

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

**REENGROSSED**

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

LLS NO. 23-0191.01 Christy Chase x2008

**HOUSE BILL 23-1077**

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Health & Insurance  
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.*

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 IS RECOGNIZED BY AND HAS BEEN  
9 INTRODUCED TO THE PATIENT AS PART OF THE PATIENT'S CARE TEAM; AND

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

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

25 (II) IF A LICENSEE HAS OBTAINED THE PATIENT'S SPECIFIC  
26 INFORMED CONSENT TO HEALTH CARE, AND AN INTIMATE EXAMINATION  
27 IS NECESSARY TO OR INCLUDED IN THE HEALTH CARE TO WHICH THE

1 PATIENT HAS PREVIOUSLY CONSENTED, THE LICENSEE NEED NOT OBTAIN  
2 A SEPARATE SPECIFIC INFORMED CONSENT FROM THE PATIENT IN ORDER TO  
3 PERFORM THE INTIMATE EXAMINATION.

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

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

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

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

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

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

26 (V) PROVIDES THE PATIENT THE ABILITY TO CONSENT TO OR  
27 DECLINE THE FOLLOWING:

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

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

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

8 (b) OBTAIN THE SIGNATURE OF THE PATIENT ON THE WRITTEN OR  
9 ELECTRONIC DOCUMENT, WHICH ACT MUST BE WITNESSED BY A THIRD  
10 PARTY; 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 A  
20 REGULATOR FOR USE BY LICENSEES, SO LONG AS THE DOCUMENT SATISFIES  
21 THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION.

22 (b) IF REGULATORS OF LICENSEES DEVELOP A WRITTEN OR  
23 ELECTRONIC DOCUMENT FOR USE BY LICENSEES, THE REGULATORS SHALL  
24 COORDINATE WITH EACH OTHER AS NECESSARY TO DEVELOP A SINGLE,  
25 CONSISTENT DOCUMENT FOR USE BY ALL LICENSEES, REGARDLESS OF  
26 PRACTICE AREA, THAT COMPLIES WITH THE REQUIREMENTS OF SUBSECTION  
27 (2) OF THIS SECTION.

1 (c) THE LICENSEE SHALL MAKE THE COMPLETED, SIGNED SPECIFIC  
2 INFORMED CONSENT DOCUMENT AVAILABLE TO THE PATIENT.

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

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

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

22 (6) AS USED IN THIS SECTION:

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

25 (b) "INTIMATE EXAMINATION" MEANS A BREAST, PELVIC,  
26 PROSTATE, OR RECTAL EXAMINATION.

27 (c) "LICENSED HEALTH-CARE FACILITY" MEANS A HEALTH-CARE

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

5 (d) "LICENSEE" MEANS:

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

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

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

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

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

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

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

23 (e) "PATIENT" MEANS AN INDIVIDUAL UNDER THE CARE OF A  
24 HEALTH-CARE PROVIDER OR THE PATIENT'S AUTHORIZED REPRESENTATIVE.

25 (f) "PATIENT'S AUTHORIZED REPRESENTATIVE" MEANS AN  
26 INDIVIDUAL WHO IS AUTHORIZED TO MAKE HEALTH-CARE DECISIONS FOR  
27 OR EXERCISE RIGHTS ON BEHALF OF THE PATIENT, INCLUDING, FOR A

1 PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE, THE PARENT OR LEGAL  
2 GUARDIAN OF, OR THE INDIVIDUAL STANDING IN LOCO PARENTIS TO, THE  
3 PATIENT.

4 (g) "REGULATOR" MEANS:

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

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

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

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

14 (I) AN APPROVED MEDICAL COLLEGE, AS DEFINED IN SECTION  
15 12-240-104 (3);

16 (II) AN APPROVED EDUCATION PROGRAM, AS DEFINED IN SECTION  
17 12-255-104 (2), FOR PROFESSIONAL NURSING; OR

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

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

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

27 **SECTION 2.** In Colorado Revised Statutes, **add** 25-3-130 as



1 follows:

2

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

7 (I) DEVELOP A POLICY PROHIBITING A LICENSED HEALTH-CARE  
8 PROVIDER, OR A STUDENT OR TRAINEE UNDER THE SUPERVISION OF A  
9 LICENSED HEALTH-CARE PROVIDER, FROM PERFORMING AN INTIMATE  
10 EXAMINATION OF A SEDATED OR UNCONSCIOUS PATIENT AT THE  
11 HEALTH-CARE FACILITY IF THE INTIMATE EXAMINATION IS FOR  
12 EDUCATIONAL OR TRAINING PURPOSES; OR

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

23 (b) IF A HEALTH-CARE FACILITY DEVELOPS A POLICY IN  
24 ACCORDANCE WITH SUBSECTION (1)(a)(I) OF THIS SECTION, THE  
25 HEALTH-CARE FACILITY SHALL MAKE THE POLICY AVAILABLE TO THE  
26 PUBLIC, INCLUDING ON THE HEALTH-CARE FACILITY'S PUBLIC-FACING  
27 WEBSITE.

1 (c) IF A HEALTH-CARE FACILITY DEVELOPS A SPECIFIC INFORMED  
2 CONSENT DOCUMENT PURSUANT TO SUBSECTION (1)(a)(II) OF THIS  
3 SECTION, THE HEALTH-CARE FACILITY SHALL MAKE THE DOCUMENT  
4 AVAILABLE FOR USE BY LICENSED HEALTH-CARE PROVIDERS, AND SHALL  
5 DIRECT LICENSED HEALTH-CARE PROVIDERS TO USE THE DOCUMENT TO  
6 OBTAIN A PATIENT'S SPECIFIC INFORMED CONSENT, BEFORE PERFORMING  
7 OR ALLOWING STUDENTS OR TRAINEES UNDER THE LICENSED  
8 HEALTH-CARE PROVIDERS' SUPERVISION TO PERFORM INTIMATE  
9 EXAMINATIONS FOR EDUCATIONAL OR TRAINING PURPOSES ON SEDATED OR  
10 UNCONSCIOUS PATIENTS.

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

20 (b) A LICENSED HEALTH-CARE PROVIDER DOES NOT VIOLATE THE  
21 HEALTH-CARE FACILITY'S POLICY UNDER SUBSECTION (1)(a)(I) OF THIS  
22 SECTION OR SECTION 12-30-120, AND THE HEALTH-CARE FACILITY SHALL  
23 NOT REPORT THE LICENSED HEALTH-CARE PROVIDER TO THE REGULATOR,  
24 IF THE LICENSED HEALTH-CARE PROVIDER, AS SPECIFIED IN SECTION  
25 12-30-120 (1)(b), PERFORMS AN INTIMATE EXAMINATION ON A SEDATED  
26 OR UNCONSCIOUS PATIENT WITHOUT FIRST OBTAINING THE PATIENT'S  
27 SPECIFIC INFORMED CONSENT:

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

3 (II) WHEN THE PATIENT HAS PREVIOUSLY CONSENTED TO HEALTH  
4 CARE AND AN INTIMATE EXAMINATION IS NECESSARY TO OR INCLUDED IN  
5 THE CARE TO WHICH THE PATIENT HAS CONSENTED.

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

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

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

24 (5) AS USED IN THIS SECTION:

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

1 BEHALF OF THE HEALTH-CARE FACILITY.

2 (b) "INTIMATE EXAMINATION" MEANS A BREAST, PELVIC,  
3 PROSTATE, OR RECTAL EXAMINATION.

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

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

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

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

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

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

15 (III) AN ADVANCED PRACTICE REGISTERED NURSE, AS DEFINED IN  
16 SECTION 12-255-104 (1); A REGISTERED NURSE, AS DEFINED IN SECTION  
17 12-255-104 (11); OR A MIDWIFE, OTHER THAN A DIRECT-ENTRY MIDWIFE  
18 OR CERTIFIED NURSE MIDWIFE, PRACTICING IN THIS STATE WHOSE SCOPE  
19 OF PRACTICE INCLUDES PERFORMING INTIMATE EXAMINATIONS; OR

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

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

25 (e) "PATIENT'S AUTHORIZED REPRESENTATIVE" MEANS AN  
26 INDIVIDUAL WHO IS AUTHORIZED TO MAKE HEALTH-CARE DECISIONS FOR  
27 OR EXERCISE RIGHTS ON BEHALF OF THE PATIENT, INCLUDING, FOR A

1 PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE, THE PARENT OR LEGAL  
2 GUARDIAN OF, OR THE INDIVIDUAL STANDING IN LOCO PARENTIS TO, THE  
3 PATIENT.

4 (f) "REGULATOR" MEANS:

5 (I) FOR LICENSED HEALTH-CARE PROVIDERS DESCRIBED IN  
6 SUBSECTIONS (5)(c)(I) AND (5)(c)(II) OF THIS SECTION, THE COLORADO  
7 MEDICAL BOARD CREATED IN SECTION 12-240-105;

8 (II) FOR LICENSED HEALTH-CARE PROVIDERS DESCRIBED IN  
9 SUBSECTION (5)(c)(III) OF THIS SECTION, THE STATE BOARD OF NURSING  
10 CREATED IN SECTION 12-255-105; AND

11 (III) FOR LICENSED HEALTH-CARE PROVIDERS DESCRIBED IN  
12 SUBSECTION (5)(c)(IV) OF THIS SECTION, THE DIRECTOR OF THE DIVISION  
13 OF PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY  
14 AGENCIES.

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

16 (I) AN APPROVED MEDICAL COLLEGE, AS DEFINED IN SECTION  
17 12-240-104 (3);

18 (II) AN APPROVED EDUCATION PROGRAM, AS DEFINED IN SECTION  
19 12-255-104 (2), FOR PROFESSIONAL NURSING; OR

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

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

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

3 **SECTION 3. Appropriation.** For the 2023-24 state fiscal year,  
4 \$25,218 is appropriated to the department of public health and  
5 environment for use by the health facilities and emergency medical  
6 services division. This appropriation is from the general fund and is based  
7 on an assumption that the department will require an additional 0.3 FTE.  
8 To implement this act, the division may use this appropriation for  
9 administration and operations related to operations management.

10 **SECTION 4. Act subject to petition - effective date.** This act  
11 takes effect January 1, 2024; except that, if a referendum petition is filed  
12 pursuant to section 1 (3) of article V of the state constitution against this  
13 act or an item, section, or part of this act within the ninety-day period  
14 after final adjournment of the general assembly, then the act, item,  
15 section, or part will not take effect unless approved by the people at the  
16 general election to be held in November 2024 and, in such case, will take  
17 effect on the date of the official declaration of the vote thereon by the  
18 governor.