

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

**PREAMENDED**

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

LLS NO. 23-0191.01 Christy Chase x2008

**HOUSE BILL 23-1077**

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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     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 PROVIDE  
26 THE RECORD TO THE PATIENT ONCE THE PATIENT IS NO LONGER UNDER  
27 SEDATION OR UNCONSCIOUS; OR

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

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

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

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

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

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

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

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

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

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

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

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

12 (c) SIGN THE WRITTEN OR ELECTRONIC DOCUMENT.

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

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

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

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

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

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

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

21           (6) AS USED IN THIS SECTION:

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

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

26           **(II) "INTIMATE EXAMINATION" DOES NOT INCLUDE A VISUAL**  
27 **EXAMINATION OF A PART OF THE BODY SPECIFIED IN SUBSECTION (6)(b)(I)**

1 OF THIS SECTION THAT OCCURS INCIDENTAL TO THE CARE BEING PROVIDED.

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

7 (d) "LICENSEE" MEANS:

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

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

27 (f) "PATIENT'S AUTHORIZED REPRESENTATIVE" MEANS AN

1 INDIVIDUAL WHO IS AUTHORIZED TO MAKE HEALTH-CARE DECISIONS FOR  
2 OR EXERCISE RIGHTS ON BEHALF OF THE PATIENT, INCLUDING, FOR A  
3 PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE, THE PARENT OR LEGAL  
4 GUARDIAN OF, OR THE INDIVIDUAL STANDING IN LOCO PARENTIS TO, THE  
5 PATIENT.

6 (g) "REGULATOR" MEANS:

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

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

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

15 (h) "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, AS  
21 DESCRIBED IN SECTION 12-225-104 (4)(c).

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

27 (j) "WHISTLEBLOWER" MEANS AN INDIVIDUAL WHO HAS



1 KNOWLEDGE OF AN ALLEGED VIOLATION OF THIS SECTION.

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

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6 **25-3-130. Intimate examination of sedated or unconscious**

7 **patient - informed consent required - definitions.** (1) (a) (I) EXCEPT

8 AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, A HEALTH-CARE

9 FACILITY SHALL NOT PERMIT A LICENSED HEALTH-CARE PROVIDER, OR A

10 STUDENT OR TRAINEE UNDER THE SUPERVISION OF A LICENSED

11 HEALTH-CARE PROVIDER, TO PERFORM AN INTIMATE EXAMINATION OF A

12 SEDATED OR UNCONSCIOUS PATIENT AT THE HEALTH-CARE FACILITY

13 UNLESS THE PATIENT HAS PROVIDED SPECIFIC INFORMED CONSENT TO THE

14 EXAMINATION IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION.

15 (II) IN ADDITION TO THE REQUIREMENT TO OBTAIN A PATIENT'S

16 SPECIFIC INFORMED CONSENT, A HEALTH-CARE FACILITY MAY ALLOW A

17 STUDENT OR TRAINEE TO PERFORM AN INTIMATE EXAMINATION OF A

18 SEDATED OR UNCONSCIOUS PATIENT FOR EDUCATIONAL OR TRAINING

19 PURPOSES ONLY IF:

20 (A) THE EXAMINATION IS RELATED TO THE PLANNED PROCEDURE

21 TO BE PERFORMED ON THE PATIENT AT THE HEALTH-CARE FACILITY;

22 (B) THE STUDENT OR TRAINEE HAS BEEN INTRODUCED TO THE

23 PATIENT AS PART OF THE PATIENT'S CARE TEAM, AND THE STUDENT'S OR

24 TRAINEE'S ROLE IN PERFORMING AN INTIMATE EXAMINATION FOR

25 EDUCATIONAL OR TRAINING PURPOSES HAS BEEN SHARED WITH THE

26 PATIENT; AND

27 (C) THE STUDENT OR TRAINEE IS UNDER THE DIRECT SUPERVISION

1 OF THE LICENSED HEALTH-CARE PROVIDER RESPONSIBLE FOR SUPERVISING  
2 THE STUDENT OR TRAINEE.

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

5 (I) A LICENSED HEALTH-CARE PROVIDER TO PERFORM AN INTIMATE  
6 EXAMINATION OF A PATIENT WHO IS SEDATED OR UNCONSCIOUS WITHOUT  
7 OBTAINING THE PATIENT'S SPECIFIC INFORMED CONSENT IN EMERGENCY  
8 SITUATIONS WHEN THE INTIMATE EXAMINATION IS MEDICALLY NECESSARY  
9 FOR THE LIFE OR WELL-BEING OF THE PATIENT, BUT THE LICENSED  
10 HEALTH-CARE PROVIDER MUST MAKE A RECORD OF PERFORMING THE  
11 EXAMINATION WITHOUT OBTAINING THE PATIENT'S SPECIFIC INFORMED  
12 CONSENT, INCLUDING AN EXPLANATION OF THE REASON FOR NOT  
13 OBTAINING THE PATIENT'S CONSENT, AND PROVIDE THE RECORD TO THE  
14 PATIENT ONCE THE PATIENT IS NO LONGER UNDER SEDATION OR  
15 UNCONSCIOUS; OR

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

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

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

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

7           (II) SPECIFIES THE NATURE AND PURPOSE OF THE INTIMATE  
8 EXAMINATION;

9           (III) NAMES ONE OR MORE LICENSED HEALTH-CARE PROVIDERS  
10 WHOM THE PATIENT MAY AUTHORIZE TO PERFORM THE INTIMATE  
11 EXAMINATION;

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

18           (V) PROVIDES THE PATIENT THE ABILITY TO CONSENT TO OR  
19 DECLINE THE FOLLOWING:

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

22           (B) AN INTIMATE EXAMINATION FOR EDUCATIONAL OR TRAINING  
23 PURPOSES, TO BE PERFORMED BY A LICENSED HEALTH-CARE PROVIDER;  
24 AND

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

1           (b) OBTAIN THE SIGNATURE OF THE PATIENT ON THE WRITTEN OR  
2 ELECTRONIC DOCUMENT; AND

3           (c) SIGN THE WRITTEN OR ELECTRONIC DOCUMENT.

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

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

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

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

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

22           (4) (a) IF A HEALTH-CARE FACILITY VIOLATES THIS SECTION, OR  
23 RETALIATES AGAINST AN INDIVIDUAL, INCLUDING A WHISTLEBLOWER, FOR  
24 FILING A COMPLAINT REGARDING A VIOLATION OF THIS SECTION WITH THE  
25 DEPARTMENT OR A REGULATOR OR FOR OTHERWISE COMPLAINING TO ANY  
26 OTHER PERSON, THE DEPARTMENT MAY TAKE ACTION AUTHORIZED IN THIS  
27 ARTICLE 3 AGAINST THE HEALTH-CARE FACILITY'S LICENSE OR IMPOSE

1 RESTRICTIONS OR CONDITIONS ON THE HEALTH-CARE FACILITY AS THE  
2 DEPARTMENT DETERMINES APPROPRIATE, AFTER A HEARING ON THE  
3 MATTER IN ACCORDANCE WITH THE REQUIREMENTS AND PROCEDURES  
4 SPECIFIED IN ARTICLE 4 OF TITLE 24.

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

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

14 (6) AS USED IN THIS SECTION:

15 (a) "HEALTH-CARE FACILITY" MEANS A HEALTH-CARE FACILITY  
16 LICENSED OR CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION  
17 25-1.5-103 (1)(a) AND INCLUDES AN INDIVIDUAL AUTHORIZED TO ACT ON  
18 BEHALF OF THE HEALTH-CARE FACILITY.

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

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

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

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

27 (II) A PERSON WHO HOLDS A PHYSICIAN TRAINING LICENSE ISSUED

1 PURSUANT TO SECTION 12-240-128 AND IS:

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

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

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

8 (III) AN ADVANCED PRACTICE REGISTERED NURSE, AS DEFINED IN  
9 SECTION 12-255-104 (1); A REGISTERED NURSE, AS DEFINED IN SECTION  
10 12-255-104 (11); OR A MIDWIFE, OTHER THAN A DIRECT-ENTRY MIDWIFE  
11 OR CERTIFIED NURSE MIDWIFE, PRACTICING IN THIS STATE WHOSE SCOPE  
12 OF PRACTICE INCLUDES PERFORMING INTIMATE EXAMINATIONS; OR

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

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

18 (e) "PATIENT'S AUTHORIZED REPRESENTATIVE" MEANS AN  
19 INDIVIDUAL WHO IS AUTHORIZED TO MAKE HEALTH-CARE DECISIONS FOR  
20 OR EXERCISE RIGHTS ON BEHALF OF THE PATIENT, INCLUDING, FOR A  
21 PATIENT WHO IS UNDER EIGHTEEN YEARS OF AGE, THE PARENT OR LEGAL  
22 GUARDIAN OF, OR THE INDIVIDUAL STANDING IN LOCO PARENTIS TO, THE  
23 PATIENT.

24 (f) "REGULATOR" MEANS:

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

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

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

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

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

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

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

16 (h) "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 TITLE 12 FOR THE INDIVIDUAL TO BECOME  
20 A LICENSED HEALTH-CARE PROVIDER.

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

23 **SECTION 3. Appropriation.** For the 2023-24 state fiscal year,  
24 \$32,915 is appropriated to the department of public health and  
25 environment for use by the health facilities and emergency medical  
26 services division. This appropriation is from the general fund and is based  
27 on an assumption that the department will require an additional 0.4 FTE.

1 To implement this act, the division may use this appropriation for  
2 administration and operations related to operations management.

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