

# Colorado

Colo. Const. Art. V, Section 50

No public funds shall be used by the State of Colorado, its agencies or political subdivisions to pay or otherwise reimburse, either directly or indirectly, any person, agency or facility for the performance of any induced abortion, PROVIDED HOWEVER, that the General Assembly, by specific bill, may authorize and appropriate funds to be used for those medical services necessary to prevent the death of either a pregnant woman or her unborn child under circumstances where every reasonable effort is made to preserve the life of each

[Norton v. Rocky Mt. Planned Parenthood, Inc., 2018 CO 3, 409 P.3d 331](#)

## Overview

HOLDINGS: [1]-In a citizen's action claiming the State violated Colo. Const. art. V, § 50 by indirectly paying an abortion provider through an agency, she did not state a claim for relief because the citizen did not allege that either a healthcare provider or an abortion services provider actually performed abortions in exchange for State funds; [2]-The trial court properly dismissed her complaint because the citizen did not allege that the State paid or reimbursed a health care provider directly or indirectly for the performance of any induced abortion; [3]-To state a claim for a violation of Colo. Const. art. V, § 50, her complaint must have alleged that the State made a payment to a person or entity—whether directly to that person or entity, or indirectly through an intermediary—for the purpose of compensating them for performing an abortion which was actually performed.

Colorado Senate Bill 23-1 88

CONCERNING PROTECTIONS FOR ACCESSING REPRODUCTIVE HEALTH CARE

## SENATE BILL 23-188

BY SENATOR(S) Gonzales and Jaquez Lewis, Cutter, Marchman, Moreno, Winter F., Bridges, Buckner, Coleman, Danielson, Fields, Gina!, Hansen, Hinrichsen, Kolker, Mullica, Rodriguez, Sullivan, Zenzinger, Fenberg;

also REPRESENTATIVE(S) Froelich and Titone, Epps, McCormick, Amabile, Bacon, Bird, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, Garcia, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Marshall, Martinez, McLachlan, Michaelson Jenet, Ortiz, Parenti, Ricks, Sharbini, Sirota, Snyder, Valdez, Velasco, Vigil, Willford, Woodrow, Young, McCluskie.

CONCERNING PROTECTIONS FOR ACCESSING REPRODUCTIVE HEALTH CARE.

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

**SECTION 1. Legislative declaration.** (1) The general assembly finds and declares that:

(1) The United States Supreme Court's decision in June 2022 to overturn *Roe v. Wade* in *Dobbs v. Jackson Women's Health Organization* has had immediate, disastrous effects on health care across the country. The resulting patchwork of state laws, executive orders, local ordinances, and court challenges has led to legal chaos and has caused grief, fear, and confusion.

(2) As of January 2023, twenty-four states have banned abortion or severely restricted abortion access, and more will likely try to do so in the near future;

(3) Nationally, abortion clinics across the country are closing, resulting in an eroded reproductive health-care infrastructure. Almost all abortions are performed in clinics rather than in hospitals or doctors' offices, and in the ten years before the *Dobbs* decision, a third of independent clinics closed. That pace of closure has doubled since *Dobbs*. Alarming, one hundred days after the decision to overturn *Roe*, at least sixty-six clinics in fifteen states stopped offering abortion care, and most clinics closed, eliminating preventative health-care access as well.

(4) Colorado's abortion providers are the closest available providers to the 1.2 million people seeking care from neighboring states, and Colorado clinics have seen a thirty-three percent rise in the number of patients seeking abortion care *post-Dobbs*. Colorado residents seeking abortion care and other wellness care that many clinics provide, especially in rural and other underserved areas, face wait times that have increased from one or two days up to three weeks in some cases. Colorado residents seeking gender-affirming care will see a similar increase in wait times as other states enact further restrictions. It is chillingly clear that since *Dobbs*, Colorado's reproductive health-care infrastructure is threatened by exterior pressures.

(5) A growing number of states, the same states hostile to abortion rights, are also banning gender-affirming health care and pursuing anti-LGBTQ+ legislation. Alabama, Arizona, Arkansas, Utah, and Tennessee have enacted prohibitions on gender-affirming care for youth and young adults. Eleven other states are considering restrictions that would make providing gender-affirming health care a felony or ban insurance coverage for such care, with Missouri's proposed law criminalizing care for patients up to age twenty-five.

(6) Several states are also eroding their health-care infrastructure by requiring providers to report any patients seeking gender-affirming health care to law enforcement. Providers are being forced to choose compliance with state law over their oath to do no harm, and those laws conflict with the strongest recommendations by the American Academy of Pediatrics that

transgender youth be given the fullest range of medical and psychiatric care possible.

(7) The national reproductive health and gender-affirming health-care infrastructure is being eroded, and Colorado's health-care infrastructure is being strained;

(8) In states where abortion and gender-affirming health care are still legal, the influx of patients from states with criminal bans or severe restrictions has created lengthy waiting times for appointments, delaying access to care for all. States hostile to reproductive rights and gender-affirming health care are not content with prohibiting care and access within their borders; such states seek to impose these restrictions on every other state as well. Colorado OB-GYN physicians have said publicly that the increased need for care is beyond their current capacity and is physically and mentally unsustainable, leading to burnout in the profession and major delays in patient treatment. Likewise, current and future politically motivated restrictions on gender-affirming care in other states will create an adjacent crisis in Colorado.

(9) Abortion and gender-affirming care providers are overwhelmed, fear violence and legal consequences, and face a dramatic increase in patient numbers. They also fear attacks on their licensure, denial of liability insurance, and interstate prosecution. Patients, and those who support them, are also scared. Individuals seeking abortion care, and those who help them, face criminal prosecution. The parents of youth seeking gender-affirming health care face charges of child abuse and neglect. Additional restrictions on reproductive and gender-affirming health care are anticipated, which could further restrict access, make it difficult to obtain accurate information, make it harder to travel for care, and even prohibit access to safe, FDA-approved abortion medication and gender-affirming hormones.

(10) As Colorado is further impacted by neighboring states' reproductive and gender-affirming health-care restrictions, Colorado will see the same deepening of existing inequities for poor or geographically underserved people, and Black and Indigenous communities and other communities of color;

(11) In the face of these attacks, policymakers and advocates in many other states are seeking to protect providers, patients, and those who assist

them from the criminal prosecution they face from new laws. Colorado has led the nation with regard to civil rights, including individuals' rights to the full range of reproductive and gender-affirming health care, and Coloradans have resoundingly rejected abortion bans at the ballot box four times in the past fifteen years. Therefore, it is critical that these safeguards be enacted in statute. As a state, we will continue to ensure that every individual has the fundamental right to reproductive and gender-affirming health care and that all health-care providers have the protection needed to offer essential care without fear for their safety or fear of losing their license or insurance.

**(12)** It stands to reason that reproductive and gender-affirming health-care providers in states with abortion and gender-affirming health-care bans will want to relocate to states that protect their practice and values, thereby becoming an important part of Colorado's health-care infrastructure; and

**(13)** Other states friendly to reproductive and gender-affirming health-care rights are taking steps to protect care in their states, including:

- In 2022, fourteen governors and nine local governments took executive action to protect providers and the patients who travel across state lines to receive abortion care;

- California, Connecticut, Delaware, Illinois, Massachusetts, New York, New Jersey, and Washington, D.C., passed legislation designed to protect people who travel across state lines to receive an abortion and the providers who care for those patients;

- In May 2022, lawmakers and advocates from nineteen states, including Colorado, pledged to introduce legislation to protect transgender youth seeking gender-affirming health care and their families; and

- Massachusetts and Illinois enacted legislation to protect gender-affirming health-care patients and providers, and California is expected to follow suit during its next legislative session.

**(1)** The general assembly further finds that despite the passage of House Bill 22-1279, concerning the "Reproductive Health Equity Act", the national, legally chaotic landscape resulting from other states' current and anticipated restrictions has caused widespread fear and confusion among

Colorado providers and patients traveling to Colorado for care.

(2) Therefore, the general assembly declares that medical professionals currently practicing in Colorado, as well as those moving to our state, should feel safe doing their jobs, and patients from Colorado and elsewhere should feel safe accessing the health care they need that Colorado has protected in law. It is critical that Colorado stand up for the providers of legally protected health care, their patients, and those who support them.

**SECTION 2.** In Colorado Revised Statutes, **add** 10-4-109.6 as follows:

**10-4-109.6. Medical malpractice insurers - protections relating to reproductive health care - definition.** (1) AN INSURER THAT ISSUES MEDICAL MALPRACTICE INSURANCE SHALL NOT TAKE A PROHIBITED ACTION AGAINST AN APPLICANT FOR OR THE NAMED INSURED UNDER A MEDICAL MALPRACTICE POLICY IN THIS STATE SOLELY BECAUSE THE APPLICANT OR INSURED HAS PROVIDED, OR ASSISTED IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (l)(d), IN THIS STATE, SO LONG AS THE CARE PROVIDED BY THE APPLICANT OR INSURED WAS CONSISTENT WITH GENERALLY ACCEPTED STANDARDS OF PRACTICE UNDER COLORADO LAW AND DID NOT OTHERWISE VIOLATE COLORADO LAW.

(a) As USED IN THIS SECTION, "PROHIBITED ACTION" MEANS:

- REFUSING TO ISSUE A MEDICAL MALPRACTICE POLICY;
- CANCELING OR TERMINATING A MEDICAL MALPRACTICE POLICY;
- REFUSING TO RENEW A MEDICAL MALPRACTICE POLICY; OR
- IMPOSING ANY SANCTIONS, FINES, PENALTIES, OR RATE INCREASES.

**SECTION 3.** In Colorado Revised Statutes, 10-16-121, **add** (l)(f) as follows:

**10-16-121. Required contract provisions in contracts between carriers and providers - definitions.** (1) A contract between a carrier and

a provider or its representative concerning the delivery, provision, payment, or offering of care or services covered by a managed care plan must make provisions for the following requirements:

(f) (I) A PROVISION THAT PROHIBITS THE CARRIER FROM TAKING AN ADVERSE ACTION AGAINST A PROVIDER OR SUBJECTING THE PROVIDER TO FINANCIAL DISINCENTIVES BASED SOLELY ON THE PROVIDER'S PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), IN THIS STATE, SO LONG AS THE CARE PROVIDED DID NOT VIOLATE COLORADO LAW.

(II) As USED IN THIS SUBSECTION (1)(f), "ADVERSE ACTION" MEANS REFUSING OR FAILING TO PAY A PROVIDER FOR OTHERWISE COVERED SERVICES AS DEFINED IN THE APPLICABLE HEALTH BENEFIT PLAN.

**SECTION 4.** In Colorado Revised Statutes, 10-16-705.7, **add** (9.5) as follows:

**10-16-705.7. Timely credentialing of physicians by carriers - notice of receipt required - notice of incomplete applications required - delegated credentialing agreements - discrepancies - denials of claims prohibited - disclosures - recredentialing - enforcement - rules - definitions.** (9.5) A CARRIER SHALL NOT REFUSE TO CREDENTIAL AN APPLICANT OR TERMINATE A PARTICIPATING PHYSICIAN'S PARTICIPATION IN A PROVIDER NETWORK BASED SOLELY ON THE APPLICANT'S OR PARTICIPATING PHYSICIAN'S PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), IN THIS STATE, SO LONG AS THE CARE PROVIDED DID NOT VIOLATE COLORADO LAW.

**SECTION 5.** In Colorado Revised Statutes, **add** 12-30-121 as follows:

**12-30-121. Legally protected health-care activity - prohibit adverse action against regulated professionals and applicants - definitions.** (I) As USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "CIVIL JUDGMENT" MEANS A FINAL COURT DECISION AND ORDER RESULTING FROM A CIVIL LAWSUIT OR A SETTLEMENT IN LIEU OF A FINAL COURT DECISION.

**(2)** "CRIMINAL JUDGMENT" MEANS A GUILTY VERDICT, A PLEA OF GUILTY, A PLEA OF NOLO CONTENDERE, PRETRIAL DIVERSION, OR A DEFERRED JUDGMENT OR SENTENCE RESULTING FROM CRIMINAL CHARGES OR CRIMINAL PROCEEDINGS OR THE DISMISSAL OF CHARGES OR THE DECISION NOT TO PROSECUTE CHARGES.

**(3)** "GENDER-AFFIRMING HEALTH-CARE SERVICES" MEANS ALL SUPPLIES, CARE, AND SERVICES OF A MEDICAL, BEHAVIORAL HEALTH, MENTAL HEALTH, PSYCHIATRIC, HABILITATIVE, SURGICAL, THERAPEUTIC, DIAGNOSTIC, PREVENTIVE, REHABILITATIVE, OR SUPPORTIVE NATURE RELATING TO THE TREATMENT OF GENDER DYSPHORIA.

**(4)** "LEGALLY PROTECTED HEALTH-CARE ACTIVITY" MEANS SEEKING, PROVIDING, RECEIVING, OR REFERRING FOR; ASSISTING IN SEEKING, PROVIDING, OR RECEIVING; OR PROVIDING MATERIAL SUPPORT FOR OR TRAVELING TO OBTAIN GENDER-AFFIRMING HEALTH-CARE SERVICES OR REPRODUCTIVE HEALTH CARE THAT IS NOT UNLAWFUL IN THIS STATE, INCLUDING ON ANY THEORY OF VICARIOUS, JOINT, SEVERAL, OR CONSPIRACY LIABILITY. As IT RELATES TO THE PROVISION OF OR REFERRAL FOR GENDER-AFFIRMING HEALTH-CARE SERVICES OR REPRODUCTIVE HEALTH BY A HEALTH-CARE PROVIDER LICENSED IN THIS STATE AND PHYSICALLY PRESENT IN THIS STATE, THE SERVICES AND CARE ARE CONSIDERED A "LEGALLY PROTECTED HEALTH-CARE ACTIVITY" IF THE SERVICE OR CARE IS LAWFUL IN THIS STATE, REGARDLESS OF THE PATIENT'S LOCATION.

**(5)** "REPRODUCTIVE HEALTH CARE" MEANS HEALTH CARE AND OTHER MEDICAL SERVICES RELATED TO THE REPRODUCTIVE PROCESSES, FUNCTIONS, AND SYSTEMS AT ALL STAGES OF LIFE. IT INCLUDES, BUT IS NOT LIMITED TO, FAMILY PLANNING AND CONTRACEPTIVE CARE; GENDER-AFFIRMING HEALTH-CARE SERVICES; ABORTION CARE; PRENATAL, POSTNATAL, AND DELIVERY CARE; FERTILITY CARE; STERILIZATION SERVICES; AND TREATMENTS FOR SEXUALLY TRANSMITTED INFECTIONS AND REPRODUCTIVE CANCERS.

**(1)** A REGULATOR SHALL NOT DENY LICENSURE, CERTIFICATION, OR REGISTRATION TO AN APPLICANT OR IMPOSE DISCIPLINARY ACTION AGAINST AN INDIVIDUAL'S LICENSE, CERTIFICATE, OR REGISTRATION BASED SOLELY ON:

- THE APPLICANT'S, LICENSEE'S, CERTIFICANT'S, OR REGISTRANT'S PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY IN THIS STATE OR ANY OTHER STATE OR UNITED STATES TERRITORY, SO LONG AS THE CARE PROVIDED WAS CONSISTENT WITH GENERALLY ACCEPTED STANDARDS OF PRACTICE UNDER COLORADO LAW AND DID NOT OTHERWISE VIOLATE COLORADO LAW;

- A CIVIL JUDGMENT OR CRIMINAL JUDGMENT AGAINST THE APPLICANT, LICENSEE, CERTIFICANT, OR REGISTRANT ARISING FROM THE PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY IN THIS STATE OR ANY OTHER STATE OR UNITED STATES TERRITORY, SO LONG AS THE CARE PROVIDED WAS CONSISTENT WITH GENERALLY ACCEPTED STANDARDS OF PRACTICE UNDER COLORADO LAW AND DID NOT OTHERWISE VIOLATE COLORADO LAW;

- A PROFESSIONAL DISCIPLINARY ACTION OR ANY OTHER SANCTION AGAINST OR SUSPENSION, REVOCATION, SURRENDER, OR RELINQUISHMENT OF THE APPLICANT'S, LICENSEE'S, CERTIFICANT'S, OR REGISTRANT'S PROFESSIONAL LICENSE, CERTIFICATION, OR REGISTRATION IN THIS STATE OR ANY OTHER STATE OR UNITED STATES TERRITORY, SO LONG AS:

- THE PROFESSIONAL DISCIPLINARY ACTION IS BASED SOLELY ON THE APPLICANT'S, LICENSEE'S, CERTIFICANT'S, OR REGISTRANT'S PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY; AND

- THE CARE PROVIDED WAS CONSISTENT WITH GENERALLY ACCEPTED STANDARDS OF PRACTICE UNDER COLORADO LAW AND DID NOT OTHERWISE VIOLATE COLORADO LAW;

- THE APPLICANT'S, LICENSEE'S, CERTIFICANT'S, OR REGISTRANT'S OWN PERSONAL EFFORT TO SEEK OR ENGAGE IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY IN THIS STATE OR ANY OTHER STATE OR UNITED STATES TERRITORY; OR

- A CIVIL OR CRIMINAL JUDGMENT AGAINST THE APPLICANT, LICENSEE, CERTIFICANT, OR REGISTRANT ARISING FROM THE INDIVIDUAL'S OWN PERSONAL LEGALLY PROTECTED HEALTH-CARE ACTIVITY IN THIS STATE OR ANY OTHER STATE OR UNITED STATES TERRITORY.



**SECTION 6.** In Colorado Revised Statutes, **add** 13-1-140 as follows:

**13-1-140. Prohibition on issuing subpoena in connection with proceeding in another state.** (1) A COURT, JUDICIAL OFFICER, COURT

EMPLOYEE, OR ATTORNEY SHALL NOT ISSUE A SUBPOENA IN CONNECTION WITH A PROCEEDING IN ANOTHER STATE CONCERNING AN INDIVIDUAL ENGAGING IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED

IN SECTION 12-30-121 (l)(d), OR AN ENTITY THAT PROVIDES INSURANCE

COVERAGE FOR GENDER-AFFIRMING HEALTH-

CARE SERVICES, AS DEFINED IN SECTION 12-30-121 (1)(c), OR REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4).

(2) THIS SECTION DOES NOT PROHIBIT THE INVESTIGATION OF CRIMINAL ACTIVITY THAT MAY INVOLVE A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, PROVIDED THAT INFORMATION RELATING TO A MEDICAL PROCEDURE PERFORMED ON AN INDIVIDUAL IS NOT SHARED WITH AN AGENCY OR INDIVIDUAL FROM ANOTHER STATE FOR THE PURPOSE OF ENFORCING ANOTHER STATE'S ABORTION LAW.

**SECTION 7.** In Colorado Revised Statutes, **add** 13-21-133 as follows:

**13-21-133. Out-of-state civil action against a person or entity prohibited - legally protected health-care activity - out-of-state civil judgment.**

(1) IT IS AGAINST THE PUBLIC POLICY OF THIS STATE FOR THE LAW OF ANOTHER STATE TO AUTHORIZE A PERSON TO BRING A CIVIL ACTION AGAINST ANOTHER PERSON OR ENTITY FOR ENGAGING OR ATTEMPTING OR

INTENDING TO ENGAGE IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (l)(d), OR FOR PROVIDING INSURANCE COVERAGE FOR GENDER-AFFIRMING HEALTH-CARE SERVICES, AS DEFINED IN SECTION 12-30-121 (1)(c), OR REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4).

**(1)** A COURT SHALL NOT APPLY ANOTHER STATE'S LAW AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO A CASE OR CONTROVERSY HEARD IN A COLORADO COURT.

**(2)** IN ANY ACTION FILED TO ENFORCE A FOREIGN JUDGMENT ISSUED IN CONNECTION WITH ANY LITIGATION CONCERNING A LEGALLY PROTECTED

HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), THE COURT SHALL NOT GIVE ANY FORCE OR EFFECT TO ANY JUDGMENT ISSUED WITHOUT PERSONAL JURISDICTION OR DUE PROCESS OR TO ANY JUDGMENT THAT IS PENAL IN NATURE.

**SECTION 8.** In Colorado Revised Statutes, **add** 13-64-402.5 as follows:

**13-64-402.5. Evidence relating to legally protected health-care activity - legislative declaration.** (1) IT IS THE GENERAL ASSEMBLY'S INTENT TO PROTECT PERSONS FROM LIABILITY IN COLORADO COURTS FOR TAKING ACTIONS SPECIFIED IN SECTION **12-30-121**, PERSONALLY OR PROFESSIONALLY, THAT ARE NOT SUBJECT TO DISCIPLINE BY A REGULATOR PURSUANT TO SECTION **12-30-121**.

**(2) IN ANY MEDICAL MALPRACTICE ACTION BROUGHT IN THIS STATE AGAINST A HEALTH-CARE PROVIDER LICENSED, REGISTERED, OR CERTIFIED IN THIS STATE OR IN ANOTHER STATE OR UNITED STATES TERRITORY, A COURT OR ARBITRATOR SHALL NOT ALLOW EVIDENCE OR WITNESS TESTIMONY RELATING TO PROFESSIONAL DISCIPLINE OR CRIMINAL OR CIVIL CHARGES IN THIS STATE OR IN ANOTHER STATE OR UNITED STATES TERRITORY, REGARDLESS OF DISPOSITION OR OUTCOME, CONCERNING THE PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), SO LONG AS THE CARE PROVIDED DID NOT VIOLATE COLORADO LAW.**

**SECTION 9.** In Colorado Revised Statutes, 16-3-102, **add** (2) as follows:

**16-3-102. Arrest by peace officer.** (2) A PEACE OFFICER SHALL NOT KNOWINGLY ARREST OR KNOWINGLY PARTICIPATE IN THE ARREST OF ANY PERSON WHO ENGAGES IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), UNLESS THE ACTS FORMING THE BASIS FOR THE ARREST CONSTITUTE A CRIMINAL OFFENSE IN COLORADO.

**SECTION 10.** In Colorado Revised Statutes, 16-3-301, **add** (4) as follows: **16-3-301. Search warrants - issuance - grounds - exception - definitions.**

(4) NOTWITHSTANDING SUBSECTION (2) OF THIS SECTION, A COURT SHALL NOT ISSUE A SEARCH WARRANT TO SEARCH FOR AND SEIZE ANY PROPERTY THAT RELATES TO AN INVESTIGATION INTO A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

**SECTION 11.** In Colorado Revised Statutes, **add** 16-5-104 as follows:

**16-5-104. Prohibition on issuing summons - reproductive health care.**

A JUDGE SHALL NOT ISSUE A SUMMONS IN A CASE WHEN A PROSECUTION IS PENDING, OR WHEN A GRAND JURY INVESTIGATION HAS STARTED OR IS ABOUT TO START, FOR A CRIMINAL VIOLATION OF LAW OF ANOTHER STATE INVOLVING A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), OR INVOLVING AN ENTITY THAT PROVIDES INSURANCE COVERAGE FOR GENDER-AFFIRMING HEALTH-CARE SERVICES, AS DEFINED IN SECTION 12-30-121 (1)(c), OR REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4), THAT IS LEGAL IN COLORADO, UNLESS THE ACTS FORMING THE BASIS OF THE PROSECUTION OR INVESTIGATION WOULD ALSO CONSTITUTE A CRIMINAL OFFENSE IN COLORADO.

**SECTION 12.** In Colorado Revised Statutes, 16-15-102, **add** (1)(d) as follows:

**16-15-102. Ex parte order authorizing the interception of wire, oral, or electronic communications.** (1)(d) A COURT SHALL NOT ISSUE AN EX PARTE ORDER FOR WIRETAPPING OR EAVESDROPPING TO OBTAIN ANY WIRE, ORAL, OR ELECTRONIC COMMUNICATION THAT RELATES TO AN INVESTIGATION INTO A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

**SECTION 13.** In Colorado Revised Statutes, **amend** 16-19-107 as follows:

**16-19-107. Extradition of persons not present where crime committed.** (1) The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 16-19-104 with committing an act in this state, or in a third state, intentionally resulting in

a crime in the state whose executive authority is making the demand, and the provisions of this **article** ARTICLE 19 THAT ARE not otherwise inconsistent shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime and has not fled therefrom, PROVIDED THE ACTS FOR WHICH EXTRADITION IS SOUGHT WOULD BE PUNISHABLE BY THE LAWS OF THIS STATE IF THE ACTS OCCURRED IN THIS STATE.

(2) EXCEPT AS REQUIRED BY FEDERAL LAW, THE GOVERNOR SHALL NOT SURRENDER A PERSON CHARGED IN ANOTHER STATE AS A RESULT OF THE PERSON ENGAGING IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), UNLESS THE EXECUTIVE AUTHORITY OF THE DEMANDING STATE ALLEGES IN WRITING THAT THE ACCUSED WAS PHYSICALLY PRESENT IN THE DEMANDING STATE AT THE TIME OF THE COMMISSION OF THE ALLEGED OFFENSE AND THAT THEREAFTER THE ACCUSED FLED FROM THE DEMANDING STATE.

**SECTION 14.** In Colorado Revised Statutes, 17-1-114.5, **amend** (1)(i); and **add** (1)(k) and (1)(1) as follows:

**17-1-114.5. Incarceration of a person in custody with the capacity for pregnancy - report.** (1) A correctional facility or private contract prison incarcerating a person who is capable of pregnancy shall:

(i) Establish partnerships with local public entities, private community entities, community-based organizations, Indian tribes and tribal organizations as defined in the federal "Indian Self-Determination and Education Assistance Act", 25 U.S.C. sec. 5304, as amended, or urban Indian organizations as defined in the federal "Indian Health Care Improvement Act", 25 U.S.C. sec. 1603, as amended; **and**

**(1)** REGARDLESS OF THE PERSON'S ABILITY TO PAY, ENSURE ACCESS TO AN ABORTION, AS DEFINED IN SECTION 25-6-402, BY PROVIDING A PREGNANT PERSON WITH INFORMATION ABOUT ABORTION PROVIDERS, REFERRALS TO COMMUNITY-BASED PROVIDERS OF ABORTIONS, REFERRALS TO COMMUNITY-BASED ORGANIZATIONS THAT HELP PEOPLE PAY FOR ABORTIONS, AND TRANSPORTATION TO ACCESS AN ABORTION; AND

**(2)** ENSURE ACCESS TO MISCARRIAGE MANAGEMENT, INCLUDING MEDICATION.

**SECTION 15.** In Colorado Revised Statutes, 18-9-313, **amend** (l)(d) and (l)(n); and **add** (1) (q.5) as follows:

**18-9-313. Personal information on the internet - victims of domestic violence, sexual assault, and stalking- other protected persons - definitions.** (1) As used in this section, unless the context otherwise reqmres:

(d) "Health-care worker" means A LICENSED HEALTH-CARE PROVIDER, OR an employee, contracted health-care provider, or individual serving in a governance capacity of a health-care facility licensed pursuant to section 25-1.5-103.

(14) "Protected person" means an educator, a code enforcement officer, a human services worker, a public health worker, a child representative, a health-care worker, A REPRODUCTIVE HEALTH-CARE SERVICES WORKER, an officer or agent of the state bureau of animal protection, an animal control officer, an office of the respondent parents' counsel staff member or contractor, a judge, a peace officer, a prosecutor, a public defender, or a public safety worker.

(q.5) "REPRODUCTIVE HEALTH-CARE SERVICES WORKER" MEANS A PATIENT WHO RELOCATED TO COLORADO, PROVIDER, OR EMPLOYEE OF AN ORGANIZATION THAT PROVIDES OR ASSISTS INDIVIDUALS IN ACCESSING A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (l)(d).

**SECTION 16.** In Colorado Revised Statutes, **add** 18-13-133 as follows:

**18-13-133. Prohibition on prosecuting health-care providers - patient ingests abortifacient in another state.** A LICENSED HEALTH-CARE PROVIDER SHALL NOT BE PROSECUTED, INVESTIGATED, OR SUBJECTED TO ANY PENALTY IF THE HEALTH-CARE PROVIDER PRESCRIBES AN ABORTIFACIENT TO A PATIENT AND THE PATIENT INGESTS THE ABORTIFACIENT IN ANOTHER STATE SO LONG AS THE ABORTIFACIENT WAS PRESCRIBED OR ADMINISTERED CONSISTENT WITH ACCEPTED STANDARDS OF PRACTICE UNDER COLORADO LAW AND DID NOT OTHERWISE VIOLATE COLORADO LAW.

**SECTION 17.** In Colorado Revised Statutes, 24-30-2102, **amend** (1); and **add** (1.5) as follows:

**24-30-2102. Legislative declaration.** (1) The general assembly ~~hereby~~ finds and declares that a person attempting to escape from actual or threatened domestic violence, asexual offense, or stalking frequently moves to a new address in order to prevent an assailant or potential assailant from finding ~~him or her~~ THE VICTIM. This new address, however, is only useful

~~if an assailant or potential assailant does not discover it. Therefore, in order to help victims of domestic violence, a sexual offense, or stalking, it is the intent of the general assembly to establish an address confidentiality program, whereby the confidentiality of a victim's address may be maintained through, among other things, the use of a substitute address for purposes of public records and confidential mail forwarding.~~

ADDITIONALLY, PEOPLE INVOLVED IN THE PROVISION OF REPRODUCTIVE HEALTH CARE ARE AT A HEIGHTENED RISK OF ACTUAL OR THREATENED VIOLENCE, STALKING, OR OTHER SOCIAL HARMS.

(1.5) THEREFORE, IN ORDER TO HELP VICTIMS OF DOMESTIC VIOLENCE, A SEXUAL OFFENSE, OR STALKING, AND TO ASSIST AND PROTECT INDIVIDUALS INVOLVED IN THE PROVISION OF REPRODUCTIVE HEALTH CARE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ESTABLISH AN ADDRESS CONFIDENTIALITY PROGRAM, WHEREBY THE CONFIDENTIALITY OF A VICTIM'S OR AN INDIVIDUAL INVOLVED IN THE PROVISION OF REPRODUCTIVE HEALTH CARE'S ADDRESS MAY BE MAINTAINED THROUGH, AMONG OTHER THINGS, THE USE OF A SUBSTITUTE ADDRESS FOR PURPOSES OF PUBLIC RECORDS AND CONFIDENTIAL MAIL FORWARDING.

**SECTION 18.** In Colorado Revised Statutes, 24-30-2103, **amend** (1); and **add** (9.5) as follows:

**24-30-2103. Definitions.** As used in this part 21, unless the context otherwise requires:

(2) "Address confidentiality program" or "program" means the program created under this part 21 in the department to protect the confidentiality of the actual address of a RELOCATED PROTECTED HEALTH-CARE WORKER OR A relocated victim of domestic violence, a sexual offense, or stalking.

(9.5) "PROTECTED HEALTH-CARE WORKER" MEANS A REPRODUCTIVE HEALTH-CARE PROVIDER, OR AN EMPLOYEE, VOLUNTEER, PATIENT, OR IMMEDIATE FAMILY MEMBER OF A REPRODUCTIVE HEALTH-CARE PROVIDER, ENGAGED IN THE PROVISION, FACILITATION, OR PROMOTION OF A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION **12-30-121** (1)(d).

**SECTION 19.** In Colorado Revised Statutes, 24-30-2104, **amend**

(1) introductory portion and (4) as follows:

**24-30-2104. Address confidentiality program - creation - substitute address - uses - service by mail - application assistance centers.** (1) There is ~~hereby~~ created the address confidentiality program in the department to protect the confidentiality of the actual address of A RELOCATED PROTECTED HEALTH-CARE WORKER OR a relocated victim of domestic violence, a sexual offense, or stalking and to prevent the victim's assailants or potential assailants from finding the victim through public records. Under the program, the executive director or his or her THE EXECUTIVE DIRECTOR'S designee shall:

(3) The executive director or ~~his or her~~ THE EXECUTIVE DIRECTOR'S designee may designate as an application assistant any person who:

- Provides counseling, referral, or other services to victims of domestic violence, a sexual offense, or stalking, ~~and~~ IF APPLICABLE;
- Completes any training and registration process required by the executive director or ~~his or her~~ THE EXECUTIVE DIRECTOR'S designee, IF APPLICABLE; AND
- PROVIDES COUNSELING, REFERRALS, OR OTHER SERVICES TO INDIVIDUALS ACCESSING A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), IF APPLICABLE.

**SECTION 20.** In Colorado Revised Statutes, 24-30-2105, **amend**

(2) introductory portion, (3)(b), (3)(c) introductory portion, (3)(h), and (3)(k); and **add** (3)(1) as follows:

**24-30-2105. Filing and certification of applications - authorization card.** (3) The application ~~shall~~ **MUST** be on a form

prescribed by the executive director or ~~his or her~~ THE EXECUTIVE DIRECTOR'S designee and shall ~~all of~~ MUST contain the following:

(a) A statement by the applicant that the applicant is a victim of domestic violence, a sexual offense, or stalking and that the applicant fears for ~~his or her~~ THE APPLICANT'S safety, IF APPLICABLE;

(b) Evidence that the applicant is a victim of domestic violence, a sexual offense, or stalking, IF APPLICABLE. This evidence may include any of the following:

(h) The actual address that the applicant requests not to be disclosed by the executive director or ~~his or her~~ THE EXECUTIVE DIRECTOR'S designee that directly relates to the increased risk of domestic violence, a sexual offense, or stalking, OR INCREASED RISK OF ACTUAL OR THREATENED VIOLENCE, STALKING, OR OTHER SOCIAL HARMS DUE TO THE PROVISION OF A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (l)(d);

(1) A statement by the applicant, under penalty of perjury, that to the best of the applicant's knowledge, the information contained in the application is true; AND

(2) A STATEMENT BY THE APPLICANT, UNDER PENALTY OF PERJURY, THAT THE APPLICANT IS A PROTECTED HEALTH-CARE WORKER OR PROVIDES, REFERS, OR ASSISTS PATIENTS IN ACCESSING A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (l)(d), IF APPLICABLE.

**SECTION 21.** In Colorado Revised Statutes, 24-31-101, **amend** (1)(i)(XVI) and (1)(i)(XVII); and **add** (1)(i)(XVIII) as follows:

**24-31-101. Powers and duties of attorney general.** (1) The attorney general:

(i) May independently initiate and bring civil and criminal actions to enforce state laws, including actions brought pursuant to:

(1) Part 7 of article 12 of title 38; and



- (2) Section 38-12-904 (1)(b); AND
- (3) THE "REPRODUCTIVE HEALTH EQUITY ACT", PART 4 OF ARTICLE 6 OF TITLE 25.

**SECTION 22.** In Colorado Revised Statutes, **add** article 116 to title 24 as follows:

## **ARTICLE 116**

### **Prohibition on Government Resources for Out-of-state Investigation into Legally Protected Health-care Activity**

**24-116-101. Prohibition on providing information or expending government resources - legally protected health-care activity.** A PUBLIC AGENCY, OR EMPLOYEE, APPOINTEE, OFFICER, OFFICIAL, OR ANY OTHER PERSON ACTING ON BEHALF OF A PUBLIC AGENCY, SHALL NOT PROVIDE ANY INFORMATION OR EXPEND OR USE TIME, MONEY, FACILITIES, PROPERTY, EQUIPMENT, PERSONNEL, OR OTHER RESOURCES IN FURTHERANCE OF ANY OUT-OF-STATE INVESTIGATION OR PROCEEDING SEEKING TO IMPOSE CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL SANCTION UPON A PERSON OR ENTITY FOR ENGAGING IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

**24-116-102. Prohibition on assisting another state - legally protected health-care activity.** (1) A STATE AGENCY OR EXECUTIVE DEPARTMENT SHALL NOT PROVIDE INFORMATION OR DATA, INCLUDING PATIENT MEDICAL RECORDS, PATIENT-LEVEL DATA, OR RELATED BILLING INFORMATION, OR EXPEND TIME, MONEY, FACILITIES, PROPERTY, EQUIPMENT, PERSONNEL, OR OTHER RESOURCES FOR THE PURPOSE OF ASSISTING OR FURTHERING AN INVESTIGATION OR PROCEEDING INITIATED IN OR BY ANOTHER STATE THAT SEEKS TO IMPOSE CRIMINAL OR CIVIL LIABILITY OR PROFESSIONAL SANCTION UPON A PERSON OR ENTITY FOR ENGAGING IN A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

(a) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, AN AGENCY OR EXECUTIVE DEPARTMENT MAY PROVIDE INFORMATION OR ASSISTANCE IN CONNECTION WITH AN INVESTIGATION OR PROCEEDING IN RESPONSE TO A WRITTEN REQUEST FROM THE SUBJECT OF THE INVESTIGATION OR PROCEEDING.

(b) THIS SECTION DOES NOT APPLY TO AN INVESTIGATION OR PROCEEDING THAT WOULD BE SUBJECT TO CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL SANCTION UNDER COLORADO LAW IF THE ACTION WAS COMMITTED IN COLORADO.

**SECTION 23.** In Colorado Revised Statutes, **amend** 25-6-404 as follows:

**25-6-404. Public entity - prohibited actions.** (1) A public entity shall not:

(I) Deny, restrict, interfere with, or discriminate against an individual's fundamental right to use or refuse contraception or to continue a pregnancy and give birth or to have an abortion in the regulation or provision of benefits, facilities, services, or information; or

(II) Deprive, through prosecution, punishment, or other means, an individual of the individual's right to act or refrain from acting during the individual's own pregnancy based on the potential, actual, or perceived impact on the pregnancy, the pregnancy's outcomes, or on the pregnant individual's health;

(III) RESTRICT ANY NATURAL OR LEGAL PERSON IN PERFORMING, OR PROHIBIT ANY NATURAL OR LEGAL PERSON FROM PROVIDING, REPRODUCTIVE HEALTH CARE THROUGH THE IMPOSITION OF LICENSING, PERMITTING, CERTIFICATION, OR SIMILAR LEGISLATIVE OR REGULATORY REQUIREMENTS THAT APPLY SOLELY TO PROVIDERS OF REPRODUCTIVE HEALTH CARE; OR

(IV) PROSECUTE OR OTHER WISE CRIMINALLY SANCTION ANY NATURAL OR LEGAL PERSON FOR PROVIDING, ASSISTING IN THE PROVISION OF, ARRANGING FOR, OR OTHERWISE ASSISTING A PERSON IN ACCESSING REPRODUCTIVE HEALTH CARE PERFORMED WITHIN THE SCOPE OF APPLICABLE PROFESSIONAL LICENSURE AND CERTIFICATION REQUIREMENTS.

**SECTION 24.** In Colorado Revised Statutes, **add** 25-6-407 as follows:

**25-6-407. Enforcement.** THE VENUE TO ENFORCE AN ACTION PURSUANT TO THE PROVISIONS OF THIS PART 4 IS IN THE DENVER DISTRICT COURT.

**SECTION 25.** In Colorado Revised Statutes, 25-37-103, **add** (1)(e) as follows:

**25-37-103. Health-care contracts - required provisions - permissible provision.** (1) (e) (I) THE SUMMARY DISCLOSURE FORM REQUIRED BY SUBSECTION (1)(a) OF THIS SECTION MUST INCLUDE A DISCLOSURE THAT A PERSON OR ENTITY SHALL NOT TERMINATE A HEALTH-CARE CONTRACT WITH A HEALTH-CARE PROVIDER SOLELY FOR THE PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d).

(2) A PERSON OR ENTITY THAT IS A RELIGIOUS ORGANIZATION IS NOT SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION (1)(e) IF THE PROVISION OF, OR ASSISTANCE IN THE PROVISION OF, A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121 (1)(d), CONFLICTS WITH THE RELIGIOUS ORGANIZATION'S BONA FIDE RELIGIOUS BELIEFS AND PRACTICES.

**SECTION 26.** In Colorado Revised Statutes, 29-20-104, **amend** (1)(g) as follows:

**29-20-104. Powers of local governments - definition.** (1) Except as expressly provided in section 29-20-104.5, the power and authority granted by this section does not limit any power or authority presently exercised or previously granted. Each local government within its respective jurisdiction has the authority to plan for and regulate the use of land by:

(g) (I) Regulating the use of land on the basis of the impact of the use on the community or surrounding areas;

(II)(A) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT ACCESS TO OUTPATIENT CLINICAL FACILITIES PROVIDING REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4), IS A MATTER OF STATEWIDE CONCERN AND THAT, FOR PURPOSES OF ZONING AND OTHER LAND USE PLANNING, SUCH FACILITIES FALL WITHIN THE MEANING OF A MEDICAL OFFICE USE, A MEDICAL CLINIC USE, A HEALTH-CARE USE, AND OTHER FACILITIES THAT PROVIDE OUTPATIENT HEALTH-CARE SERVICES.

(8) FOR THE PURPOSES OF ZONING AND OTHER LAND USE PLANNING, EVERY LOCAL GOVERNMENT THAT HAS ADOPTED OR ADOPTS A ZONING ORDINANCE SHALL RECOGNIZE THE PROVISION OF OUTPATIENT REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4), AS A PERMITTED USE IN ANY ZONE IN WHICH THE PROVISION OF GENERAL OUTPATIENT HEALTH CARE IS RECOGNIZED AS A PERMITTED USE.

(C) NOTHING IN THIS SUBSECTION (1)(g)(II) RESTRICTS OR SUPERSEDES THE AUTHORITY OF A LOCAL GOVERNMENT TO ENACT UNIFORM ZONING ORDINANCES AND OTHER LAND USE REGULATIONS THAT COMPLY WITH THIS SUBSECTION (1)(g)(II).

**SECTION 27.** In Colorado Revised Statutes, 30-28-115, **add** (1.5) as follows:

**30-28-115. Public welfare to be promoted - legislative declaration - construction.** (1.5) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT ACCESS TO OUTPATIENT CLINICAL FACILITIES PROVIDING REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4), IS A MATTER OF STATEWIDE CONCERN AND THAT, FOR PURPOSES OF ZONING AND OTHER LAND USE PLANNING, SUCH FACILITIES FALL WITHIN THE MEANING OF A MEDICAL OFFICE USE, A MEDICAL CLINIC USE, A HEALTH-CARE USE, AND OTHER FACILITIES THAT PROVIDE OUTPATIENT HEALTH-CARE SERVICES.

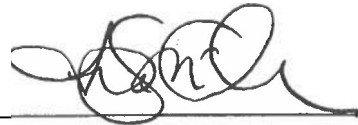
(1) FOR THE PURPOSES OF ZONING AND OTHER LAND USE PLANNING, EVERY LOCAL GOVERNMENT THAT HAS ADOPTED OR ADOPTS A ZONING ORDINANCE SHALL RECOGNIZE THE PROVISION OF OUTPATIENT REPRODUCTIVE HEALTH CARE, AS DEFINED IN SECTION 25-6-402 (4), AS A PERMITTED USE IN ANY ZONE IN WHICH THE PROVISION OF GENERAL OUTPATIENT HEALTH CARE IS RECOGNIZED AS A PERMITTED USE.

(2) NOTHING IN THIS SUBSECTION (1.5) RESTRICTS OR SUPERSEDES THE AUTHORITY OF A LOCAL GOVERNMENT TO ENACT UNIFORM ZONING ORDINANCES AND OTHER LAND USE REGULATIONS THAT COMPLY WITH THIS SUBSECTION (1.5).

**SECTION 28. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



Steve Fenberg  
PRESIDENT OF THE  
SENATE



Julie McCluskie  
SPEAKER OF THE HOUSE OF  
REPRESENTATIVES



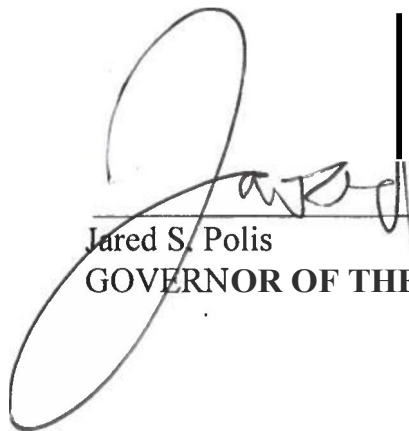
Cindi L. Markwell  
SECRETARY OF THE  
SENATE



Robin Jones  
CHIEF CLERK OF THE HOUSE  
REPRESENTATIVES

APPROVED Friday April 14<sup>th</sup> 2023 at 2:05 pm

(Date and Time)



Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO



## Part 4 Reproductive Health Equity Act

### [C.R.S. Title 25, Art. 6, Pt. 4](#)

#### 25-6-401. Short title.

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The short title of this part 4 is the “Reproductive Health Equity Act”.

[Colo. Rev. Stat. § 25-6-401 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

#### 25-6-402. Definitions.

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As used in this part 4, unless the context otherwise requires:

**(15)** “Abortion” means any medical procedure, instrument, agent, or drug used to terminate the pregnancy of an individual known or reasonably believed to be pregnant with an intention other than to increase the probability of a live birth.

**(16)** “Pregnancy” means the human reproductive process, beginning with the implantation of an embryo.

**(17)** “Public entity” has the same meaning as set forth in section 24-10-103 (5) and includes private contract prisons, as defined in section 17-1-102.

**(18)** “Reproductive health care” means health care and other medical services related to the reproductive processes, functions, and systems at all stages of life. It includes, but is not limited to, family planning and contraceptive care; abortion care; prenatal, postnatal, and delivery care; fertility care; sterilization services; and treatments for sexually transmitted infections and reproductive cancers.

[Colo. Rev. Stat. § 25-6-402 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

#### 25-6-403. Fundamental reproductive health-care rights.

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**(3)** Every individual has a fundamental right to make decisions about the individual’s reproductive health care, including the fundamental right to use or refuse contraception.

**(4)** A pregnant individual has a fundamental right to continue a pregnancy and give birth or to have an abortion and to make decisions about how to exercise that right.

**(5)** A fertilized egg, embryo, or fetus does not have independent or derivative rights under the laws of this state.

[Colo. Rev. Stat. § 25-6-403 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

#### 25-6-404. Public entity - prohibited actions.

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**(1)** A public entity shall not:

**(b)** Deny, restrict, interfere with, or discriminate against an individual’s fundamental right to use or refuse contraception or to continue a pregnancy and give birth or to have an abortion in the regulation or provision of benefits, facilities, services, or information; or

**(c)** Deprive, through prosecution, punishment, or other means, an individual of the individual’s right to act or refrain from acting during the individual’s own pregnancy based on the potential, actual, or perceived impact on the pregnancy, the pregnancy’s outcomes, or on the pregnant individual’s health.

[Colo. Rev. Stat. § 25-6-404 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

25-6-405. Application.

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(6) This part 4 applies to all state and local laws, ordinances, policies, procedures, regulatory guidelines and rules, practices, executive orders, and governmental actions and their implementation, whether statutory or otherwise. The rights protected under this part 4 are a matter of statewide concern.

(7) Nothing in this part 4 may be construed to authorize a public entity to burden an individual's fundamental rights relating to reproductive health care.

[Colo. Rev. Stat. § 25-6-405 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

25-6-406. Severability.

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If any provision of this part 4 or the application thereof to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of this part 4 that can be given effect without the invalid provision or application, and to this end the provisions of this part 4 are declared to be severable.

[Colo. Rev. Stat. § 25-6-406 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

Part 7. Colorado Parental Notification Act

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[C.R.S. Title 13, Art. 22, Pt. 7](#)

13-22-701. Short title.

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The short title of this part 7 is the "Colorado Parental Notification Act".

[Colo. Rev. Stat. § 13-22-701 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

13-22-702. Legislative declaration.

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(2) The people of the state of Colorado, pursuant to the powers reserved to them in Article V of the Constitution of the state of Colorado, declare that family life and the preservation of the traditional family unit are of vital importance to the continuation of an orderly society; that the rights of parents to rear and nurture their children during their formative years and to be involved in all decisions of importance affecting such minor children should be protected and encouraged, especially as such parental involvement relates to the pregnancy of an unemancipated minor, recognizing that the decision by any such minor to submit to an abortion may have adverse long-term consequences for her.

(3) The people of the state of Colorado, being mindful of the limitations imposed upon them at the present time by the federal judiciary in the preservation of the parent-child relationship, hereby enact into law the following provisions.

Colo. Rev. Stat. § 13-22-702 (Lexis Advance through all legislation from the 2022 Regular Session)

13-22-703. Definitions.

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As used in this part 7, unless the context otherwise requires:

- (4) “Minor” means a person under eighteen years of age.
- (5) “Parent” means the natural or adoptive mother and father of the minor who is pregnant, if they are both living; one parent of the minor if only one is living, or if the other parent cannot be served with notice, as hereinafter provided; or the court-appointed guardian of such minor if she has one or any foster parent to whom the care and custody of such minor shall have been assigned by any agency of the state or county making such placement.
- (6) “Abortion” for purposes of this part 7 means the use of any means to terminate the pregnancy of a minor with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the minor’s unborn offspring.
- (7) “Clergy member” means a priest; a rabbi; a duly ordained, commissioned, or licensed minister of a church; a member of a religious order; or a recognized leader of any religious body.
- (8) “Medical emergency” means a condition that, on the basis of the physician’s good-faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate a medical procedure necessary to prevent the pregnant minor’s death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.
- (9) “Relative of the minor” means a minor’s grandparent, adult aunt, or adult uncle, if the minor is not residing with a parent and resides with the grandparent, adult aunt, or adult uncle.

13-22-704. Notification concerning abortion.

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(3) No abortion shall be performed upon an unemancipated minor until at least 48 hours after written notice of the pending abortion has been delivered in the following manner:

(a) The notice shall be addressed to the parent at the dwelling house or usual place of abode of the parent. Such notice shall be delivered to the parent by:

- (I) The attending physician or member of the physician’s immediate staff who is over the age of eighteen; or
- (II) The sheriff of the county where the service of notice is made, or by his deputy; or
- (III) Any other person over the age of eighteen years who is not related to the minor; or
- (IV) A clergy member who is over the age of eighteen.

(b) Notice delivered by any person other than the attending physician shall be furnished to and delivered by such person in a sealed envelope marked “Personal and Confidential”, and its content shall not in any manner be revealed to the person making such delivery.

(c) Whenever the parent of the minor includes two persons to be notified as provided in this part 7 and such persons reside at the same dwelling house or place of abode, delivery to one such person shall constitute delivery to both, and the 48-hour period shall commence when delivery is made. Should such persons not reside together and delivery of notice can be made to each of them, notice shall be delivered to both parents, unless the minor shall request that only one parent be notified, which request shall be honored and shall be noted by the physician in the minor’s medical record. Whenever the parties are separately served with notice, the 48-hour period shall commence upon delivery of the first notice.



**(d)** The person delivering such notice, if other than the physician, shall provide to the physician a written return of service at the earliest practical time, as follows:

**(I)** If served by the sheriff or his deputy, by his certificate with a statement as to date, place, and manner of service and the time such delivery was made.

**(II)** If by any other person, by his affidavit thereof with the same statement.

**(III)** Return of service shall be maintained by the physician.

**(e)**

**(I)** In lieu of personal delivery of the notice, the same may be sent by postpaid certified mail, addressed to the parent at the usual place of abode of the parent, with return receipt requested and delivery restricted to the addressee. Delivery shall be conclusively presumed to occur, and the 48-hour time period as provided in this part 7 shall commence to run at 12:00 o'clock noon on the next day on which regular mail delivery takes place.

Whenever the parent of the minor includes two persons to be notified as provided in this part 7 and such persons reside at the same dwelling house or place of abode, notice addressed to one parent and mailed as provided in the foregoing subparagraph shall be deemed to be delivery of notice to both such persons.

Should such persons not reside together and notice can be mailed to each

of them, such notice shall be separately mailed to both parents unless the minor shall request that only one parent shall be notified, which request shall be honored and shall be noted by the physician in the minor's medical record.

**(II)** Proof of mailing and the delivery or attempted delivery shall be maintained by the physician.

**(4)**

**(a)** Notwithstanding the provisions of subsection (1) of this section, if the minor is residing with a relative of the minor and not a parent, the written notice of the pending abortion shall be provided to either the relative of the minor or a parent.

**(b)** If a minor elects to provide notice to a person specified in subsection (2)(a) of this section, the notice shall be provided in accordance with the provisions of subsection (1) of this section.

**(5)** At the time the physician, licensed health-care professional, or staff of the physician or licensed health-care professional informs the minor that notice must be provided to the minor's parents prior to performing an abortion, the physician, licensed health-care professional, or the staff of the physician or licensed health-care professional must inform the minor under what circumstances the minor has the right to have only one parent notified.

13-22-705. No notice required - when.

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**(3)** No notice shall be required pursuant to this part 7 if:

**(a)** The person or persons who may receive notice pursuant to section 13-22-704 (1) certify in writing that they have been notified; or

**(b)** The person whom the minor elects to notify pursuant to section 13-22-704 (2) certifies in writing that he or she has been notified; or

**(c)** The pregnant minor declares that she is a victim of child abuse or neglect by the acts or omissions of the person who would be entitled to notice, as such acts or omissions are defined in "The Child Protection Act of 1987", as set forth in article 3 of title 19, and any amendments thereto, and the attending physician has reported such child abuse or neglect as required by the said act. When reporting such child abuse or neglect, the physician shall not reveal that he or she learned of the abuse or neglect as the result of the minor

seeking an abortion.

**(d)** The attending physician certifies in the pregnant minor's medical record that a medical emergency exists and there is insufficient time to provide notice pursuant to section 13-22-704; or

**(e)** A valid court order is issued pursuant to section 13-22-707.

[Colo. Rev. Stat. § 13-22-705 \(Lexis Advance through all legislation from the 2022 Regular Session\)-22-704 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

13-22-706. Penalties - damages - defenses.

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**(3)** Any person who performs or attempts to perform an abortion in willful violation of this part 7 shall be liable for damages proximately caused thereby.

**(4)** It shall be an affirmative defense to any civil proceedings if the person establishes that:

**(a)** The person relied upon facts or information sufficient to convince a reasonable, careful and prudent person that the representations of the pregnant minor regarding information necessary to comply with this part 7 were bona fide and true; or

**(b)** The abortion was performed to prevent the imminent death of the minor child and there was insufficient time to provide the required notice.

**(5)** Any person who counsels, advises, encourages or conspires to induce or persuade any pregnant minor to furnish any physician with false information, whether oral or written, concerning the minor's age, marital status, or any other fact or circumstance to induce or attempt to induce the physician to perform an abortion upon such minor without providing written notice as required by this part 7 commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

[Colo. Rev. Stat. § 13-22-706 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

13-22-707. Judicial bypass - rules.

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**(1)**

**(a)** If any pregnant minor elects not to allow the notification required pursuant to section 13-22-704, any judge of a court of competent jurisdiction shall, upon petition filed by or on behalf of such minor, enter an order dispensing with the notice requirements of this part 7 if the judge determines that the giving of such notice will not be in the best interest of the minor, or if the court finds, by clear and convincing evidence, that the minor is sufficiently mature to decide whether to have an abortion. Any such order shall include specific factual findings and legal conclusions in support thereof and a certified copy of such order shall be provided to the attending physician of said minor and the provisions of section 13-22-704 (1) and section 13-22-706 shall not apply to the physician with respect to such minor.

**(b)** The court, in its discretion, may appoint a guardian ad litem for the minor and also an attorney if said minor is not represented by counsel.

**(c)** Court proceedings under this subsection (1) shall be confidential and shall be given precedence over other pending matters so that the court may reach a decision promptly without delay in order to serve the best interests of the minor. Court proceedings under this subsection (1) shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

**(d)** Notwithstanding any other provision of law, an expedited confidential appeal to the

court of appeals shall be available to a minor for whom the court denies an order dispensing with the notice requirements of this part 7. Any such appeal shall be heard and decided no later than five days after the appeal is filed. An order dispensing with the notice requirements of this part 7 shall not be subject to appeal.

(e) Notwithstanding any provision of law to the contrary, the minor is not required to pay a filing fee related to an action or appeal filed pursuant to this subsection (1).

(f) If either the district court or the court of appeals fails to act within the time periods required by this subsection (1), the court in which the proceeding is pending shall immediately issue an order dispensing with the notice requirements of this part 7.

(g) The Colorado supreme court shall issue rules governing the judicial bypass procedure, including rules that ensure that the confidentiality of minors filing bypass petitions will be protected. The Colorado supreme court shall also promulgate a form petition that may be used to initiate a bypass proceeding. The Colorado supreme court shall promulgate the rules and form governing the judicial bypass procedure by August 1, 2003. Physicians shall not be required to comply with this part 7 until forty-five days after the Colorado supreme court publishes final rules and a final form.

[Colo. Rev. Stat. § 13-22-707 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

13-22-708. Limitations.

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(3) This part 7 shall in no way be construed so as to:

(a) Require any minor to submit to an abortion; or

(b) Prevent any minor from withdrawing her consent previously given to have an abortion; or

(c) Permit anything less than fully informed consent before submitting to an abortion.

(4) This part 7 shall in no way be construed as either ratifying, granting or otherwise establishing an abortion right for minors independently of any other regulation, statute or court decision which may now or hereafter limit or abridge access to abortion by minors.

[Colo. Rev. Stat. § 13-22-708 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

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**Part 1. Colorado Indigent Care Program (§§ 25.5-3-101 — 25.5-3-112)**

25.5-3-101. Short title.

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This part 1 shall be known and may be cited as the “Colorado Indigent Care Program”.

25.5-3-106. No public funds for abortion - exception - definitions - repeal.

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(4) It is the purpose of this section to implement the provisions of amendment 3 to article V of the Colorado constitution, adopted by the registered electors of the state of Colorado at the general election November 6, 1984, which prohibits the use of public funds by the state of Colorado or its agencies or political subdivisions to pay or otherwise reimburse, directly or indirectly, any person, agency, or facility for any induced abortion.

(5) If every reasonable effort has been made to preserve the lives of a pregnant woman and her unborn child, then public funds may be used pursuant to this section to pay or reimburse for necessary medical services, not otherwise provided for by law.

(6)

- (a) Any medically necessary services performed pursuant to this section shall be performed only by a provider who is licensed by the state and acting within the scope of the provider's license and in accordance with applicable federal regulations.
- (b) (Deleted by amendment, L. 2021.)

(7)

- (a) Any physician who renders necessary medical services pursuant to subsection (2) of this section shall report the following information to the state department:
  - (I) The age of the pregnant woman and the gestational age of the unborn child at the time the necessary medical services were performed;
  - (II) The necessary medical services which were performed;
  - (III) The medical condition which necessitated the performance of necessary medical services;
  - (IV) The date such necessary medical services were performed and the name of the facility in which such services were performed.
- (b) The information required to be reported pursuant to paragraph (a) of this subsection (6) shall be compiled by the state department and such compilation shall be an ongoing public record; except that the privacy of the pregnant woman and the attending physician shall be preserved.
- (c) The information required to be reported pursuant to paragraph (a) of this subsection (7) shall be compiled by the state department and such compilation shall be an ongoing public record; except that the privacy of the pregnant woman and the attending physician shall be preserved.

(8) For purposes of this section, pregnancy is a medically diagnosable condition.

(9) For the purposes of this section:

- (c)
  - (I) "Death" means:
    - (A) The irreversible cessation of circulatory and respiratory functions; or
    - (B) The irreversible cessation of all functions of the entire brain, including the brain stem.
  - (II) A determination of death under this section shall be in accordance with accepted medical standards.
- (d) "Life-endangering circumstance" means:
  - (I) The presence of a medical condition, other than a psychiatric condition, as determined by the attending physician, which represents a serious and substantial threat to the life of the pregnant woman if the pregnancy continues to term;
  - (II) The presence of a lethal medical condition in the unborn child, as determined by the attending physician and one other physician, which would result in the impending death of the unborn child during the term of pregnancy or at birth; or
  - (III) The presence of a psychiatric condition which represents a serious and substantial threat to the life of the pregnant woman if the pregnancy continues to term. In such case, unless the pregnant woman has been receiving prolonged psychiatric care, the attending licensed physician shall obtain consultation from a licensed physician specializing in psychiatry confirming the presence of such a psychiatric condition. The attending physician shall report the findings of such consultation to the state department.
- (e) "Necessary medical services" means any medical procedures deemed necessary to prevent the death of a pregnant woman or her unborn child due to life-endangering circumstances.

(10) If any provision of this section or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application and, to this end, provisions of this section are declared severable.

(11) Use of the term “unborn child” in this section is solely for the purposes of facilitating the implementation of section 50 of article V of the state constitution and its use shall not affect any other law or statute nor shall it create any presumptions relating to the legal status of an unborn child or create or affect any distinction between the legal status of an unborn child and the legal status of a fetus.

(12) This section shall be repealed if section 50 of article V of the Colorado constitution is repealed.

[Colo. Rev. Stat. § 25.5-3-106 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

25.5-4-415. No public funds for abortion - exception - definitions - repeal.

(3) It is the purpose of this section to implement the provisions of section 50 of article V of the Colorado constitution, adopted by the registered electors of the state of Colorado at the general election November 6, 1984, which prohibits the use of public funds by the state of Colorado or its agencies or political subdivisions to pay or otherwise reimburse, directly or indirectly, any person, agency, or facility for any induced abortion.

(4) If every reasonable effort has been made to preserve the lives of a pregnant woman and her unborn child, then public funds may be used pursuant to this section to pay or reimburse for necessary medical services, not otherwise provided for by law.

(5)

(a) Any medically necessary services performed pursuant to this section shall be performed only by a provider who is licensed by the state and acting within the scope of the provider’s license and in accordance with applicable federal regulations.

(b) (Deleted by amendment, L. 2021.)

(6)

(a) Any physician who renders necessary medical services pursuant to subsection (2) of this section shall report the following information to the state department:

(I) The age of the pregnant woman and the gestational age of the unborn child at the time the necessary medical services were performed;

(II) The necessary medical services which were performed;

(III) The medical condition which necessitated the performance of necessary medical services;

(IV) The date such necessary medical services were performed and the name of the facility in which such services were performed.

(b) The information required to be reported pursuant to paragraph (a) of this subsection (4) shall be compiled by the state department and such compilation shall be an ongoing public record; except that the privacy of the pregnant woman and the attending physician shall be preserved.

(7) For purposes of this section, pregnancy is a medically diagnosable condition.

(8) For the purposes of this section:

(a)

(I) “Death” means:

A) The irreversible cessation of circulatory and respiratory functions; or

(B) The irreversible cessation of all functions of the entire brain, including the brain stem.

(II) A determination of death under this section shall be in accordance with accepted medical standards.

(b) “Life-endangering circumstance” means:

(I) The presence of a medical condition, other than a psychiatric condition, as determined by the attending physician, which represents a serious and substantial threat to the life of the pregnant woman if the pregnancy continues to term;

(II) The presence of a lethal medical condition in the unborn child, as determined by the attending physician and one other physician, which would result in the impending death of the unborn child during the term of pregnancy or at birth; or

(III) The presence of a psychiatric condition which represents a serious and substantial threat to the life of the pregnant woman if the pregnancy continues to term. In such case, unless the pregnant woman has been receiving prolonged psychiatric care, the attending licensed physician shall obtain consultation from a licensed physician specializing in psychiatry confirming the presence of such a psychiatric condition. The attending physician shall report the findings of such consultation to the state department.

(c) “Necessary medical services” means any medical procedures deemed necessary to prevent the death of a pregnant woman or her unborn child due to life-endangering circumstances.

(9) If any provision of this section or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared severable.

(10) Use of the term “unborn child” in this section is solely for the purposes of facilitating the implementation of section 50 of article V of the state constitution, and its use shall not affect any other law or statute nor shall it create any presumptions relating to the legal status of an unborn child or create or affect any distinction between the legal status of an unborn child and the legal status of a fetus.

(11) This section shall be repealed if section 50 of article V of the Colorado constitution is repealed.

[Colo. Rev. Stat. § 25.5-4-415 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

## **Part 12. Medical Record Confidentiality (§§ 25-1-1201 — 25-1-1204)**

25-1-1201. Legislative declaration.

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The general assembly hereby finds, determines, and declares that maintaining the confidentiality of medical records is of the utmost importance to the state and of critical importance to patient privacy for high quality medical care. Most people in the United States consider confidentiality of health information important and worry that the increased computerization of health records may result in inappropriate disclosure of such records. Patients have a strong interest in preserving the privacy of their personal health information, but they also have an interest in medical research and other efforts by health-care organizations to improve the medical care they receive. How best to preserve confidentiality within a state health information infrastructure is an important discussion that is affected by recent regulations promulgated by the federal department of health and human services related to the electronic storage of health information. The purpose of this part 12 is to index the provisions that govern medical record confidentiality to facilitate

locating the law concerning the confidentiality of medical records and health information. It is not intended to expand, narrow, or clarify existing provisions.

[Colo. Rev. Stat. § 25-1-1201 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

25-1-1202. Index of statutory sections regarding medical record confidentiality and health information.

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**(1)** Statutory provisions concerning policies, procedures, and references to the release, sharing, and use of medical records and health information include the following:

- (a)** Section 10-16-1003, C.R.S., concerning use of information by health-care cooperatives;
- (b)** Section 8-43-404, C.R.S., concerning examinations by a physician or chiropractor for the purposes of workers' compensation;
- (c)** Section 8-43-501, C.R.S., concerning utilization review related to workers' compensation;
- (d)** Section 8-73-108, C.R.S., concerning the award of benefits for unemployment compensation benefits;
- (e)** Section 10-3-1104.7, C.R.S., concerning the confidentiality and use of genetic testing information;
- (f)** Section 10-16-113, C.R.S., concerning the procedures related to the denial of health benefits by an insurer;
- (g)** Section 10-16-113.5, C.R.S., concerning the use of independent external review when health benefits have been denied;
- (h)** Section 10-16-423, C.R.S., concerning the confidentiality of medical information in the custody of a health maintenance organization;
- (i)** Section 12-290-113, concerning disciplinary actions against podiatrists;
- (j)** Section 12-215-126, concerning confidential communications between a licensed chiropractor and a patient;
- (k)** *[Editor's note: This version of subsection (1)(k) is effective until January 1, 2023.]* Section 12-220-201, concerning disciplinary actions against dentists and dental hygienists;
- (k) (k)** *[Editor's note: This version of subsection (1)(k) is effective January 1, 2023.]* Section 12-220-201, concerning disciplinary actions against dentists, dental therapists, and dental hygienists;
- (l)** Section 12-240-125, concerning disciplinary actions against physicians;
- (m)** Section 12-240-139 (1), concerning reporting requirements for physicians pertaining to certain injuries;
- (n)** Section 12-30-204, concerning professional review committees for physicians;
- (o)** Section 12-30-205, concerning hospital professional review committees;
- (p)** Section 13-22-704, concerning reporting requirements by physicians related to abortions for minors;
- (q)** Section 12-255-119, concerning disciplinary proceedings against a practical nurse, a professional nurse, or a psychiatric technician;
- (r)** Section 12-245-220, concerning the disclosure of confidential communications by a mental health professional;
- (s)** Section 12-245-226 (4), concerning disciplinary proceedings against a mental health professional;
- (t)** Section 13-21-110, C.R.S., concerning confidentiality of information, data, reports, or

records of a utilization review committee of a hospital or other health-care facility;

**(u)** *[Editor's note: This version of subsection (1)(u) is effective until July 1, 2024.]* Section 13-21-117, C.R.S., concerning civil liability of a mental health professional, mental health hospital, community mental health center, or clinic related to a duty to warn or protect;

**(u)** *[Editor's note: This version of subsection (1)(u) is effective July 1, 2024.]* Section 13-21-117, concerning civil liability of a mental health professional, mental health hospital, or behavioral health safety net provider related to a duty to warn or protect;

**(v)** Sections 13-22-101 to 13-22-106, C.R.S., concerning the age of competence for certain medical procedures;

**(w)** Section 13-64-502, C.R.S., concerning civil liability related to genetic counseling and screening and prenatal care, or arising from or during the course of labor and delivery, or the period of postnatal care in a health institution;

**(x)** Repealed.

**(y)** Section 13-90-107 (1)(d), C.R.S., concerning when a physician, surgeon, or registered professional nurse may testify related to the care and treatment of a person;

**(z)** Section 14-10-124, C.R.S., concerning the best interests of a child for the purposes of a separation or dissolution of marriage;

**(aa)** Section 14-10-127, C.R.S., concerning the allocation of parental responsibilities with respect to a child;

**(bb)** Section 17-27.1-101 (4), C.R.S., concerning nongovernmental facilities for offenders and the waiver of confidential information;

**(cc)** Section 18-3-203, concerning assault in the second degree and the availability of medical testing for certain circumstances;

**(dd)** Section 18-4-412, C.R.S., concerning theft of medical records or medical information;

**(ee)** Repealed.

**(ee.5)** Section 18-18-406.3, C.R.S., concerning medical marijuana patient records;

**(ff)** Section 18-18-503, C.R.S., concerning cooperative agreements to control substance abuse;

**(gg)** Section 19-3-304, C.R.S., concerning persons required to report child abuse or neglect;

**(hh)** Section 19-3-305, C.R.S., concerning postmortem investigation related to the death of a child;

**(ii)** Section 19-3-306, C.R.S., concerning evidence of abuse or neglect of a child;

**(jj)** Section 19-5-103 (2), C.R.S., concerning relinquishment of rights concerning a child;

**(kk)** Section 19-5-305, C.R.S., concerning access to adoption records;

**(ll)** Section 22-1-123 (5), C.R.S., concerning the protection of student data;

**(mm)** Sections 22-32-109.1 (6) and 22-32-109.3 (2), C.R.S., concerning specific powers and duties of the state board of education;

**(nn)** Repealed.

**(oo)** Section 24-51-213, C.R.S., concerning confidentiality of records maintained by the public employees' retirement association;

**(pp)** Section 24-72-204 (3), C.R.S., concerning public records not open to public inspection;

**(qq)** Section 25-1-122, concerning reporting of certain diseases and conditions for investigation of epidemic and communicable diseases, morbidity and mortality, cancer in connection with the statewide cancer registry, environmental and chronic diseases,



sexually transmitted infections, tuberculosis, and rabies and mammal bites by the department of public health and environment;

**(rr)** Section 25-1-124 (2), concerning health-care facilities and reporting requirements;

**(ss)** Sections 27-81-110 and 27-81-113, C.R.S., concerning the treatment of intoxicated persons;

**(ss)** Sections 27-81-110 and 27-81-113, C.R.S., concerning the treatment of intoxicated persons;

**(tt)** Section 25-1-801, concerning patient records in the care of a health-care facility;

**(uu)** Section 25-1-802, concerning patient records in the care of individual health-care providers;

**(vv)** Sections 27-81-109 and 27-81-113, concerning the treatment of persons with substance use disorders;

**(vv.5)** Section 25-1.5-106, concerning the medical marijuana program;

**(ww)** Section 25-2-120, concerning reports of electroconvulsive treatment;

**(xx)** Section 25-3-109, concerning quality management functions of health-care facilities licensed by the department of public health and environment;

**(yy)** Section 25-3.5-501, concerning records maintained by ambulance services and emergency medical service providers;

**(zz)** Section 25-3.5-704 (2)(d) and (2)(f), concerning the designation of emergency medical facilities and the statewide trauma system;

**(aaa)** Sections 25-4-406 and 25-4-409, concerning the reporting of sexually transmitted infections;

**(bbb)** Section 25-4-1003, concerning newborn screening programs and genetic counseling;

**(ccc)** Repealed.

**(ddd)** Section 25-4-1705, concerning immunization information;

**(eee)** Section 25-4-1905, concerning records collected related to gulf war syndrome;

**(fff)** Section 25-32-106, concerning the release of medical information to a poison control service provider;

**(ggg)** Section 26-3.1-102 (2), C.R.S., concerning reporting requirements related to at-risk adults;

**(hhh)** Section 26-11.5-108, C.R.S., concerning the long-term ombudsman program and access to medical records;

**(iii)** Section 27-65-103 (2), C.R.S., concerning voluntary applications for mental health services;

**(jjj)** Sections 27-65-121 (2) and 27-65-122, C.R.S., concerning records related to mental health services for minor children;

**(kkk)** Section 30-10-606 (6), C.R.S., concerning postmortem investigations and records;

**(lll)** Section 35-9-109, C.R.S., concerning confidentiality of information released to the commissioner of agriculture related to human exposure to pesticide applications;

**(mmm)** Section 42-2-112, C.R.S., concerning information supplied to the department of revenue for the purpose of renewing or obtaining a license to operate a motor vehicle; and

**(nnn)** Section 12-280-406, concerning information entered into the prescription drug monitoring program database.

**Article 3.5. Offenses Against Pregnant Women (§§ 18-3.5-101 — 18-3.5-110)**  
[C.R.S. Title 18, Art. 3.5](#)

18-3.5-101. Definitions.

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As used in this article, unless the context otherwise requires:

- (1) “Consent” has the same meaning as provided in section 18-1-505.
- (2) “Intentionally” or “with intent” has the same meaning as provided in section 18-1-501.
- (3) “Knowingly” has the same meaning as provided in section 18-1-501.
- (4) “Pregnancy”, for purposes of this article only and notwithstanding any other definition or use to the contrary, means the presence of an implanted human embryo or fetus within the uterus of a woman.
- (5) “Recklessly” shall have the same meaning as provided in section 18-1-501.
- (6) “Unlawful termination of pregnancy” means the termination of a pregnancy by any means other than birth or a medical procedure, instrument, agent, or drug, for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained, or for which the pregnant woman’s consent is implied by law.

[Colo. Rev. Stat. § 18-3.5-101 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

18-3.5-102. Exclusions.

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- (1) Nothing in this article shall permit the prosecution of a person for any act of providing medical, osteopathic, surgical, mental health, dental, nursing, optometric, healing, wellness, or pharmaceutical care; furnishing inpatient or outpatient hospital or clinic services; furnishing telemedicine services; or furnishing any service related to assisted reproduction or genetic testing.
- (2) Nothing in this article shall permit the prosecution of a woman for any act or any failure to act with regard to her own pregnancy.

[Colo. Rev. Stat. § 18-3.5-102 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

18-3.5-103. Unlawful termination of pregnancy in the first degree.

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- (1) A person commits the offense of unlawful termination of pregnancy in the first degree if, with the intent to terminate unlawfully the pregnancy of a woman, the person unlawfully terminates the woman’s pregnancy.
- (2) Unlawful termination of pregnancy in the first degree is a class 3 felony but is a class 2 felony if the woman dies as a result of the unlawful termination of a pregnancy.
- (3) A defendant convicted pursuant to subsection (1) of this section shall be sentenced by the court in accordance with the provisions of section 18-1.3-406.

[Colo. Rev. Stat. § 18-3.5-103 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

18-3.5-104. Unlawful termination of pregnancy in the second degree.

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- (1) A person commits the offense of unlawful termination of pregnancy in the second degree if the person knowingly causes the unlawful termination of the pregnancy of a woman.

(2)

(a) Except as otherwise provided in paragraph (b) of this subsection (2), unlawful termination of pregnancy in the second degree is a class 4 felony.

(b) If unlawful termination of pregnancy in the second degree is committed under circumstances where the act causing the unlawful termination of pregnancy is performed upon a sudden heat of passion, caused by a serious and highly provoking act of the intended victim, affecting the person causing the unlawful termination of pregnancy sufficiently to excite an irresistible passion in a reasonable person, and without an interval between the provocation and the unlawful termination of pregnancy sufficient for the voice of reason and humanity to be heard, it is a class 5 felony.

(3) A defendant convicted pursuant to subsection (1) of this section shall be sentenced by the court in accordance with the provisions of section 18-1.3-406.

[Colo. Rev. Stat. § 18-3.5-104 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

18-3.5-105. Unlawful termination of pregnancy in the third degree.

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(1) A person commits the offense of unlawful termination of pregnancy in the third degree if, under circumstances manifesting extreme indifference to the value of human life, the person knowingly engages in conduct that creates a grave risk of death to another person, and thereby causes the unlawful termination of the pregnancy of a woman.

(2) Unlawful termination of pregnancy in the third degree is a class 5 felony.

[Colo. Rev. Stat. § 18-3.5-105 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

18-3.5-106. Unlawful termination of pregnancy in the fourth degree.

(1) A person commits the offense of unlawful termination of pregnancy in the fourth degree if the person recklessly causes the unlawful termination of the pregnancy of a woman at such time as the person knew or reasonably should have known that the woman was pregnant.

(2)

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(a) Unlawful termination of pregnancy in the fourth degree is a class 6 felony.

(b) Unlawful termination of pregnancy in the fourth degree by any person is a class 5 felony if the pregnancy of the woman, other than a participant in the crime, is unlawfully terminated during the commission or attempted commission of or flight from the commission or attempted commission of murder, assault in the first or second degree, robbery, arson, burglary, escape, kidnapping in the first degree, sexual assault, sexual assault in the first or second degree as such offenses existed prior to July 1, 2000, or class 3 felony sexual assault on a child, but only to the extent that the person is a principal in the criminal act or attempted criminal act, as described in section 18-1-603.

[Colo. Rev. Stat. § 18-3.5-106 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

18-3.5-107. Vehicular unlawful termination of pregnancy.

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(1) If a person operates or drives a motor vehicle in a reckless manner, and this conduct is the proximate cause of the unlawful termination of the pregnancy of a woman, such person commits

vehicular unlawful termination of pregnancy.

(2) Vehicular unlawful termination of pregnancy in violation of subsection (1) of this section is a class 5 felony.

[Colo. Rev. Stat. § 18-3.5-107 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

18-3.5-108. Aggravated vehicular unlawful termination of pregnancy - definitions.

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(1)

(a) If a person operates or drives a motor vehicle while under the influence of alcohol or one or more drugs, or a combination of both alcohol and one or more drugs, and this conduct is the proximate cause of the unlawful termination of the pregnancy of a woman, such person commits aggravated vehicular unlawful termination of pregnancy. This is a strict liability crime.

(b) As used in this subsection (1):

(I) "Driving under the influence" means driving a vehicle when a person has consumed alcohol or one or more drugs, or a combination of alcohol and one or more drugs, which alcohol alone, or one or more drugs alone, or alcohol combined with one or more drugs affect such person to a degree that such person is substantially incapable, either mentally or physically, or both mentally and physically, of exercising clear judgment, sufficient physical control, or due care in the safe operation of a vehicle.

(II) "One or more drugs" means all substances defined as a drug in section 12-280-103 (16), and all controlled substances defined in section 18-18-102 (5), and glue-sniffing, aerosol inhalation, or the inhalation of any other toxic vapor or vapors as defined in section 18-18-412.

(c) The fact that a person charged with a violation of this subsection (1) is or has been entitled to use one or more drugs under the laws of this state shall not constitute a defense against any charge of violating this subsection (1).

(2) Aggravated vehicular unlawful termination of pregnancy, in violation of paragraph (a) of subsection (1) of this section, is a class 4 felony.

(3) In any prosecution for a violation of subsection (1) of this section, the amount of alcohol in the defendant's blood or breath at the time of the commission of the alleged offense or within a reasonable time thereafter, as shown by analysis of the defendant's blood or breath, shall give rise to the following presumptions:

(a) If there was at such time 0.05 or less grams of alcohol per one hundred milliliters of blood, or if there was at such time 0.05 or less grams of alcohol per two hundred ten liters of breath, it shall be presumed that the defendant was not under the influence of alcohol.

(b) If there was at such time in excess of 0.05 grams but less than 0.08 grams of alcohol per one hundred milliliters of blood, or if there was at such time in excess of 0.05 grams but less than 0.08 grams of alcohol per two hundred ten liters of breath, such fact may be considered with other competent evidence in determining whether or not the defendant was under the influence of alcohol.

(c) If there was at such time 0.08 or more grams of alcohol per one hundred milliliters of blood, or if there was at such time 0.08 or more grams of alcohol per two hundred ten liters of breath, it shall be presumed that the defendant was under the influence of alcohol.

(4) The limitations of subsection (3) of this section shall not be construed as limiting the introduction, reception, or consideration of any other competent evidence bearing upon the

question of whether or not the defendant was under the influence of alcohol.

(5)

(a) If a law enforcement officer has probable cause to believe that a person was driving a motor vehicle in violation of paragraph (a) of subsection (1) of this section, the person, upon the request of the law enforcement officer, shall take and complete, and cooperate in completing, any test or tests of the person's blood, breath, saliva, or urine for the purpose of determining the alcohol or drug content within his or her system. The type of test or tests shall be determined by the law enforcement officer requiring the test or tests. If the person refuses to take, complete, or cooperate in completing any test or tests, the test or tests may be performed at the direction of a law enforcement officer having probable cause, without the person's authorization or consent. If a person refuses to take, complete, or cooperate in taking or completing any test or tests required by this paragraph (a), the person shall be subject to license revocation pursuant to the provisions of section 42-2-126 (3), C.R.S. When the test or tests show that the amount of alcohol in a person's blood was in violation of the limits provided for in section 42-2-126 (3)(a), (3)(b), (3)(d), or (3)(e), C.R.S., the person shall be subject to license revocation pursuant to the provisions of section 42-2-126, C.R.S.

(b) Any person who is required to submit to testing shall cooperate with the person authorized to obtain specimens of his or her blood, breath, saliva, or urine, including the signing of any release or consent forms required by any person, hospital, clinic, or association authorized to obtain such specimens. If such person does not cooperate with the person, hospital, clinic, or association authorized to obtain such specimens, including the signing of any release or consent forms, such noncooperation shall be considered a refusal to submit to testing.

(c) The tests shall be administered at the direction of a law enforcement officer having probable cause to believe that the person committed a violation of paragraph (a) of subsection (1) of this section and in accordance with rules and regulations prescribed by the state board of health concerning the health of the person being tested and the accuracy of the testing. Strict compliance with the rules and regulations shall not be a prerequisite to the admissibility of test results at trial unless the court finds that the extent of noncompliance with a board of health rule has so impaired the validity and reliability of the testing method and the test results as to render the evidence inadmissible. In all other circumstances, failure to strictly comply with such rules and regulations shall only be considered in the weight to be given to the test results and not to the admissibility of the test results. It shall not be a prerequisite to the admissibility of test results at trial that the prosecution present testimony concerning the composition of any kit used to obtain blood, urine, saliva, or breath specimens. A sufficient evidentiary foundation concerning the compliance of such kits with the rules and regulations of the department of public health and environment shall be established by the introduction of a copy of the manufacturer's or supplier's certificate of compliance with the rules and regulations if the certificate specifies the contents, sterility, chemical makeup, and amounts of chemicals contained in such kit.

(d) No person except a physician, a registered nurse, an emergency medical service provider certified or licensed under section 25-3.5-203 who is authorized within his or her scope of practice to draw blood, or a person whose normal duties include withdrawing blood samples under the supervision of a physician or registered nurse may withdraw blood for the purpose of determining the alcohol or drug content in the blood. In any trial for a violation of subsection (1)(a) of this section, testimony of a law enforcement officer that the officer witnessed the taking of a blood specimen by a person

who the officer reasonably believed was authorized to withdraw blood specimens is sufficient evidence that the person was so authorized, and testimony from the person who obtained the blood specimens concerning the person's authorization to obtain blood specimens is not a prerequisite to the admissibility of test results concerning the blood specimens obtained. Civil liability does not attach to any person authorized to obtain blood, breath, saliva, or urine specimens or to any hospital, clinic, or association in or for which the specimens are obtained pursuant to this subsection (5) as a result of the act of obtaining the specimens from any person if the specimens were obtained according to the rules prescribed by the state board of health; except that this subsection (5) does not relieve any such person from liability for negligence in obtaining any specimen sample.

(e) Any person who is dead or unconscious shall be tested to determine the alcohol or drug content of his or her blood or any drug content of his or her system as provided in this subsection (5). If a test cannot be administered to a person who is unconscious, hospitalized, or undergoing medical treatment because the test would endanger the person's life or health, the law enforcement agency shall be allowed to test any blood, urine, or saliva that was obtained and not utilized by a health-care provider and shall have access to that portion of the analysis and results of any tests administered by the provider that show the alcohol or drug content of the person's blood or any drug content within his or her system. Such test results shall not be considered privileged communications, and the provisions of section 13-90-107, C.R.S., relating to the physician-patient privilege shall not apply. Any person who is dead, in addition to the tests prescribed, shall also have his or her blood checked for carbon monoxide content and for the presence of drugs, as prescribed by the department of public health and environment. Any information obtained shall be made a part of the law enforcement officer's accident report.

(f) If a person refuses to take, complete, or cooperate in completing any test or tests as provided in this subsection (5) and the person subsequently stands trial for a violation of subsection (1)(a) of this section, the refusal to take, complete, or cooperate with completing any test or tests shall be admissible into evidence at the trial, and the person may not claim the privilege against self-incrimination with regard to the admission of his or her refusal to take, complete, or cooperate with completing any test or tests.

(g) Notwithstanding any provision of section 42-4-1301.1, C.R.S., concerning requirements that relate to the manner in which tests are administered, the test or tests taken pursuant to the provisions of this section may be used for the purposes of driver's license revocation proceedings under section 42-2-126, C.R.S., and for the purposes of prosecutions for violations of section 42-4-1301 (1) or (2), C.R.S.

(6) In all actions, suits, and judicial proceedings in any court of this state concerning alcohol-related or drug-related traffic offenses, the court shall take judicial notice of methods of testing a person's alcohol or drug level and of the design and operation of devices, as certified by the department of public health and environment, for testing a person's blood, breath, saliva, or urine to determine his or her alcohol or drug level. This subsection (6) shall not prevent the necessity of establishing during a trial that the testing devices used were working properly and that such testing devices were properly operated. Nothing in this subsection (6) shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

[Colo. Rev. Stat. § 18-3.5-108 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

[18-3.5-109. Careless driving resulting in unlawful termination of pregnancy - penalty.](#)

(1) A person who drives a motor vehicle, bicycle, electrical assisted bicycle, electric scooter, or

low-power scooter in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances, and causes the unlawful termination of a pregnancy of a woman is guilty of careless driving resulting in unlawful termination of pregnancy. A person convicted of careless driving of a bicycle, electrical assisted bicycle, or electric scooter resulting in the unlawful termination of pregnancy is not subject to section 42-2-127.

(2) Any person who violates any provision of this section commits a class 1 misdemeanor traffic offense.

[Colo. Rev. Stat. § 18-3.5-109 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

18-3.5-110. Construction.

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Nothing in this article shall be construed to confer the status of “person” upon a human embryo, fetus, or unborn child at any stage of development prior to live birth.

[Colo. Rev. Stat. § 18-3.5-110 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

## **D 2022 032 EXECUTIVE ORDER**

### **Directing State Agencies to Protect Access to Reproductive Health Care in Colorado**

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution, I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order directing State agencies to protect access to reproductive health care in Colorado.

#### **I. Background and Purpose**

All people in Colorado have the right to make personal choices about their reproductive health care. The recent United States Supreme Court decision in *Dobbs v. Jackson Women’s Health*

*Organization* does not alter or negatively impact anyone’s rights under Colorado law.

In 1973, the United States Supreme Court decided *Roe v. Wade*, a landmark case in American history that held the U.S. Constitution protects a pregnant person’s right to choose to have an abortion. This case was affirmed in 1992 by *Planned Parenthood of Southeastern Pennsylvania v. Casey*, where the Supreme Court held that a legal restriction on abortion could not pose an undue burden on the constitutional right to abortion.

On June 24, 2022, the Supreme Court issued its decision in *Dobbs*, reversing almost 50 years of precedent by overturning *Roe* and *Casey* and holding that the U.S. Constitution does not confer a right to abortion. This decision strips away freedoms granted to millions of Americans and endangers the rights and health of future generations.

Colorado was the first state to remove criminal penalties for terminating pregnancies, with Republican Governor John Love signing the law overturning a prior abortion ban in 1967. This past April, continuing Colorado’s legacy of safeguarding fundamental personal

healthcare decisions, I signed the Reproductive Health Equity Act, House Bill 22-1279, which codifies protections in State law to ensure that choice remains legal in Colorado.

In the wake of the wrong and misguided decision in *Dobbs*, numerous states have moved and will move to ban abortion outright, and many other states already have “trigger laws” that will ban abortion within 30 days of the *Dobbs* decision. This impending loss of freedom for people around the country poses a threat to the people of Colorado to the extent that other states may seek to infringe on essential rights protected by Colorado law, and impose criminal penalties or civil liability for conduct that is now outlawed in other states, but remains legal in Colorado.

Colorado is experiencing a workforce shortage in many professions, and disqualifying people because they were prosecuted for taking actions in other states that are fully legal under Colorado law would hurt our economy and our State.

Colorado is committed to protecting access to reproductive health care. No one who is lawfully providing, assisting, seeking, or obtaining reproductive health care in Colorado should be subject to legal liability or professional sanctions in Colorado or any other state, nor will Colorado cooperate with criminal or civil investigations for actions that are fully legal in our State. This Executive Order ensures that all Coloradans are afforded protections and rights under Colorado law and directs state agencies and departments managed by Governor-appointed executives to protect access to reproductive health care in Colorado within their authority under the law.

## **II. Declarations and Directives**

A. All state agencies and principal departments shall not, unless pursuant to a court order, provide information or data, including patient medical records, patient-level data, or related billing information, or expend time, money, facilities, property, equipment, personnel, or other resources to assist or further any investigation or proceeding initiated in or by another state that seeks to impose criminal or civil liability or professional sanction upon a person or entity for conduct that would be legal in Colorado related to providing, assisting, seeking, or obtaining reproductive health care. This limitation does not apply to any investigation or proceeding in which the conduct that is subject to potential liability under the investigation or proceeding would be subject to civil or criminal liability or professional sanction under Colorado law if committed in Colorado. Notwithstanding the general prohibition of this section, agencies and departments may provide information or assistance in connection with such an investigation or proceeding in response to a written request from the subject of such an investigation or proceeding.

B. All state agencies and principal departments shall, to the full extent of their lawful authority, pursue opportunities and coordinate with each other to protect people and entities who are providing, assisting, seeking, or obtaining reproductive health care in Colorado.

C. I direct the Department of Regulatory Agencies (DORA) to work with all programs and boards of professional licensure operating under its purview to promulgate and issue necessary rules that will ensure that no person shall be subject to disciplinary action against a professional license or disqualified from professional licensure for providing or assisting in the provision of reproductive health care or as a consequence of any civil or criminal judgment, discipline, or



Other sanction threatened or imposed under the laws of another state so long as the care as provided is lawful and consistent with professional conduct and standards of care within the State of Colorado. DORA shall report to me on the measures implemented by all programs and boards under DORA purview within ninety (90) days of the date of this Executive Order.

D. I will exercise the full extent of my discretion to decline requests for the arrest, surrender, or extradition of any person charged with a criminal violation of a law of another state where the violation alleged involves the provision of, assistance with, securing of, or receipt of reproductive health care, unless the acts forming the basis of the prosecution of the crime charged would also constitute a criminal offense under Colorado law.

E. For the purposes of this Executive Order, the following definitions apply:

i. “Reproductive health care” shall have the same meaning as in C.R.S. § 25-6-402(4).

ii. “Agencies and principal departments” means state agencies and principal departments under the authority of the Governor and includes employees, appointees, officers, or other people acting on behalf of a state agency or principal department.

### **III. Duration**

This Executive Order shall remain in effect unless modified or rescinded by future Executive Order of the Governor.



GIVEN under my hand and the Executive Seal of the State of Colorado, this sixth day of July 2022.



Jared Polis Governor