

## CHAPTER 100

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**HEALTH AND ENVIRONMENT**

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**HOUSE BILL 97-1157**

BY REPRESENTATIVES Tate, Clarke, K. Alexander, Gordon, Grossman, Hagedorn, Morrison, and Tupa;  
also SENATORS Tanner, Hernandez, Pascoe, and Weddig.

**AN ACT**

CONCERNING PATIENT ACCESS TO MEDICAL RECORDS FOR PURPOSES OF DIAGNOSIS AND TREATMENT.

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

**SECTION 1.** 25-1-801 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-801. Patient records in custody of health care facility.** (1) (a) Every patient record in the custody of a ~~hospital or related facility or institution required to be certified pursuant to section 25-1-107 (1) (I) or licensed under part 1 of article 3 of this title~~ HEALTH FACILITY LICENSED OR CERTIFIED PURSUANT TO SECTION 25-1-107 (1) OR ARTICLE 3 OF THIS TITLE, OR BOTH, OR ANY ENTITY REGULATED UNDER TITLE 10, C.R.S., PROVIDING HEALTH CARE SERVICES, AS DEFINED IN SECTION 10-16-102 (22), C.R.S., DIRECTLY OR INDIRECTLY THROUGH A MANAGED CARE PLAN, AS DEFINED IN SECTION 10-16-102 (26.5), C.R.S., OR OTHERWISE shall be available for inspection to the patient or ~~his~~ THE PATIENT'S designated representative through the attending health care provider or ~~his~~ SUCH PROVIDER'S designated representative at reasonable times and upon reasonable notice, except records pertaining to ~~psychiatric or psychological~~ MENTAL HEALTH problems or notes by a physician that, in the opinion of a licensed physician who practices psychiatry and is an independent third party, would have significant negative psychological impact upon the patient. Such independent third-party physician shall consult with the attending physician prior to making a determination with regard to the availability for inspection of any patient record and shall report in writing ~~his~~ findings to the attending physician and to the custodian of said record. A summary of records pertaining to a patient's ~~psychiatric or psychological~~ MENTAL HEALTH problems may, upon written request and signed and dated authorization, be made available to the patient or ~~his~~ THE PATIENT'S designated representative following termination of the treatment program.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(b) (I) Following ~~the patient's discharge from the hospital or related facility or institution~~ ANY TREATMENT, PROCEDURE, OR HEALTH CARE SERVICE RENDERED BY A HEALTH FACILITY LICENSED OR CERTIFIED PURSUANT TO SECTION 25-1-107 (1) OR ARTICLE 3 OF THIS TITLE, OR BOTH, OR BY AN ENTITY REGULATED UNDER TITLE 10, C.R.S., PROVIDING HEALTH CARE SERVICES, AS DEFINED IN SECTION 10-16-102 (22), C.R.S., DIRECTLY OR INDIRECTLY THROUGH A MANAGED CARE PLAN, AS DEFINED IN SECTION 10-16-102 (26.5), C.R.S., OR OTHERWISE, copies of said records, including X rays, shall be furnished to the patient upon submission of a written authorization-request for records, dated and signed by the patient, and upon the payment of the reasonable costs.

(II) IN THE EVENT THAT A LICENSED HEALTH CARE PROFESSIONAL DETERMINES THAT A COPY OF ANY X RAY, MAMMOGRAM, CT SCAN, MRI, OR OTHER FILM IS NOT SUFFICIENT FOR DIAGNOSTIC OR OTHER TREATMENT PURPOSES, THE HEALTH FACILITY OR ENTITY SHALL MAKE THE ORIGINAL OF ANY SUCH FILM AVAILABLE TO THE PATIENT OR ANOTHER HEALTH CARE PROFESSIONAL OR FACILITY AS SPECIFICALLY DIRECTED BY THE PATIENT PURSUANT TO A WRITTEN AUTHORIZATION-REQUEST FOR FILMS AND UPON THE PAYMENT OF THE REASONABLE COSTS FOR SUCH FILM. IF A HEALTH FACILITY RELEASES AN ORIGINAL FILM PURSUANT TO THIS SUBPARAGRAPH (II), IT SHALL NOT BE RESPONSIBLE FOR ANY LOSS, DAMAGE, OR OTHER CONSEQUENCES AS A RESULT OF SUCH RELEASE. ANY ORIGINAL X RAY, MAMMOGRAM, CT SCAN, MRI, OR OTHER FILM MADE AVAILABLE PURSUANT TO THIS SUBPARAGRAPH (II) SHALL BE RETURNED UPON REQUEST TO THE LENDING FACILITY WITHIN THIRTY DAYS.

**SECTION 2.** 25-1-802 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-802. Patient records in custody of individual health care providers.**

(1) (a) Every patient record in the custody of a ~~chiropractor or podiatrist~~, chiropractor, dentist, doctor of medicine, doctor of osteopathy, nurse, optometrist, AUDIOLOGIST, ACUPUNCTURIST, DIRECT-ENTRY MIDWIFE, or physical therapist required to be licensed under title 12, C.R.S., OR A PERSON PRACTICING PSYCHOTHERAPY UNDER THE PROVISIONS OF ARTICLE 43 OF TITLE 12, C.R.S., except records pertaining to ~~psychiatric or psychological~~ MENTAL HEALTH problems, shall be available to the patient upon submission of a written authorization-request for inspection of records, dated and signed by the patient, at reasonable times and upon reasonable notice. A summary of records pertaining to a patient's psychiatric or psychological problems may, upon written request and signed and dated authorization, be made available to the patient or ~~his~~ THE PATIENT'S designated representative following termination of the treatment program.

(b) (I) A copy of such records, including X rays, shall be made available to the patient or ~~his~~ THE PATIENT'S designated representative, upon written authorization-request for a copy of such records, dated and signed by the patient, upon reasonable notice and payment of the reasonable costs.

(II) IN THE EVENT THAT A LICENSED HEALTH CARE PROFESSIONAL DETERMINES THAT A COPY OF ANY X RAY, MAMMOGRAM, CT SCAN, MRI, OR OTHER FILM IS NOT SUFFICIENT FOR DIAGNOSTIC OR OTHER TREATMENT PURPOSES, THE PODIATRIST, CHIROPRACTOR, DENTIST, DOCTOR OF MEDICINE, DOCTOR OF OSTEOPATHY, NURSE, OPTOMETRIST, AUDIOLOGIST, ACUPUNCTURIST, DIRECT-ENTRY MIDWIFE, OR PHYSICAL

THERAPIST REQUIRED TO BE LICENSED UNDER TITLE 12, C.R.S., OR, SUBJECT TO THE PROVISIONS OF SECTION 25-1-801 (1) (a) AND PARAGRAPH (a) OF THIS SUBSECTION (1), THE PERSON PRACTICING PSYCHOTHERAPY UNDER THE PROVISIONS OF ARTICLE 43 OF TITLE 12, C.R.S., SHALL MAKE THE ORIGINAL OF ANY SUCH FILM AVAILABLE TO THE PATIENT OR ANOTHER HEALTHCARE PROFESSIONAL OR FACILITY AS SPECIFICALLY DIRECTED BY THE PATIENT PURSUANT TO A WRITTEN AUTHORIZATION-REQUEST FOR FILMS AND UPON THE PAYMENT OF THE REASONABLE COSTS FOR SUCH FILM. IF A PRACTITIONER RELEASES AN ORIGINAL FILM PURSUANT TO THIS SUBPARAGRAPH (II), THE PRACTITIONER SHALL NOT BE RESPONSIBLE FOR ANY LOSS, DAMAGE, OR OTHER CONSEQUENCES AS A RESULT OF SUCH RELEASE. ANY ORIGINAL X RAY, MAMMOGRAM, CT SCAN, MRI, OR OTHER FILM MADE AVAILABLE PURSUANT TO THIS SUBPARAGRAPH (II) SHALL BE RETURNED UPON REQUEST TO THE LENDING PRACTITIONER WITHIN THIRTY DAYS.

**SECTION 3.** 25-1-803 (1) (a), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

**25-1-803. Effect of this part 8 on similar rights of a patient.** (1) Nothing in this part 8 shall be construed so as to:

(a) Limit the right of a patient or ~~his~~ THE PATIENT'S designated representative to inspect the patient's medical or ~~psychological~~ MENTAL HEALTH data pursuant to section 24-72-204 (3) (a) (I), C.R.S.; or

**SECTION 4.** 10-3-1104 (1), Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**10-3-1104. Unfair methods of competition and unfair or deceptive acts or practices.** (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(x) VIOLATION OF THE PROVISIONS OF PART 8 OF ARTICLE 1 OF TITLE 25 , C.R.S., CONCERNING PATIENT RECORDS.

**SECTION 5.** 24-72-204 (3) (a) (I), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-72-204. Allowance or denial of inspection - grounds - procedure - appeal.**

(3) (a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that any of the following records, other than letters of reference concerning employment, licensing, or issuance of permits, shall be available to the person in interest under this subsection (3):

(I) Medical, ~~psychological~~ MENTAL HEALTH, sociological, and scholastic achievement data on individual persons, other than scholastic achievement data submitted as part of finalists' records as set forth in subparagraph (XI) of this paragraph (a) and exclusive of coroners' autopsy reports and group scholastic achievement data from which individuals cannot be identified; but either the custodian or the person in interest may request a professionally qualified person, who shall be furnished by the said custodian, to be present to interpret the records;

**SECTION 6. Effective date - applicability.** This act shall take effect upon passage and shall apply to acts occurring on or after said date.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 1997