

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0029.01 Josh Schultz x5486

HOUSE BILL 24-1217

HOUSE SPONSORSHIP

Amabile,

SENATE SPONSORSHIP

(None),

House Committees
Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE DISSEMINATION OF PATIENT HEALTH-CARE
102 INFORMATION.

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 and Accountability Act of 1996".

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.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 27-50-101, **add**
3 (11.5), (13.7), (14.5), and (17.5) as follows:

4 **27-50-101. Definitions.** As used in this article 50, unless the
5 context otherwise requires:

6 (11.5) "COVERED ENTITY" MEANS AN ENTITY SUBJECT TO HIPAA.

7 (13.7) "FRIENDS AND FAMILY INPUT FORM" MEANS A FORM
8 CREATED PURSUANT TO SECTION 27-50-111 TO ALLOW FAMILY AND
9 FRIENDS TO PROVIDE HEALTH OR BACKGROUND INFORMATION ABOUT AN
10 INDIVIDUAL RECEIVING MENTAL HEALTH OR SUBSTANCE USE SERVICES.

11 (14.5) "HIPAA" MEANS THE FEDERAL "HEALTH INSURANCE
12 PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SECS.
13 1320d TO 1320d-9, AS AMENDED.

14 (17.5) "RELEASE FORM" MEANS THE UNIVERSAL BEHAVIORAL
15 HEALTH CONSENT FORM CREATED PURSUANT TO SECTION 27-50-109.

16 **SECTION 2.** In Colorado Revised Statutes, **add** 27-50-109,
17 27-50-110, and 27-50-111 as follows:

1 **27-50-109. Universal behavioral health consent form - rules -**

2 **availability.** (1) (a) THE BHA SHALL CREATE A UNIVERSAL BEHAVIORAL
3 HEALTH CONSENT FORM TO BE USED AS AN OPTIONAL FORM FOR
4 AUTHORIZATION TO RELEASE PROTECTED HEALTH INFORMATION FOR
5 INDIVIDUALS SEEKING BEHAVIORAL HEALTH SERVICES. THE RELEASE
6 FORM:

7 (I) CONSTITUTES A HIPAA-COMPLIANT AUTHORIZATION FOR
8 DISCLOSURE OF AN INDIVIDUAL'S PROTECTED HEALTH INFORMATION; AND

9 (II) CONSTITUTES AN AUTHORIZATION FOR DISCLOSURE OF AN
10 INDIVIDUAL'S PROTECTED HEALTH INFORMATION IN COMPLIANCE WITH 42
11 CFR 2 OR SUCCESSOR FEDERAL REGULATIONS.

12 (b) THE BHA SHALL ENSURE THAT THE RELEASE FORM:

13 (I) REQUIRES SEPARATE SIGNATURES, ONE TO AUTHORIZE THE
14 DISCLOSURE OF PROTECTED HEALTH INFORMATION PURSUANT TO 42 CFR
15 2, OR SUCCESSOR FEDERAL REGULATIONS, AND ONE TO AUTHORIZE THE
16 DISCLOSURE OF PROTECTED HEALTH INFORMATION PURSUANT TO HIPAA;

17 (II) CLEARLY STATES THAT INDIVIDUALS SIGNING THE FORM ARE
18 CONSENTING TO THE DISCLOSURE OF THEIR PROTECTED HEALTH
19 INFORMATION PURSUANT TO BOTH 42 CFR 2, OR SUCCESSOR FEDERAL
20 REGULATIONS, AND HIPAA;

21 (III) INCLUDES A SECTION ALLOWING AN INDIVIDUAL TO IDENTIFY
22 PERSONS WHO HAVE CONSENTED TO RECEIVE DISCLOSURE OF THE
23 INDIVIDUAL'S PROTECTED HEALTH INFORMATION;

24 (IV) IS WRITTEN IN PLAIN LANGUAGE; AND

25 (V) IS AVAILABLE IN MULTIPLE LANGUAGES.

26 (c) AN INDIVIDUAL MAY REVOKE OR AMEND THE INDIVIDUAL'S
27 RELEASE FORM AT ANY TIME. AN AMENDED RELEASE FORM IS EFFECTIVE:

1 (I) UPON THE INDIVIDUAL'S SIGNATURE; AND
2 (II) FOR TWO YEARS FOLLOWING THE DATE THAT THE INDIVIDUAL
3 SIGNED THE AMENDED FORM.

4 (d) AT LEAST EVERY SIX MONTHS, A COVERED ENTITY SHALL ASK
5 AN INDIVIDUAL WHO SIGNED A RELEASE FORM IF THE INDIVIDUAL WOULD
6 LIKE TO UPDATE ANY INFORMATION ON THE FORM.

7 (2) A RELEASE FORM IS EFFECTIVE FOR TWO YEARS FOLLOWING
8 THE DATE AN INDIVIDUAL SIGNS THE RELEASE FORM UNLESS THE
9 INDIVIDUAL EXECUTES A NEW RELEASE FORM OR AMENDS OR REVOKES THE
10 RELEASE FORM IN WRITING.

11 (3) A COVERED ENTITY, OR A PART 2 PROGRAM, AS DEFINED BY 42
12 CFR 2.11, MAY DISCLOSE AN INDIVIDUAL'S PROTECTED HEALTH
13 INFORMATION WITHOUT USE OF THE RELEASE FORM WHERE PERMITTED BY
14 HIPAA.

15 (4) THE BHA MAY PROMULGATE RULES TO DEVELOP THE RELEASE
16 FORM.

17 (5) IN IMPLEMENTING THIS SECTION, THE DEPARTMENT SHALL
18 ENGAGE WITH AND SOLICIT FEEDBACK FROM INTERESTED AND IMPACTED
19 STAKEHOLDERS, INCLUDING STAKEHOLDERS WITH LEGAL EXPERTISE
20 REGARDING 42 CFR 2, OR SUCCESSOR FEDERAL REGULATIONS, AND
21 HIPAA; BEHAVIORAL HEALTH PROVIDERS, INCLUDING BEHAVIORAL
22 HEALTH SAFETY NET PROVIDERS; SUBSTANCE USE PROVIDERS;
23 REPRESENTATIVES OF CONSUMER ADVOCACY ORGANIZATIONS;
24 REPRESENTATIVES OF DISABILITY ADVOCACY ORGANIZATIONS; AND ANY
25 OTHER INDIVIDUALS THAT THE BHA DEEMS NECESSARY.

26 (6) THE DEPARTMENT SHALL MAKE THE RELEASE FORM AVAILABLE
27 TO THE PUBLIC ON THE DEPARTMENT'S WEBSITE. THE DEPARTMENT SHALL

1 NOTIFY AFFECTED COVERED ENTITIES ABOUT THE RELEASE FORM.

2 **27-50-110. Centralized digital consent repository working**
3 **group - duties - report - repeal.** (1) THE OFFICE OF E-HEALTH
4 INNOVATION IN THE GOVERNOR'S OFFICE SHALL CONVENE A WORKING
5 GROUP TO EVALUATE THE FEASIBILITY OF CREATING A CENTRALIZED
6 DIGITAL CONSENT REPOSITORY THAT:

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

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

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

16 (2) THE WORKING GROUP SHALL:

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

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

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

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

25 (e) IDENTIFY BEST PRACTICES FOR PROTECTING PATIENT DATA;

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

1 (g) ENGAGE WITH THE DEPARTMENT OF REGULATORY AGENCIES
2 REGARDING IMPLEMENTATION OF THE RELEASE FORMS; AND

3 (h) MAKE RECOMMENDATIONS ON ANY OTHER TOPICS THE
4 WORKING GROUP DEEMS RELEVANT.

5 (3) THE WORKING GROUP MAY CONSULT WITH ADDITIONAL
6 STAKEHOLDERS AND EXPERTS AS NEEDED TO INFORM THE WORKING
7 GROUP'S DISCUSSIONS AND TO ANSWER QUESTIONS TO ASSIST THE
8 WORKING GROUP IN FINALIZING ITS FINDINGS AND RECOMMENDATIONS.

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

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

21 (6) (a) ON OR BEFORE JANUARY 1, 2026, THE WORKING GROUP
22 SHALL SUBMIT A REPORT INCLUDING RECOMMENDATIONS REGARDING THE
23 FEASIBILITY OF CREATING A CENTRALIZED DIGITAL CONSENT REPOSITORY
24 TO THE HOUSE OF REPRESENTATIVES HEALTH AND HUMAN SERVICES
25 COMMITTEE, THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE, AND
26 THE JOINT TECHNOLOGY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

27 (b) THE OFFICE OF E-HEALTH INNOVATION SHALL MAKE THE

1 REPORT AVAILABLE TO THE PUBLIC ON THE OFFICE'S WEBSITE.

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

3 **27-50-111. Friends and family input form - rules - definition.**

4 (1) ON OR BEFORE JULY 1, 2025, THE BHA SHALL CREATE A FRIENDS AND
5 FAMILY INPUT FORM TO ALLOW AN INDIVIDUAL TO PROVIDE A TREATING
6 PROFESSIONAL OR A LICENSED OR DESIGNATED FACILITY OR
7 ORGANIZATION WITH PROTECTED INFORMATION RELATED TO A PATIENT
8 RECEIVING MENTAL HEALTH OR SUBSTANCE USE SERVICES, INCLUDING:

9 (a) INFORMATION ABOUT A PATIENT'S:

10 (I) DIAGNOSIS;

11 (II) PAST HOSPITALIZATIONS;

12 (III) DE-ESCALATION TECHNIQUES;

13 (IV) CURRENT AND PAST PROVIDERS AND THEIR CONTACT
14 INFORMATION;

15 (V) POTENTIAL TRIGGERS;

16 (VI) HOUSING STATUS;

17 (VII) CURRENT MEDICAL CONDITIONS; AND

18 (VIII) CURRENT AND PAST MEDICATIONS; AND

19 (b) ANY OTHER INFORMATION AS DETERMINED BY THE BHA BASED
20 ON FEEDBACK RECEIVED FROM STAKEHOLDERS.

21 (2) ON OR BEFORE OCTOBER 1, 2024, THE BHA SHALL CONVENE
22 ONE OR MORE MEETINGS TO OBTAIN INPUT AND RECOMMENDATIONS FROM
23 STAKEHOLDERS, INCLUDING CONSUMER ADVOCATES; BEHAVIORAL
24 HEALTH PROVIDERS, INCLUDING BEHAVIORAL HEALTH SAFETY NET
25 PROVIDERS; REPRESENTATIVES FROM THE DEPARTMENT OF PUBLIC HEALTH
26 AND ENVIRONMENT AND THE DEPARTMENT OF CORRECTIONS; INDIVIDUALS
27 WITH EXPERTISE IN STATE AND FEDERAL PRIVACY LAW; AND INDIVIDUALS

1 WHO HAVE ACCESSED MENTAL HEALTH OR SUBSTANCE USE SERVICES,
2 CONCERNING THE BEST PRACTICES FOR CREATION AND USE OF THE FRIENDS
3 AND FAMILY INPUT FORM DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

4 (3) (a) THE FRIENDS AND FAMILY INPUT FORM MAY BE ACCEPTED
5 IN WRITING OR ELECTRONICALLY BY ANY HEALTH-CARE FACILITY OR
6 PROVIDER LICENSED OR DESIGNATED BY THE BHA, ANY LICENSEE AS
7 DEFINED IN SECTION 12-245-202 (8), ANY REGISTRANT AS DEFINED IN
8 SECTION 12-245-202 (16), THE DEPARTMENT OF PUBLIC HEALTH AND
9 ENVIRONMENT, THE DEPARTMENT OF CORRECTIONS, A COUNTY OR
10 DISTRICT PUBLIC HEALTH AGENCY, THE DEPARTMENT OF HEALTH CARE
11 POLICY AND FINANCING, OR ANY OTHER TREATMENT FACILITY FOR
12 INDIVIDUALS WITH BEHAVIORAL OR MENTAL HEALTH DISORDERS.

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

15 (c) A TREATING PROFESSIONAL OR A LICENSED OR DESIGNATED
16 FACILITY OR ORGANIZATION SHALL NOT DISTRIBUTE THE FRIENDS AND
17 FAMILY INPUT FORM TO ANY OTHER ENTITY.

18 (d) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO MODIFY OR
19 ALTER ANY GENERALLY ACCEPTED ETHICS, STANDARDS, PROTOCOLS, OR
20 LAWS GOVERNING TREATING PROFESSIONALS. A COVERED ENTITY,
21 TREATING PROFESSIONAL, OR THE PROFESSIONAL'S DESIGNEE IS NOT
22 SUBJECT TO ANY CIVIL, CRIMINAL, OR REGULATORY SANCTION FOR ACTING
23 OR FAILING TO ACT IN RESPONSE TO THE INFORMATION CONTAINED IN THE
24 FRIENDS AND FAMILY INPUT FORM OR FOR DECLINING TO ACCEPT A
25 FRIENDS AND FAMILY INPUT FORM.

26 (4) (a) A FRIEND OR FAMILY MEMBER PROVIDING INFORMATION
27 ABOUT AN INDIVIDUAL SHALL ENSURE THE INFORMATION IS ACCURATE TO

1 THE BEST KNOWLEDGE OF THE FRIEND OR FAMILY MEMBER PROVIDING THE
2 INFORMATION.

3 (b) (I) IT IS UNLAWFUL FOR AN INDIVIDUAL TO KNOWINGLY AND
4 INTENTIONALLY MAKE A FALSE STATEMENT ON A FRIENDS AND FAMILY
5 INPUT FORM.

6 (II) AN INDIVIDUAL WHO KNOWINGLY AND INTENTIONALLY MAKES
7 A FALSE STATEMENT ON A FRIENDS AND FAMILY INPUT FORM COMMITS AN
8 UNCLASSIFIED MISDEMEANOR AND, UPON CONVICTION OF THE
9 MISDEMEANOR, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE
10 THOUSAND DOLLARS.

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

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

17 (c) A TREATING PROFESSIONAL OR A LICENSED OR DESIGNATED
18 FACILITY OR ORGANIZATION MAY ACCEPT INPUT VERBALLY, INCLUDING
19 THROUGH VOICEMAIL. IF A TREATING PROFESSIONAL OR A LICENSED OR
20 DESIGNATED FACILITY OR ORGANIZATION ACCEPTS INPUT VERBALLY, THE
21 TREATING PROFESSIONAL OR LICENSED OR DESIGNATED FACILITY OR
22 ORGANIZATION SHALL ESTABLISH AND DOCUMENT THE PROCESS FOR
23 ACCEPTING VERBAL INPUT.

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

27 (6) (a) IF THE DISCLOSURES ARE PERMITTED BY HIPAA, A

1 PROVIDER MAY SHARE A PATIENT'S INFORMATION WITH FAMILY, FRIENDS,
2 OR ANY INDIVIDUAL WITH A CLOSE, PERSONAL INTEREST IN THE
3 WELL-BEING OF THE PATIENT WITHOUT THE PATIENT'S CONSENT IF THE
4 PATIENT IS NOT PRESENT OR IS INCAPACITATED AND THE TREATING
5 PROFESSIONAL OR THE PROFESSIONAL'S DESIGNEE DETERMINES, BASED ON
6 PROFESSIONAL JUDGMENT, THAT IT IS IN THE BEST INTEREST OF THE
7 PATIENT.

8 (b) IF A PROVIDER DISCLOSES INFORMATION ABOUT A PATIENT
9 WITHOUT THE PATIENT'S CONSENT PURSUANT TO SUBSECTION (6)(a) OF
10 THIS SECTION, THE PROVIDER SHALL DISCUSS ONLY THE INFORMATION
11 THAT AN INDIVIDUAL INVOLVED NEEDS TO KNOW ABOUT A PATIENT'S CARE
12 OR PAYMENT.

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

17 (d) A PROVIDER IS NOT REQUIRED BY HIPAA TO SHARE A
18 PATIENT'S INFORMATION WHEN THE PATIENT IS NOT PRESENT OR IS
19 INCAPACITATED. THE PROVIDER MAY WAIT UNTIL THE PATIENT HAS THE
20 OPPORTUNITY TO AGREE TO THE DISCLOSURE.

21 (7) THE BHA SHALL CREATE A RESOURCE PAGE FOR BOTH
22 PROVIDERS AND FAMILIES ON ITS WEBSITE THAT INCLUDES THE FRIENDS
23 AND FAMILY INPUT FORM AND INFORMATION FROM FEDERAL GUIDANCE
24 DOCUMENTS AND SHALL NOTIFY INTERESTED STAKEHOLDERS OF THE
25 AVAILABILITY OF THE FRIENDS AND FAMILY INPUT FORM AND RESOURCE
26 PAGE.

27 (8) THE BHA MAY PROMULGATE RULES TO IMPLEMENT THIS

1 SECTION.

2 **SECTION 3. 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.