

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0217.01 Shelby Ross x4510

HOUSE BILL 21-1123

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A BILL FOR AN ACT

101 **CONCERNING A CAPS CHECK FOR SUBSTANTIATED CASES OF**
102 **MISTREATMENT OF AN AT-RISK ADULT.**

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/>.)

Legislative Audit Committee. The bill authorizes the department of human services (state department) to disclose the results of a CAPS check without a court order to:

- The department of regulatory agencies (DORA) for the purpose of a regulatory investigation; or
- The court if an individual is petitioning the court for

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

HOUSE
3rd Reading Unamended
March 16, 2021

HOUSE
Amended 2nd Reading
March 12, 2021

conservatorship or guardianship of an at-risk adult.

The bill requires an employer and an employee to provide, upon request of the county department of human or social services and for the purposes of an investigation into an allegation of mistreatment, access to the professional license number issued by DORA for the employee who, as a result of the investigation, is substantiated in a case of mistreatment of an at-risk adult.

Current law requires the state department to promulgate rules to establish a process at the state level by which a person who is substantiated in a case of mistreatment of an at-risk adult may appeal the finding to the state department. The bill requires the state department to promulgate rules to address the process to share information on the outcome of an appeal with DORA if DORA requests information for the purpose of a regulatory investigation. Appeal information is confidential and used only for the regulatory investigation.

Beginning January 1, 2022, prior to appointing a person as a conservator or guardian of an at-risk adult, the court that receives a filing of a petition for conservatorship or guardianship shall request a CAPS check by the state department, and the state department shall provide the results of a CAPS check to the court, to determine if the person is substantiated in a case of mistreatment of an at-risk adult.

The bill requires the state department to promulgate rules that address:

- The process for the state department to notify DORA when a professional regulated by DORA is substantiated in a case of mistreatment of an at-risk adult; and
- The information that will be made available to DORA for the purpose of conducting a regulatory investigation.

A person who may be appointed as a conservator or guardian of an at-risk adult who knowingly provides inaccurate information to the court for a CAPS check commits a class 1 misdemeanor.

Beginning January 1, 2022, prior to appointing a person as a conservator or guardian of an at-risk adult, the court shall request a CAPS check by the state department to determine if the person is substantiated in a case of mistreatment of an at-risk adult. Within 7 calendar days after the date of the court's request, if the person has been substantiated in a case of mistreatment of an at-risk adult, the state department shall provide the court with information concerning the mistreatment, unless the finding was expunged through a successful appeal to the state department.

The bill requires the state department to notify DORA within 10 calendar days after a substantiated finding of mistreatment by a professional regulated by DORA. Any information provided to DORA is confidential.

The bill requires a licensee, certificate holder, or registrant substantiated in a case of mistreatment of an at-risk adult to provide the

person's professional license number to county adult protective services.

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

2 **SECTION 1.** In Colorado Revised Statutes, 26-3.1-102, **add**
3 (7)(b)(X) and (7)(b)(XI) as follows:

4 **26-3.1-102. Reporting requirements.** (7) (b) Disclosure of a
5 report of the mistreatment or self-neglect of an at-risk adult and
6 information relating to an investigation of such a report and subsequent
7 cases resulting from the report is permitted only when authorized by a
8 court for good cause. A court order is not required, and such disclosure
9 is not prohibited when:

10 (X) THE DISCLOSURE IS MADE PURSUANT TO SECTION 26-3.1-111
11 (12) TO A HEALTH OVERSIGHT AGENCY, AS DEFINED IN 42 CFR 164.501,
12 WITHIN THE DEPARTMENT OF REGULATORY AGENCIES OR A REGULATOR,
13 AS DEFINED IN SECTION 12-20-102 (14), WITHIN SUCH A HEALTH
14 OVERSIGHT AGENCY; AND

15 (XI) THE DISCLOSURE IS MADE TO THE COURT PURSUANT TO
16 SECTION 26-3.1-111 (3)(b) AND (8.5)(b).

17 **SECTION 2.** In Colorado Revised Statutes, 26-3.1-103, **amend**
18 (1.3)(a)(III) and (1.3)(a)(IV); and **add** (1.3)(a)(V) and (1.4) as follows:

19 **26-3.1-103. Evaluations - investigations - training - rules.**

20 (1.3) (a) Pursuant to state department rule, each employer as defined by
21 section 26-3.1-111 (7) shall provide, upon request of the county
22 department, access to conduct an investigation into an allegation of
23 mistreatment. Access must include the ability to request interviews with
24 relevant persons and to obtain documents and other evidence and have
25 access to:

1 (III) Clients or residents who are the subject of the investigation
2 into mistreatment of an at-risk adult and clients or residents who are
3 relevant to an investigation into an allegation of mistreatment of an at-risk
4 adult; ~~and~~

5 (IV) Individual patient, resident, client, or consumer records,
6 including disclosure of health records or incident and investigative
7 reports, care and behavioral plans, staff schedules and time sheets, and
8 photos and other technological evidence; AND

9 (V) THE PROFESSIONAL LICENSE NUMBER ISSUED BY THE DIVISION
10 OF PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY
11 AGENCIES FOR A CURRENT OR FORMER EMPLOYEE WHO HOLDS A
12 HEALTH-CARE PROVIDER OR HEALTH-CARE OCCUPATION LICENSE AND
13 WHO, AS A RESULT OF THE INVESTIGATION, IS SUBSTANTIATED IN A CASE
14 OF MISTREATMENT OF AN AT-RISK ADULT DURING THE EMPLOYEE'S
15 PROFESSIONAL DUTIES.

16 (1.4) UPON REQUEST OF THE COUNTY DEPARTMENT, ANY PERSON
17 WHO HOLDS A HEALTH-CARE PROVIDER OR HEALTH-CARE OCCUPATION
18 LICENSE LICENSE ISSUED BY THE DIVISION OF PROFESSIONS AND
19 OCCUPATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES AND, AS A
20 RESULT OF THE INVESTIGATION, IS SUBSTANTIATED IN A CASE OF
21 MISTREATMENT OF AN AT-RISK ADULT WHILE PERFORMING THE PERSON'S
22 PROFESSIONAL DUTIES SHALL PROVIDE THE PERSON'S PROFESSIONAL
23 LICENSE NUMBER TO THE COUNTY DEPARTMENT.

24 **SECTION 3.** In Colorado Revised Statutes, 26-3.1-108, **amend**
25 (2)(f) and (2)(g); and **add** (2)(h) as follows:

26 **26-3.1-108. Notice of report - appeals - rules.** (2) In addition to
27 rules promulgated pursuant to subsection (1) of this section, the state

1 department shall promulgate rules to establish a process at the state level
2 by which a person who is substantiated in a case of mistreatment of an
3 at-risk adult may appeal the finding to the state department. At a
4 minimum, the rules promulgated pursuant to this subsection (2) must
5 address the following:

6 (f) The legal standards involved in the appellate process and a
7 designation of the party who bears the burden of establishing that each
8 standard is met; ~~and~~

9 (g) The confidentiality requirements of the appeals process; AND

10 (h) THE PROCESS TO SHARE INFORMATION ABOUT AN APPEAL,
11 INCLUDING THE APPEAL OUTCOME WITH A HEALTH OVERSIGHT AGENCY, AS
12 DEFINED IN 42 CFR 164.501, WITHIN THE DEPARTMENT OF REGULATORY
13 AGENCIES OR A REGULATOR, AS DEFINED IN SECTION 12-20-102 (14),
14 WITHIN SUCH A HEALTH OVERSIGHT AGENCY, IF THE HEALTH OVERSIGHT
15 AGENCY OR ITS REGULATOR REQUESTS INFORMATION ABOUT AN APPEAL
16 FOR THE PURPOSE OF A REGULATORY INVESTIGATION CONDUCTED
17 PURSUANT TO SECTION 12-20-401. APPEAL INFORMATION SHARED
18 PURSUANT TO THIS SUBSECTION (2)(h) IS CONFIDENTIAL AND MUST BE
19 USED ONLY FOR THE REGULATORY INVESTIGATION.

20 **SECTION 4.** In Colorado Revised Statutes, 26-3.1-111, **amend**
21 (1), (3), (5)(c), (5)(d), (5)(e), (6)(d)(II)(A), (6)(e.3), (6)(e.7), (9), and (10);
22 and **add** (5)(g), (5)(h), (8.5), (11), and (12) as follows:

23 **26-3.1-111. Access to CAPS - employment checks -**
24 **conservatorship and guardianship checks - confidentiality - fees -**
25 **rules - legislative declaration - definitions - repeal.** (1) The general
26 assembly finds and declares that individuals receiving care and services
27 from persons employed in programs or facilities described in subsection

1 (7) of this section OR FROM PERSONS APPOINTED TO BE A CONSERVATOR
2 OR GUARDIAN OF AN AT-RISK ADULT are vulnerable to mistreatment,
3 including abuse, neglect, and exploitation. It is the intent of the general
4 assembly to minimize the potential for employment of, OR APPOINTMENT
5 AS CONSERVATORS OR GUARDIANS, persons with a history of mistreatment
6 of at-risk adults in positions that would allow those persons unsupervised
7 access to these adults. As a result, the general assembly finds it necessary
8 to strengthen protections for vulnerable adults by requiring certain
9 employers AND THE COURTS to request a CAPS check by the state
10 department to determine if a person who will provide direct care to an
11 at-risk adult OR WHO MAY BE APPOINTED AS A CONSERVATOR OR
12 GUARDIAN FOR AN AT-RISK ADULT has been substantiated in a case of
13 mistreatment of an at-risk adult. The general assembly also finds that it
14 is necessary to require that certain employers cooperate with, and provide
15 access to, county departments during county investigations of
16 mistreatment of at-risk adults pursuant to section 26-3.1-103 (1.3).

17 (3) (a) **Employer CAPS checks.** The state department shall
18 establish and implement a state-level program for employers to obtain a
19 CAPS check to determine if a person who will provide direct care to an
20 at-risk adult is substantiated in a case of mistreatment of an at-risk adult.
21 The state department's program ~~shall~~ MUST be operational for an
22 employer CAPS check on and after January 1, 2019.

23 (b) **Conservatorship and guardianship CAPS checks.**
24 BEGINNING JANUARY 1, 2022, THE STATE DEPARTMENT SHALL PROVIDE
25 THE COURTS THE RESULTS OF A CAPS CHECK, UPON THE COURT'S REQUEST
26 AND USING FORMS APPROVED BY THE STATE DEPARTMENT, TO DETERMINE
27 IF A PERSON WHO MAY BE APPOINTED AS A CONSERVATOR OR GUARDIAN

1 OF AN AT-RISK ADULT IS SUBSTANTIATED IN A CASE OF MISTREATMENT OF
2 AN AT-RISK ADULT. THIS SUBSECTION (3)(b) DOES NOT APPLY TO OFFICE
3 OF PUBLIC GUARDIANSHIP EMPLOYEES REQUIRED TO UNDERGO A CAPS
4 CHECK PURSUANT TO SECTIONS 13-94-105 (6) AND 26-3.1-111 (7)(j), OR
5 ADULT PROTECTIVE SERVICES EMPLOYEES REQUIRED TO UNDERGO A CAPS
6 CHECK PURSUANT TO SECTION 26-3.1-107 (2).

7 (5) The state department shall promulgate rules for the
8 implementation of this section, which rules must include the following:

9 (c) The process for completing a CAPS check and the parameters
10 for establishing and collecting the fee charged to an employer OR THE
11 COURT for each CAPS check;

12 (d) The information in CAPS that will be made available to an
13 employer OR THE COURT requesting a CAPS check;

14 (e) The purposes for which the information in CAPS may be made
15 available; ~~and~~

16 (g) THE PROCESS FOR THE STATE DEPARTMENT TO NOTIFY A
17 HEALTH OVERSIGHT AGENCY, AS DEFINED IN 42 CFR 164.501, WITHIN THE
18 DEPARTMENT OF REGULATORY AGENCIES OR A REGULATOR WITHIN SUCH
19 A HEALTH OVERSIGHT AGENCY WHEN A PROFESSIONAL REGULATED BY A
20 REGULATOR WITHIN SUCH A HEALTH OVERSIGHT AGENCY, AS THOSE
21 TERMS ARE DEFINED IN SECTION 12-20-102 (13) AND (14), IS
22 SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT
23 PURSUANT TO SUBSECTION (12) OF THIS SECTION; AND

24 (h) THE INFORMATION THAT WILL BE MADE AVAILABLE TO A
25 HEALTH OVERSIGHT AGENCY, AS DEFINED IN 42 CFR 164.501, WITHIN THE
26 DEPARTMENT OF REGULATORY AGENCIES OR A REGULATOR, AS DEFINED
27 IN SECTION 12-20-102 (14), WITHIN SUCH A HEALTH OVERSIGHT AGENCY,

1 FOR THE PURPOSE OF CONDUCTING A REGULATORY INVESTIGATION
2 PURSUANT TO SECTION 12-20-401.

3 (6) (d) (II) An employer, or a person or entity conducting
4 employee screening on behalf of the employer, has not violated
5 subsection (6)(e) of this section if the employer, or a person or entity
6 conducting employee screening on behalf of the employer, releases
7 information received through a CAPS check:

8 (A) To a state agency or its contractor, upon the request of the
9 agency or contractor, for purposes of an employer inspection or survey OR
10 FOR PURPOSES OF A REGULATORY INVESTIGATION CONDUCTED BY A
11 HEALTH OVERSIGHT AGENCY, AS DEFINED IN 42 CFR 164.501 PURSUANT
12 TO SECTION 12-20-401; or

13 (e.3) ~~Any person who requests a CAPS check for a person who is~~
14 ~~not an employee or volunteer, or not being considered for employment,~~
15 ~~or who is not a care provider or being considered as a care provider for~~
16 ~~a recipient of consumer directed attendant support services pursuant to~~
17 ~~article 10 of title 25.5; A PERSON commits a class 1 misdemeanor and~~
18 ~~shall be punished~~ PUNISHABLE pursuant to section 18-1.3-501 IF THE
19 PERSON REQUESTS A CAPS CHECK FOR A PERSON WHO IS NOT:

20 (I) AN EMPLOYEE OR A VOLUNTEER PROVIDING DIRECT CARE, OR
21 IS NOT BEING CONSIDERED FOR SUCH EMPLOYMENT; OR

22 (II) A CARE PROVIDER OR IS NOT BEING CONSIDERED AS A CARE
23 PROVIDER FOR A RECIPIENT OF CONSUMER-DIRECTED ATTENDANT SUPPORT
24 SERVICES PURSUANT TO ARTICLE 10 OF TITLE 25.5; OR

25 (III) A PERSON WHO MAY BE APPOINTED AS A CONSERVATOR OR
26 GUARDIAN OF AN AT-RISK ADULT.

27 (e.7) An employee who knowingly provides inaccurate

1 information to ~~his or her~~ THE EMPLOYEE'S employer for a CAPS check, ~~or~~
2 an employer or other person or entity conducting an employee screening
3 on behalf of the employer that knowingly provides inaccurate information
4 in the request for a CAPS check, OR A PERSON WHO MAY BE APPOINTED
5 AS A CONSERVATOR OR GUARDIAN OF AN AT-RISK ADULT WHO KNOWINGLY
6 PROVIDES INACCURATE INFORMATION TO THE COURT FOR A CAPS CHECK
7 commits a class 1 misdemeanor and shall be punished pursuant to section
8 18-1.3-501.

9 (8.5) (a) ON AND AFTER JANUARY 1, 2022, PRIOR TO APPOINTING
10 A PERSON AS A CONSERVATOR OR GUARDIAN OF AN AT-RISK ADULT, THE
11 COURT THAT RECEIVES A FILING OF A PETITION FOR CONSERVATORSHIP OR
12 GUARDIANSHIP SHALL REQUEST A CAPS CHECK BY THE STATE
13 DEPARTMENT USING FORMS APPROVED BY THE STATE DEPARTMENT TO
14 DETERMINE IF THE PERSON IS SUBSTANTIATED IN A CASE OF
15 MISTREATMENT OF AN AT-RISK ADULT. THE COURT SHALL REQUIRE THE
16 PETITIONER FOR CONSERVATORSHIP OR GUARDIANSHIP TO COMPLETE THE
17 STATE-DEPARTMENT-APPROVED WRITTEN AUTHORIZATION PRIOR TO
18 REQUESTING A CAPS CHECK. THE COURT SHALL PAY A FEE ESTABLISHED
19 BY THE STATE DEPARTMENT FOR EACH CAPS CHECK AND MAY REQUIRE
20 THE PETITIONER FOR CONSERVATORSHIP OR GUARDIANSHIP TO PAY THE
21 COURT THE REQUIRED FEE FOR THE CAPS CHECK.

22 (b) WITHIN SEVEN CALENDAR DAYS AFTER THE DATE OF THE
23 COURT'S REQUEST, IF THE PERSON WHO MAY BE APPOINTED AS A
24 CONSERVATOR OR GUARDIAN HAS BEEN SUBSTANTIATED IN A CASE OF
25 MISTREATMENT OF AN AT-RISK ADULT, THE STATE DEPARTMENT SHALL
26 PROVIDE THE COURT WITH INFORMATION CONCERNING THE
27 MISTREATMENT, WHICH INFORMATION MUST INCLUDE, AT A MINIMUM, THE

1 DATE OF THE SUBSTANTIATED FINDING, THE TYPE AND SEVERITY OF THE
2 MISTREATMENT, AND THE COUNTY THAT INVESTIGATED THE REPORT OF
3 MISTREATMENT.

4 (c) THE STATE DEPARTMENT SHALL DISCLOSE TO THE COURT THAT
5 THE PERSON SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK
6 ADULT HAS THE RIGHT TO INITIATE AN APPEAL OF THE SUBSTANTIATED
7 FINDING WITHIN THE TIME FRAME SET FORTH IN STATE DEPARTMENT
8 RULES. IF THE APPEAL IS ACTIVE AT THE TIME THE STATE DEPARTMENT
9 NOTIFIES THE COURT OF THE RESULTS OF THE CAPS CHECK, THE STATE
10 DEPARTMENT SHALL INFORM THE COURT THAT SUCH APPEAL IS ACTIVE.
11 THE STATE DEPARTMENT SHALL NOT PROVIDE THE COURT THE
12 INFORMATION SPECIFIED IN SUBSECTION (8.5)(b) OF THIS SECTION IF THE
13 FINDING ABOUT THE PERSON WAS EXPUNGED THROUGH A SUCCESSFUL
14 APPEAL.

15 (d) THE COURT SHALL HAVE THE DISCRETION TO CONSIDER THE
16 RESULTS OF THE CAPS CHECK AND DETERMINE THE WEIGHT OF THE
17 INFORMATION AND ITS PROBATIVE VALUE.

18 (e) NOTHING IN THIS SUBSECTION (8.5) DELAYS OR PRECLUDES THE
19 COURT'S APPOINTMENT OF AN EMERGENCY GUARDIAN OR CONSERVATOR
20 OF AN AT-RISK ADULT PURSUANT TO SECTION 15-14-312 OR 15-14-412,
21 REGARDLESS OF THE TIMING OF THE STATE DEPARTMENT'S NOTIFICATION
22 OF THE CAPS CHECK RESULTS.

23 (9) Except for the costs incurred for the development and initial
24 implementation of the program, direct and indirect costs incurred for the
25 administrative appeals process for persons appealing claims of
26 mistreatment of at-risk adults and the direct and indirect costs of
27 conducting employer-requested OR COURT-REQUESTED CAPS checks

1 pursuant to this section are funded through a fee assessed on an employer
2 OR THE COURT for each CAPS check. The state department shall establish
3 and collect the fee pursuant to parameters set forth in rule established by
4 the state board. At a minimum, the state board's rules must include a
5 provision requiring the state department to provide notice of the fee to
6 interested persons and the maximum fee amount that the state department
7 shall not exceed without the express approval of the state board. The fee
8 established must not exceed direct and indirect costs incurred for the
9 administrative appeals process for persons appealing claims of
10 mistreatment of at-risk adults and the direct and indirect costs of
11 conducting employer-requested OR COURT-REQUESTED CAPS checks
12 pursuant to this section. Fees collected for CAPS checks shall be
13 transferred to the state treasurer and credited to the records and reports
14 fund created in section 19-1-307 (2.5).

15 (10) **Notification to employer.** The state department shall provide
16 notification to the employer if a substantiated finding of mistreatment by
17 an employee is subsequently entered into CAPS.

18 (11) **Notification to court.** THE STATE DEPARTMENT SHALL
19 PROVIDE NOTIFICATION TO THE COURT WITHIN SEVEN CALENDAR DAYS
20 AFTER A SUBSTANTIATED FINDING OF MISTREATMENT BY A PERSON
21 APPOINTED AS A CONSERVATOR OR GUARDIAN FOR AN AT-RISK ADULT IS
22 SUBSEQUENTLY ENTERED INTO CAPS. THE STATE DEPARTMENT SHALL
23 PROVIDE THE COURT WITH INFORMATION CONCERNING THE
24 MISTREATMENT, WHICH INFORMATION MUST INCLUDE, AT A MINIMUM, THE
25 DATE OF THE SUBSTANTIATED FINDING, THE TYPE AND SEVERITY OF THE
26 MISTREATMENT, AND THE COUNTY THAT INVESTIGATED THE REPORT OF
27 MISTREATMENT. THE STATE DEPARTMENT SHALL DISCLOSE TO THE COURT

1 THE TIME FRAME BY WHICH AN APPEAL MAY BE INITIATED BY THE PERSON
2 SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT.

3 (12) **Notification to DORA.** (a) THE STATE DEPARTMENT SHALL
4 PROVIDE NOTIFICATION TO A HEALTH OVERSIGHT AGENCY, AS DEFINED IN
5 42 CFR 164.501, WITHIN THE DEPARTMENT OF REGULATORY AGENCIES OR
6 A REGULATOR WITHIN SUCH A HEALTH OVERSIGHT AGENCY WITHIN TEN
7 CALENDAR DAYS AFTER A SUBSTANTIATED FINDING OF MISTREATMENT BY
8 A PROFESSIONAL REGULATED BY A REGULATOR, AS THOSE TERMS ARE
9 DEFINED IN SECTION 12-20-102 (13) AND (14). THE NOTIFICATION MUST
10 PROVIDE A HEALTH OVERSIGHT AGENCY, AS DEFINED IN 42 CFR 164.501,
11 WITHIN THE DEPARTMENT OF REGULATORY AGENCIES OR A REGULATOR
12 WITHIN SUCH A HEALTH OVERSIGHT AGENCY WITH INFORMATION
13 CONCERNING THE MISTREATMENT BY THE PROFESSIONAL, WHICH
14 INFORMATION MUST INCLUDE, AT A MINIMUM, THE PROFESSIONAL LICENSE
15 NUMBER OF THE PERSON SUBSTANTIATED IN A CASE OF MISTREATMENT,
16 THE DATE OF THE SUBSTANTIATED FINDING, THE NAME OF THE
17 MISTREATED AT-RISK ADULT, THE TYPE AND SEVERITY OF THE
18 MISTREATMENT, THE LOCATION OR RESIDENCE OF THE MISTREATED
19 AT-RISK ADULT, THE LOCATION WHERE THE MISTREATMENT OCCURRED,
20 AND THE COUNTY THAT INVESTIGATED THE REPORT OF MISTREATMENT. ==

21 THE STATE DEPARTMENT SHALL DISCLOSE TO A HEALTH OVERSIGHT
22 AGENCY, AS DEFINED IN 42 CFR 164.501, WITHIN THE DEPARTMENT OF
23 REGULATORY AGENCIES, OR A REGULATOR WITHIN SUCH A HEALTH
24 OVERSIGHT AGENCY, THAT THE PERSON SUBSTANTIATED IN A CASE OF
25 MISTREATMENT OF AN AT-RISK ADULT HAS THE RIGHT TO INITIATE AN
26 APPEAL OF THE SUBSTANTIATED FINDING WITHIN THE TIME FRAME SET
27 FORTH IN STATE DEPARTMENT RULES.

1 (b) ANY INFORMATION THE STATE DEPARTMENT PROVIDES TO A
2 HEALTH OVERSIGHT AGENCY, AS DEFINED IN 42 CFR 164.501, WITHIN THE
3 DEPARTMENT OF REGULATORY AGENCIES OR A REGULATOR WITHIN SUCH
4 A HEALTH OVERSIGHT AGENCY PURSUANT TO SUBSECTION (12)(a) OF THIS
5 SECTION IS CONFIDENTIAL, NOT SUBJECT TO PART 2 OF ARTICLE 72 OF
6 TITLE 24, AND MUST BE USED FOR PURPOSES OF A REGULATORY
7 INVESTIGATION CONDUCTED PURSUANT TO SECTION 12-20-401. IF THE
8 INFORMATION IS ADMITTED AS EVIDENCE DURING A DISCIPLINARY
9 HEARING HELD PURSUANT TO SECTION 12-20-403 OR USED AS THE BASIS
10 OF PUBLIC DISCIPLINE, THE INFORMATION MUST BE DE-IDENTIFIED TO
11 PROTECT THE PRIVACY OF THE AT-RISK ADULT. A HEALTH OVERSIGHT
12 AGENCY, AS DEFINED IN 42 CFR 164.501, WITHIN THE DEPARTMENT OF
13 REGULATORY AGENCIES OR A REGULATOR WITHIN SUCH A HEALTH
14 OVERSIGHT AGENCY SHALL HAVE THE DISCRETION TO CONSIDER THE
15 RESULTS OF THE CAPS CHECK AND DETERMINE THE WEIGHT OF THE
16 INFORMATION AND ITS PROBATIVE VALUE.

17 (c) (I) THE NOTIFICATION PROCESS DESCRIBED IN THIS SUBSECTION
18 (12) MUST BE OPERATIONAL NO LATER THAN JANUARY 1, 2022.

19 (II) THIS SUBSECTION (12)(c) IS REPEALED, EFFECTIVE JANUARY 1,
20 2022.

21 **SECTION 5.** In Colorado Revised Statutes, 12-20-401, **add** (7)
22 as follows:

23 **12-20-401. Procedures for complaints concerning licensees,**
24 **certificate holders, and registrants - executive director authority -**
25 **rules.** (7) INFORMATION ABOUT A SUBSTANTIATED FINDING OF
26 MISTREATMENT OF AN AT-RISK ADULT OR THE APPEAL OF A FINDING THAT
27 THE DEPARTMENT OF HUMAN SERVICES SHARES WITH THE DEPARTMENT OR

1 A REGULATOR FOR THE PURPOSES OF A REGULATORY INVESTIGATION
2 CONDUCTED PURSUANT TO THIS SECTION IS CONFIDENTIAL AND MUST BE
3 DE-IDENTIFIED TO PROTECT THE PRIVACY OF THE AT-RISK ADULT.

4 **SECTION 6.** In Colorado Revised Statutes, 12-20-404, **add** (7)
5 as follows:

6 **12-20-404. Disciplinary actions - regulator powers -**
7 **disposition of fines - mistreatment of at-risk adult. (7) Mistreatment**
8 **of at-risk adult.** A LICENSEE, CERTIFICATE HOLDER, OR REGISTRANT
9 SUBSTANTIATED IN A CASE OF MISTREATMENT OF AN AT-RISK ADULT
10 WHILE PERFORMING PROFESSIONAL DUTIES SHALL PROVIDE THE
11 LICENSEE'S, CERTIFICATE HOLDER'S, OR REGISTRANT'S PROFESSIONAL
12 LICENSE NUMBER TO COUNTY ADULT PROTECTIVE SERVICES, UPON
13 REQUEST.

14 **SECTION 7. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2022 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.