITING OR ELECTRONICALLY BY ANY HEALTH-CARE FACILITY OR
16 PROVIDER LICENSED OR DESIGNATED BY THE BHA, ANY LICENSEE AS
17 DEFINED IN SECTION 12-245-202 (8), ANY REGISTRANT AS DEFINED IN
18 SECTION 12-245-202 (16), THE DEPARTMENT OF PUBLIC HEALTH AND
19 ENVIRONMENT, THE DEPARTMENT OF CORRECTIONS, A COUNTY OR
20 DISTRICT PUBLIC HEALTH AGENCY, THE DEPARTMENT OF HEALTH CARE
21 POLICY AND FINANCING, OR ANY OTHER TREATMENT FACILITY FOR
22 INDIVIDUALS WITH BEHAVIORAL OR MENTAL HEALTH DISORDERS.

23 (b) COVERED ENTITIES MAY ACCEPT PARTIALLY COMPLETED
24 SUBMISSIONS OF THE FRIENDS AND FAMILY INPUT FORM.

25 (c) A TREATING PROFESSIONAL OR A LICENSED OR DESIGNATED
26 FACILITY OR ORGANIZATION SHALL NOT DISTRIBUTE THE FRIENDS AND
27 FAMILY INPUT FORM TO ANY OTHER ENTITY IF A PATIENT EXPRESSLY

1 PROHIBITS DISCLOSURE, EXCEPT IF A COURT OR OTHER LEGAL AUTHORITY
2 HAS ORDERED THE DISCLOSURE.

3 (d) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO MODIFY OR
4 ALTER ANY GENERALLY ACCEPTED ETHICS, STANDARDS, PROTOCOLS, OR
5 LAWS GOVERNING TREATING PROFESSIONALS. A COVERED ENTITY,
6 TREATING PROFESSIONAL, OR THE PROFESSIONAL'S DESIGNEE IS NOT
7 SUBJECT TO ANY CIVIL, CRIMINAL, OR REGULATORY SANCTION FOR ACTING
8 OR FAILING TO ACT IN RESPONSE TO THE INFORMATION CONTAINED IN THE
9 FRIENDS AND FAMILY INPUT FORM OR FOR DECLINING TO ACCEPT A
10 FRIENDS AND FAMILY INPUT FORM.

11 (e) IF A PATIENT EXPLICITLY OBJECTS TO A COVERED ENTITY
12 RECEIVING INFORMATION REGARDING THE PATIENT FROM A SPECIFIC
13 INDIVIDUAL, THE COVERED ENTITY IS NOT REQUIRED TO ACCEPT
14 INFORMATION FROM THE SPECIFIC INDIVIDUAL.

15 (4) A FRIEND OR FAMILY MEMBER PROVIDING INFORMATION
16 ABOUT AN INDIVIDUAL SHALL ENSURE THE INFORMATION IS ACCURATE TO
17 THE BEST KNOWLEDGE OF THE FRIEND OR FAMILY MEMBER PROVIDING THE
18 INFORMATION.

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20 (5) (a) AN INDIVIDUAL WITH A CLOSE, PERSONAL INTEREST IN THE
21 WELL-BEING OF THE PATIENT MAY PROVIDE INFORMATION PURSUANT TO
22 THIS SUBSECTION (5).

23 (b) A TREATING PROFESSIONAL OR A LICENSED OR DESIGNATED
24 FACILITY OR ORGANIZATION MAY ACCEPT INPUT IN WRITING OR THROUGH
25 E-MAIL FROM ANOTHER INDIVIDUAL.

26 (c) A TREATING PROFESSIONAL OR A LICENSED OR DESIGNATED
27 FACILITY OR ORGANIZATION MAY ACCEPT INPUT VERBALLY, INCLUDING

1 THROUGH VOICEMAIL. IF A TREATING PROFESSIONAL OR A LICENSED OR
2 DESIGNATED FACILITY OR ORGANIZATION ACCEPTS INPUT VERBALLY, THE
3 TREATING PROFESSIONAL OR LICENSED OR DESIGNATED FACILITY OR
4 ORGANIZATION SHALL ESTABLISH AND DOCUMENT THE PROCESS FOR
5 ACCEPTING VERBAL INPUT.

6 (d) THE PROVIDER SHALL ACKNOWLEDGE RECEIPT OF THE INPUT
7 PROVIDED PURSUANT TO THIS SUBSECTION (5) BUT IS NOT REQUIRED TO
8 DISCLOSE ADDITIONAL INFORMATION.

9 (6) (a) IF THE DISCLOSURES ARE PERMITTED BY HIPAA, A
10 PROVIDER MAY SHARE A PATIENT'S INFORMATION WITH FAMILY, FRIENDS,
11 OR ANY INDIVIDUAL WITH A CLOSE, PERSONAL INTEREST IN THE
12 WELL-BEING OF THE PATIENT WITHOUT THE PATIENT'S CONSENT IF THE
13 PATIENT IS NOT PRESENT OR IS INCAPACITATED AND THE TREATING
14 PROFESSIONAL OR THE PROFESSIONAL'S DESIGNEE DETERMINES, BASED ON
15 PROFESSIONAL JUDGMENT, THAT IT IS IN THE BEST INTEREST OF THE
16 PATIENT.

17 (b) IF A PROVIDER DISCLOSES INFORMATION ABOUT A PATIENT
18 WITHOUT THE PATIENT'S CONSENT PURSUANT TO SUBSECTION (6)(a) OF
19 THIS SECTION, THE PROVIDER SHALL DISCUSS ONLY THE INFORMATION
20 THAT AN INDIVIDUAL INVOLVED NEEDS TO KNOW ABOUT A PATIENT'S CARE
21 OR PAYMENT.

22 (c) A PROVIDER OR FACILITY SHALL NOT INFORM A PATIENT'S
23 FAMILY, FRIENDS, OR ANY INDIVIDUAL WITH A CLOSE, PERSONAL INTEREST
24 IN THE WELL-BEING OF THE PATIENT ABOUT A PAST MEDICAL PROBLEM
25 THAT IS UNRELATED TO THE PATIENT'S CURRENT CONDITION.

26 (d) A PROVIDER IS NOT REQUIRED BY HIPAA TO SHARE A
27 PATIENT'S INFORMATION WHEN THE PATIENT IS NOT PRESENT OR IS

1 INCAPACITATED. THE PROVIDER MAY WAIT UNTIL THE PATIENT HAS THE
2 OPPORTUNITY TO AGREE TO THE DISCLOSURE.

3 (7) THE BHA SHALL CREATE A RESOURCE PAGE FOR BOTH
4 PROVIDERS AND FAMILIES ON ITS WEBSITE THAT INCLUDES THE FRIENDS
5 AND FAMILY INPUT FORM AND INFORMATION FROM FEDERAL GUIDANCE
6 DOCUMENTS AND SHALL NOTIFY INTERESTED STAKEHOLDERS OF THE
7 AVAILABILITY OF THE FRIENDS AND FAMILY INPUT FORM AND RESOURCE
8 PAGE.

9 (8) THE BHA SHALL PROMULGATE RULES FOR BEHAVIORAL
10 HEALTH SAFETY NET PROVIDERS RELATED TO MAINTAINING AND
11 RELEASING PATIENT INFORMATION AND IMPLEMENTING THE FRIENDS AND
12 FAMILY INPUT FORM.

13 **SECTION 3. Appropriation.** (1) For the 2024-25 state fiscal
14 year, \$50,604 is appropriated to the department of human services. This
15 appropriation is from the general fund. To implement this act, the
16 department may use this appropriation as follows:

17 (a) \$18,599 for use by the behavioral health administration for
18 behavioral health consent forms related to integrated behavioral health
19 services, which amount is based on an assumption that the administration
20 will require an additional 0.2 FTE; and

21 (b) \$32,005 for the purchase of legal services.

22 (2) For the 2024-25 state fiscal year, \$32,005 is appropriated to
23 the department of law. This appropriation is from reappropriated funds
24 received from the department of human services under subsection (1)(b)
25 of this section and is based on an assumption that the department of law
26 will require an additional 0.1 FTE. To implement this act, the department
27 of law may use this appropriation to provide legal services for the

1 department of human services.

2 **SECTION 4. Safety clause.** The general assembly finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety or for appropriations for
5 the support and maintenance of the departments of the state and state
6 institutions.