

## Colorado

**Colo. Const. Art. II s. 32 is added. Colo. Const. Art. V. s. 50 is repealed.** (ballot measure-Colorado Amendment 79, the Right to Abortion and Health Insurance Coverage Initiative, passed on November 5, 2024.

### **Colo. Const. Art. II s.32. Abortion.**

The right to abortion is hereby recognized. Government shall not deny, impede, or discriminate against the exercise of that right, including prohibiting health insurance coverage for abortion.

### **Colo. Const. Art. V, Section 50 (repealed by ballot measure, November 5, 2024)**

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.

### **12-30-121. Legally protected health-care activity — prohibit adverse action against regulated professionals and applicants — definitions.**

(1) As used in this section, unless the context otherwise requires:

(a) “Civil judgment” means a final court decision and order resulting from a civil lawsuit or a settlement in lieu of a final court decision.

(b) “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.

(c) “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.

(d) “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.

(e) “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.

(2) 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:

(a) 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;

(b) 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;

(c) 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:

(I) 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

(II) The care provided was consistent with generally accepted standards of practice under Colorado law and did not otherwise violate Colorado law;

(d) 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

(e) 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.

[C.R.S. 12-30-121](#)

### ***13-1-140. Prohibition on issuing subpoena in connection with proceeding in another state.***

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(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 (1)(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.

[C.R.S. 13-1-140](#)

### ***13-1-140.1 Subpoena requirements - legally protected health-care activity - enforcement.***

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(1) Affirmation required. An individual requesting a subpoena shall affirm under penalty of perjury that the subpoena:

- (a) Is not related to, and any information obtained as a result of the subpoena will not be used in, any investigation or proceeding that seeks to impose civil or criminal liability or professional sanctions against an individual or entity that engaged in or attempted or intended to engage in a legally protected health-care activity, as defined in section 12-30-121, or that provided insurance coverage for gender-affirming health-care services, as defined in section 12-30-121, or reproductive health care, as defined in section 25-6-402; or
- (b) Is related to an investigation or proceeding that seeks to impose civil or criminal liability or

professional sanctions against an individual or entity that engaged in or attempted or intended to engage in a legally protected health-care activity, as defined in section 12-30-121, or that provided insurance coverage for gender-affirming health-care services, as defined in section 12-30-121, or reproductive health care, as defined in 25-6-402, but the investigation or proceeding:

- (I) Is brought under tort law or contract law;
  - (II) Is actionable in an equivalent or similar manner under Colorado law; and
  - (III) IS brought by the individual, or the individual's legal representative, who received gender-affirming health-care services or reproductive health care.
- (2) Jurisdiction and penalty. An individual who omits or submits a false affirmation pursuant to subsection (1) of this section is subject to the jurisdiction of Colorado courts for any action, penalties, or damages arising out of the omission or false affirmation was made intentionally, knowingly, willfully, or recklessly, shall impose a civil penalty in an amount not to exceed fifteen thousand dollars for each violation, which amount is in addition to any other legal or equitable remedy lawfully available.
- (3) Enforcement. The attorney general may bring a civil action on behalf of the state to seek the imposition of damages, penalties, and any other equitable remedies against an individual who omits or submits a false affirmation pursuant to subsection (1) of this section. The action must be filed within six years after the date of the alleged violation.
- (4) 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 a federal agency or actor, or an agency or individual from another state, for the purpose of enforcing another state's abortion law.

#### 13.1.140.1

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

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(1)

(a) 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, or for providing insurance coverage for gender-affirming health-care services, as defined in section 12-30-121, or reproductive health care, as defined in section 25-6-402.

(b)

(I) If a person or entity brings an out-of-state civil or criminal action, or attempts to enforce any order or judgment issued in connection with any such action, against another person or entity for engaging in or attempting or intending to engage in a legally protected health-care activity, as defined in section 12-30-121, or for providing insurance coverage for gender-affirming health-care services, as defined in section 12-30-121, or reproductive health care, as defined in section 25-6-402, the person or entity subject to the out-of-state civil or criminal action has a private right of action against the person or entity and, within six years after the date the out-of-state action is commenced, or if the person or entity is attempting to enforce an out-of-state order or judgment, six years after the date enforcement is attempted, may institute a civil action in district court for injunctive relief; actual damages, including the amount of any judgment issues in connection with the out-of-state action, along with any expenses, costs, or reasonable attorney fees incurred in connection with the

out-of-state action and civil action filed pursuant to this section; and any other appropriate remedy.

(II) The attorney general may intervene in any out-of-state action brought against the state pursuant to this subsection (1)(b).

(2) 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.

(3) 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.

[C.R.S. 13-21-133](#)

### ***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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(1) 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.

(2) 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:

(1) "Minor" means a person under eighteen years of age.

(2) "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.

(3) "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.

(4) "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.

(5) "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.

(6) "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.

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### ***13-22-704. Notification concerning abortion.***

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(1) 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.

(2)

(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.

(3) 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.

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

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(1) 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 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

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

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(1) 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.

(2) 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.

(3) 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 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

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### ***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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- (1) 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.
- (2) 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 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

### ***13-64-402.5. Evidence relating to legally protected health-care activity - legislative declaration.***

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- (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.

[C.R.S. 13-64-402.5](#)

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

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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.

[C.R.S. 16-5-104](#)

### ***16-19-107. Extradition of persons not present where crime committed.***

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- (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 19 that are not otherwise inconsistent 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.

[C.R.S. 16-19-107](#)

### ***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 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

### ***18-3.5-110. 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 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

***18-9-122. Preventing passage to and from a health-care facility - engaging in prohibited activities near facility.***

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(1) The general assembly recognizes that access to health-care facilities for the purpose of obtaining medical counseling and treatment is imperative for the citizens of this state; that the exercise of a person's right to protest or counsel against certain medical procedures must be balanced against another person's right to obtain medical counseling and treatment in an unobstructed manner; and that preventing the willful obstruction of a person's access to medical counseling and treatment at a health-care facility is a matter of statewide concern. The general assembly therefore declares that it is appropriate to enact legislation that prohibits a person from knowingly obstructing another person's entry to or exit from a health-care facility.

(2) A person commits a petty offense if such person knowingly obstructs, detains, hinders, impedes, or blocks another person's entry to or exit from a health-care facility.

(3) No person shall knowingly approach another person within eight feet of such person, unless such other person consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education, or counseling with such other person in the public way or sidewalk area within a radius of one hundred feet from any entrance door to a health-care facility. Any person who violates this subsection (3) commits a petty offense.

(4) For the purposes of this section, "health-care facility" means any entity that is licensed, certified, or otherwise authorized or permitted by law to administer medical treatment in this state.

(5) Nothing in this section shall be construed to prohibit a statutory or home rule city or county or city and county from adopting a law for the control of access to health-care facilities that is no less restrictive than the provisions of this section.

(6) In addition to, and not in lieu of, the penalties set forth in this section, a person who violates the provisions of this section shall be subject to civil liability, as provided in section 13-21-106.7, C.R.S.

[C.R.S. 18-9-122](#)

***18-13-133. Prohibition on prosecuting health-care providers - patient ingests abortifacient in another state.***

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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.

[C.R.S. 18-13-133](#)

***24-116-101. Prohibition on providing information or expending government resources - legally protected health-care activity.***

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A public entity, as defined in section 24-10-103, or employee, appointee, officer, official, or any other person acting on behalf of a public entity, or a person or entity licensed or regulated by the state, 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, to the extent constitutionally permissible, any federal 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.

[C.R.S. 24-116-101](#)

***24-116-102. Prohibition on assisting another state - legally protected health-care activity.***

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(1) A public entity, as defined in section 24-10-103, or a person or entity licensed or regulated by the state, 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, or, to the extent constitutionally permissible, initiated by the federal government, 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.

(2) Notwithstanding subsection (1) of this section, a public entity, or a person or entity licensed or regulated by the state, 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.

(3) 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.

[C.R.S. 24-116-102](#)

***24-116-103 Enforcement by the attorney general.***

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**The attorney general has the sole discretion to enforce any action brought pursuant to this article 116 and any related legal action brought on behalf of the state.**

[24-116-103](#)

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

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***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 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.

[Colo. Rev. Stat. § 25-1-1202 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

### ***25-2-108.5 Reports of induced terminations of pregnancy – confidentiality – penalty.***

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(1) The Department of Public Health and Environment shall not collect the following information as part of any required reporting of induced terminations of pregnancy:

- (a) The patient's name, date of birth, address, employer, spouse's name, or parent's or legal guardian's name; or
- (b) The city or town where the termination of pregnancy occurred.

(2) Reports of induced terminations of pregnancy collected by the Department of Public Health and Environment must only be used for compilation of statistical reports and must not be incorporated into the official records of the Office of the State Registrar of Vital Statistics. The State Registrar shall dispose of any reports of induced terminations of pregnancy when all statistical processing of the reports have been accomplished.

(3) The Department of Public Health and Environment may collect reports of induced terminations of pregnancy from health-care facilities and providers no more than once a month.

(4)

(a) Reports of induced terminations of pregnancy collected by the Department of Public Health and Environment and statistical analysis of the reports must remain confidential and must not be released, shared with any state or federal agency or institution, or made public upon the issuance of a subpoena or search warrant or during a discovery proceeding; except that an aggregate-level summary of reports may be released to the extent required by law, or as necessary to:

(I) Promote equitable access to patient-centered, quality contraceptive services in Colorado;

(II) Reduce unintended pregnancies; and

(III) Monitor changes in clinical practice patterns related to abortion care

(b) The Department of Public Health and Environment shall limit the disclosure of personally identifying information to the minimum amount necessary to accomplish the public health purpose of disclosing the information.

(c) Notwithstanding this subsection (4) to the contrary, information collected that has fewer than ten records must not be released under any circumstance.

(5) An officer, employee, or agent of the Department of Public Health and Environment or an officer, employee, or agent of a county, district, or municipal public health agency is not required to participate or testify in a judicial, executive, legislative, or other proceeding that concerns the existence or content of an individual report.

(6) A person who violates this section by releasing or disclosing confidential information or by disclosing information without authorization commits a data privacy breach and is subject to the provisions of section 24-74-107. Each unauthorized disclosure of information constitutes a separate offense.

[25-2-108.5](#)

## **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:

(1) “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.

- (2) “Pregnancy” means the human reproductive process, beginning with the implantation of an embryo.
- (3) “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.
- (4) “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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- (1) 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.
- (2) 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.
- (3) 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:
  - (a) 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
  - (b) 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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- (1) 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.
- (2) 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 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

[Session\)](#)

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### ***25-6-406. Severability.***

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 \(Lexis Advance through all legislation from the 2022 Regular Session\)](#)

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### ***25-6-407. Enforcement.***

The venue to enforce an action pursuant to the provisions of this part 4 is in the Denver district court.

[C.R.S. 25-6-407](#)

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### ***25.5-2-106 State-funded abortion care.***

When abortion care services are provided in accordance with articles 4, 5, and 6 of this title 25.5, the services must be reimbursed by state funds only.

[25.5-2-106](#)

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

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#### ***25.5-3-101. Short title.***

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

#### **25.5-3-102. Legislative declaration.**

(1) The general assembly hereby determines, finds, and declares that:

(a) The state has insufficient resources to pay for all medical services for persons who are indigent and must therefore allocate available resources in a manner that will provide treatment of those conditions constituting the most serious threats to the health of such medically indigent persons, as well as increase access to primary medical care to prevent deterioration of the health conditions among medically indigent people; and

(b) Such allocation of resources will require the prioritization of medical services by providers and the coordination of administration and delivery of medical services.

(2) The general assembly further determines, finds, and declares that the eligibility of medically indigent persons to receive medical services rendered under the conditions specified in subsection (1) of this section exists only to the extent of available appropriations, as well as to the extent of the individual provider facility’s physical, staff, and financial capabilities. The general assembly also recognizes that the program for the medically indigent is a partial solution to the health-care needs of Colorado’s medically indigent citizens. Therefore, medically indigent persons accepting medical services from such program shall be subject to the limitations and requirements imposed in this part 1.

Colo. Rev. Stat. § 25.5-3-102 (Lexis Advance through Chapter 447 of the 2024 Regular Session,

effective as of June 6, 2024. The 2024 legislative changes are not final until compared and reconciled to the 2024 work product of the Colorado Office of Legislative Services later in 2024)

### ***25.5-3-103. Definitions.***

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As used in this part 1, unless the context otherwise requires:

- (1) “Emergency care” means treatment for conditions of an acute, severe nature which are life, limb, or disability threats requiring immediate attention, where any delay in treatment would, in the judgment of the responsible physician, threaten life or loss of function of a patient or viable fetus.
- (2) “Executive director” means the executive director of the state department.
- (3) “General provider” means a general hospital, birth center, or community health clinic licensed or certified by the department of public health and environment pursuant to section 25-1.5-103 (1)(a)(I) or (1)(a)(II); a federally qualified health center, as defined in the federal “Social Security Act”, 42 U.S.C. sec. 1395x (aa)(4); a rural health clinic, as defined in the federal “Social Security Act”, 42 U.S.C. sec. 1395x (aa)(2); a health maintenance organization issued a certificate of authority pursuant to section 10-16-402; and the health sciences center when acting pursuant to section 25.5-3-108 (5)(a)(I) or (5)(a)(II)(A). For the purposes of the program, “general provider” includes associated physicians.
- (4) “Health sciences center” means the schools of medicine, dentistry, nursing, and pharmacy established by the regents of the university of Colorado under section 5 of article VIII of the Colorado constitution.
- (5) “Program” means the program for the medically indigent established by section 25.5-3-104.
- (6) “University hospital” means the university hospital operated pursuant to article 21 of title 23, C.R.S.

Colo. Rev. Stat. § 25.5-3-103 (Lexis Advance through Chapter 447 of the 2024 Regular Session, effective as of June 6, 2024. The 2024 legislative changes are not final until compared and reconciled to the 2024 work product of the Colorado Office of Legislative Services later in 2024)

### ***6-1-1301. Short title.***

**The short title of this part 13 is the “Colorado Privacy Act”.**

### ***6-1-1302. Legislative declaration.***

#### **(1) The general assembly hereby:**

##### **(a) Finds that:**

- (I) The people of Colorado regard their privacy as a fundamental right and an essential element of their individual freedom;
- (II) Colorado’s constitution explicitly provides the right to privacy under section 7 of article II, and fundamental privacy rights have long been, and continue to be, integral to protecting Coloradans and to safeguarding our democratic republic;
- (III) [*Editor’s note: This version of subsection (1)(a)(III) is effective until October 1, 2025.*] Ongoing advances in technology have produced exponential growth in the volume and variety of personal data being generated, collected, stored, and analyzed, and these advances present both promise and potential peril;
- (III) [*Editor’s note: This version of subsection (1)(a)(III) is effective October 1, 2025.*] Ongoing advances in technology have produced exponential growth in the volume and variety of personal data from individuals, including minors, being generated, collected, stored, and analyzed, and these advances present both promise and potential peril;
- (IV) The ability to harness and use data in positive ways is driving innovation and brings beneficial technologies to society, but it has also created risks to privacy and freedom; and

(V) [*Editor's note: This version of subsection (1)(a)(V) is effective until October 1, 2025.*] The unauthorized disclosure of personal information and loss of privacy can have devastating impacts ranging from financial fraud, identity theft, and unnecessary costs in personal time and finances to destruction of property, harassment, reputational damage, emotional distress, and physical harm;

(V) [*Editor's note: This version of subsection (1)(a)(V) is effective October 1, 2025.*] The unauthorized disclosure of personal information, including a minor's personal information, and loss of privacy can have devastating impacts ranging from financial fraud, identity theft, and unnecessary costs in personal time and finances to destruction of property, harassment, reputational damage, emotional distress, and physical harm;

(b) Determines that:

(I) Technological innovation and new uses of data can help solve societal problems and improve lives, and it is possible to build a world where technological innovation and privacy can coexist; and

(II) [*Editor's note: This version of subsection (1)(b)(II) is effective until October 1, 2025.*] States across the United States are looking to this part 13 and similar models to enact state-based data privacy requirements and to exercise the leadership that is lacking at the national level; and

(II) [*Editor's note: This version of subsection (1)(b)(II) is effective October 1, 2025.*] States across the United States are looking to this part 13 and similar models to enact state-based data privacy requirements, including data privacy requirements specifically targeted at minors' data, and to exercise the leadership that is lacking at the national level; and

(c) Declares that:

(I) [*Editor's note: This version of subsection (1)(c)(I) is effective until October 1, 2025.*] By enacting this part 13, Colorado will be among the states that empower consumers to protect their privacy and require companies to be responsible custodians of data as they continue to innovate;

(I) [*Editor's note: This version of subsection (1)(c)(I) is effective October 1, 2025.*] By enacting this part 13, Colorado will be among the states that empower consumers, including minors, to protect their privacy and require companies to be responsible custodians of data as they continue to innovate;

(II) This part 13 addresses issues of statewide concern and:

(A) Provides consumers the right to access, correct, and delete personal data and the right to opt out not only of the sale of personal data but also of the collection and use of personal data;

(A.5) [*Editor's note: Subsection (1)(c)(II)(A.5) is effective October 1, 2025.*] Provides minors the right to control their personal data;

(B) Imposes an affirmative obligation upon companies to safeguard personal data; to provide clear, understandable, and transparent information to consumers about how their personal data are used; and to strengthen compliance and accountability by requiring data protection assessments in the collection and use of personal data; and

(C) Empowers the attorney general and district attorneys to access and evaluate a company's data protection assessments, to impose penalties where violations occur, and to prevent future violations.

### **6-1-1303. Definitions.**

As used in this part 13, unless the context otherwise requires:

(1) [Editor’s note: This version of subsection (1) is effective until October 1, 2025.] “Affiliate” means a legal entity that controls, is controlled by, or is under common control with another legal entity. As used in this subsection (1), “control” means:

(a) Ownership of, control of, or power to vote twenty-five percent or more of the outstanding shares of any class of voting security of the entity, directly or indirectly, or acting through one or more other persons;

(b) Control in any manner over the election of a majority of the directors, trustees, or general partners of the entity or of individuals exercising similar functions; or

(c) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the entity as determined by the applicable prudential regulator, as that term is defined in 12 U.S.C. sec. 5481 (24), if any.

(1) [Editor’s note: This version of subsection (1) is effective October 1, 2025.] “Adult” means an individual who is eighteen years of age or older.

(1.5) [Editor’s note: Subsection (1.5) is effective October 1, 2025.]

(a) “Affiliate” means a legal entity that controls, is controlled by, or is under common control with another legal entity.

(b) As used in subsection (1.5)(a) of this section, “control” means:

(I) Ownership of, control of, or power to vote twenty-five percent or more of the outstanding shares of any class of voting security of the entity, directly or indirectly, or acting through one or more other persons;

(II) Control in any manner over the election of a majority of the directors, trustees, or general partners of the entity or of individuals exercising similar functions; or

(III) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the entity as determined by the applicable prudential regulator, as that term is defined in 12 U.S.C. sec. 5481 (24), if any.

(2) “Authenticate” means to use reasonable means to determine that a request to exercise any of the rights in section 6-1-1306 (1) is being made by or on behalf of the consumer who is entitled to exercise the rights.

(2.2) “Biological data” means data generated by the technological processing, measurement, or analysis of an individual’s biological, genetic, biochemical, physiological, or neural properties, compositions, or activities or of an individual’s body or bodily functions, which data is used or intended to be used, singly or in combination with other personal data, for identification purposes. “Biological data” includes neural data.

(2.4) [Editor’s note: Subsection (2.4) is effective July 1, 2025.]

(a) “Biometric data” means one or more biometric identifiers that are used or intended to be used, singly or in combination with each other or with other personal data, for identification purposes.

(b) “Biometric data” does not include the following unless the biometric data is used for identification purposes:

(I) A digital or physical photograph;

(II) An audio or voice recording; or

(III) Any data generated from a digital or physical photograph or an audio or video recording.

(2.5) [Editor’s note: Subsection (2.5) is effective July 1, 2025.] “Biometric identifier” means data generated by the technological processing, measurement, or analysis of a consumer’s biological, physical, or behavioral characteristics, which data can be processed for the purpose of uniquely identifying an individual. “Biometric identifier” includes:

(a) A fingerprint;

(b) A voiceprint;

- (c) A scan or record of an eye retina or iris;
  - (d) A facial map, facial geometry, or facial template; or
  - (e) Other unique biological, physical, or behavioral patterns or characteristics.
- (3) “Business associate” has the meaning established in 45 CFR 160.103.
- (4) “Child” means an individual under thirteen years of age.
- (5) “Consent” means a clear, affirmative act signifying a consumer’s freely given, specific, informed, and unambiguous agreement, such as by a written statement, including by electronic means, or other clear, affirmative action by which the consumer signifies agreement to the processing of personal data. The following does not constitute consent:**
- (a) Acceptance of a general or broad terms of use or similar document that contains descriptions of personal data processing along with other, unrelated information;
  - (b) Hovering over, muting, pausing, or closing a given piece of content; and
  - (c) Agreement obtained through dark patterns.
- (6) “Consumer”:
- (a) Means an individual who is a Colorado resident acting only in an individual or household context; and
  - (b) Does not include an individual acting in a commercial or employment context, as a job applicant, or as a beneficiary of someone acting in an employment context.
- (7) “Controller” means a person that, alone or jointly with others, determines the purposes for and means of processing personal data.
- (8) “Covered entity” has the meaning established in 45 CFR 160.103.
- (9) “Dark pattern” means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making, or choice.
- (10) “Decisions that produce legal or similarly significant effects concerning a consumer” means a decision that results in the provision or denial of financial or lending services, housing, insurance, education enrollment or opportunity, criminal justice, employment opportunities, health-care services, or access to essential goods or services.
- (11) “De-identified data” means data that cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable individual, or a device linked to such an individual, if the controller that possesses the data:
- (a) Takes reasonable measures to ensure that the data cannot be associated with an individual;
  - (b) Publicly commits to maintain and use the data only in a de-identified fashion and not attempt to re-identify the data; and
  - (c) Contractually obligates any recipients of the information to comply with the requirements of this subsection (11).
- (12) “Health-care facility” means any entity that is licensed, certified, or otherwise authorized or permitted by law to administer medical treatment in this state.
- (13) “Health-care information” means individually identifiable information relating to the past, present, or future health status of an individual.
- (14) “Health-care provider” means a person licensed, certified, or registered in this state to practice medicine, pharmacy, chiropractic, nursing, physical therapy, podiatry, dentistry, optometry, occupational therapy, or other healing arts under title 12.
- (14.5) [Editor’s note: Subsection (14.5) is effective October 1, 2025.] “Heightened risk of harm to minors” means processing the personal data of minors in a manner that presents a reasonably foreseeable risk that could cause:
- (a) Unfair or deceptive treatment of, or unlawful disparate impact on, minors;
  - (b) Financial, physical, or reputational injury to minors;

- (c) Unauthorized disclosure of the personal data of minors as a result of a security breach, as defined in section 6-1-716 (1)(h); or
  - (d) Physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of minors if the intrusion would be offensive to a reasonable person.
- (15) “HIPAA” means the federal “Health Insurance Portability and Accountability Act of 1996”, as amended, 42 U.S.C. secs. 1320d to 1320d-9.
- (16) “Identified or identifiable individual” means an individual who can be readily identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, specific geolocation data, or an online identifier.
- (16.5) [Editor’s note: Subsection (16.5) is effective October 1, 2025.] “Minor” means any consumer who is under eighteen years of age.
- (16.7) “Neural data” means information that is generated by the measurement of the activity of an individual’s central or peripheral nervous systems and that can be processed by or with the assistance of a device.
- (16.8) [Editor’s note: Subsection (16.8) is effective October 1, 2025.] “Online service, product, or feature”:
- (a) Means any service, product, or feature that is provided online; and
  - (b) Does not include:
    - (I) Telecommunications service, as defined in 47 U.S.C. sec. 153 (53), as amended;
    - (II) Broadband internet access service, as defined in 47 CFR 54.400 (1), as amended;or
    - (III) The delivery or use of a physical product.
- (17) “Personal data”:
- (a) Means information that is linked or reasonably linkable to an identified or identifiable individual; and
  - (b) Does not include de-identified data or publicly available information. As used in this subsection (17)(b), “publicly available information” means information that is lawfully made available from federal, state, or local government records and information that a controller has a reasonable basis to believe the consumer has lawfully made available to the general public.
- (17.4) “Precise geolocation data” means information derived from technology that accurately identifies the present or past location of a device that links or is linkable to an individual within a radius of one thousand eight hundred fifty feet.
- (a) “Precise geolocation data” includes:
    - (I) Global positioning system (GPS) coordinates within a radius of one thousand eight hundred fifty feet; or
    - (II) Any data derived from a device and that is used or intended to be used to locate a consumer within a geographic area within a radius of one thousand eight hundred fifty feet.
  - (b) “Precise geolocation data” does not include the content of communications or any data generated by or connected to advanced utility meeting infrastructure systems or equipment for use by a utility.
- (17.5) Repealed.
- (18) “Process” or “processing” means the collection, use, sale, storage, disclosure, analysis, deletion, or modification of personal data and includes the actions of a controller directing a processor to process personal data.
- (19) “Processor” means a person that processes personal data on behalf of a controller.

(20) “Profiling” means any form of automated processing of personal data to evaluate, analyze, or predict personal aspects concerning an identified or identifiable individual’s economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

(21) “Protected health information” has the meaning established in 45 CFR 160.103.

(22) “Pseudonymous data” means personal data that can no longer be attributed to a specific individual without the use of additional information if the additional information is kept **separately** and is subject to technical and organizational measures to ensure that the personal data are not attributed to a specific individual.

(23)

(a) “Sale”, “sell”, or “sold” means the exchange of personal data for monetary or other valuable consideration by a controller to a third party.

(b) “Sale”, “sell”, or “sold” does not include the following:

(I) The disclosure of personal data to a processor that processes the personal data on behalf of a controller;

(II) The disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;

(III) The disclosure or transfer of personal data to an affiliate of the controller;

(IV) The disclosure or transfer to a third party of personal data as an asset that is part of a proposed or actual merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the controller’s assets; or

(V) The disclosure of personal data:

(A) That a consumer directs the controller to disclose or intentionally discloses by using the controller to interact with a third party; or

(B) Intentionally made available by a consumer to the general public via a channel of mass media.

(24) “Sensitive data” means:

(a) Personal data revealing racial or ethnic origin, religious beliefs, a mental or physical health condition or diagnosis, sex life or sexual orientation, or citizenship or citizenship status;

(b) Genetic or biometric data that may be processed for the purpose of uniquely identifying an individual;

(c) Personal data from a known child;

(d) Biological data; or

**(e) Precise geolocation data.**

(25) “Targeted advertising”:

(a) Means displaying to a consumer an advertisement that is selected based on personal data obtained or inferred over time from the consumer’s activities across nonaffiliated websites, applications, or online services to predict consumer preferences or interests; and

(b) Does not include:

(I) Advertising to a consumer in response to the consumer’s request for information or feedback;

(II) Advertisements based on activities within a controller’s own websites or online applications;

(III) Advertisements based on the context of a consumer’s current search query, visit to a website, or online application; or

(IV) Processing personal data solely for measuring or reporting advertising performance, reach, or frequency.

(26) “Third party” means a person, public authority, agency, or body other than a consumer, controller, processor, or affiliate of the processor or the controller.

**6-1-1304. Applicability of part.**

(1) [Editor's note: This version of subsection (1) is effective July 1, 2025, until October 1, 2025.] Except as specified in subsection (2) of this section, this part 13 applies to a controller that:

(a)

(I) Conducts business in Colorado or produces or delivers commercial products or services that are intentionally targeted to residents of Colorado; and

(II) Satisfies one or both of the following thresholds:

(A) Controls or processes the personal data of one hundred thousand consumers or more during a calendar year; or

(B) Derives revenue or receives a discount on the price of goods or services from the sale of personal data and processes or controls the personal data of twenty-five thousand consumers or more; or

(b) Controls or processes any amount of biometric identifiers or biometric data regardless of the amount of biometric identifiers or biometric data controlled or processed annually; except that a controller that meets the qualifications of this subsection (1)(b) but does not meet the qualifications of subsection (1)(a) of this section shall comply with this part 13 only for the purposes of a biometric identifier or biometric data that the controller collects and processes.

(1) [Editor's note: This version of subsection (1) is effective October 1, 2025.] Except as specified in subsection (2) of this section:

(a) This part 13, other than sections 6-1-1305.5, 6-1-1308.5, and 6-1-1309.5, applies to a controller that:

(I)

(A) Conducts business in Colorado or produces or delivers commercial products or services that are intentionally targeted to residents of Colorado; and

(B) Satisfies one or both of the following thresholds: controls or processes the personal data of one hundred thousand consumers or more during a calendar year; or derives revenue or receives a discount on the price of goods or services from the sale of personal data and processes or controls the personal data of twenty-five thousand consumers or more; or

(II) Controls or processes any amount of biometric identifiers or biometric data regardless of the amount of biometric identifiers or biometric data controlled or processed annually; except that a controller that meets the qualifications of this subsection (1)(b) but does not meet the qualifications of subsection (1)(a) of this section shall comply with this part 13 only for the purposes of a biometric identifier or biometric data that the controller collects and processes;

(b) Sections 6-1-1305.5, 6-1-1308.5, and 6-1-1309.5 to 6-1-1313 apply to a controller that conducts business in Colorado or delivers commercial products or services that are intentionally targeted to residents of Colorado.

(2) This part 13 does not apply to:

(a) Protected health information that is collected, stored, and processed by a covered entity or its business associates;

(b) Health-care information that is governed by part 8 of article 1 of title 25 solely for the purpose of access to medical records;

(c) Patient identifying information, as defined in 42 CFR 2.11, that are governed by and collected and processed pursuant to 42 CFR 2, established pursuant to 42 U.S.C. sec. 290dd-2;

- (d) Identifiable private information, as defined in 45 CFR 46.102, for purposes of the federal policy for the protection of human subjects pursuant to 45 CFR 46; identifiable private information that is collected as part of human subjects research pursuant to the ICH E6 Good Clinical Practice Guideline issued by the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use or the protection of human subjects under 21 CFR 50 and 56; or personal data used or shared in research conducted in accordance with one or more of the categories set forth in this subsection (2)(d);
- (e) Information and documents created by a covered entity for purposes of complying with HIPAA and its implementing regulations;
- (f) Patient safety work product, as defined in 42 CFR 3.20, that is created for purposes of patient safety improvement pursuant to 42 CFR 3, established pursuant to 42 U.S.C. secs. 299b-21 to 299b-26;
- (g) Information that is:
  - (I) De-identified in accordance with the requirements for de-identification set forth in 45 CFR 164; and
  - (II) Derived from any of the health-care-related information described in this section;
- (h) Information maintained in the same manner as information under subsections (2)(a) to (2)(g) of this section by:
  - (I) A covered entity or business associate;
  - (II) A health-care facility or health-care provider; or
  - (III) A program of a qualified service organization as defined in 42 CFR 2.11;
- (i)
  - (I) Except as provided in subsection (2)(i)(II) of this section, an activity involving the collection, maintenance, disclosure, sale, communication, or use of any personal data bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by:
    - (A) A consumer reporting agency as defined in 15 U.S.C. sec. 1681a (f);
    - (B) A furnisher of information as set forth in 15 U.S.C. sec. 1681s-2 that provides information for use in a consumer report, as defined in 15 U.S.C. sec. 1681a (d); or
    - (C) A user of a consumer report as set forth in 15 U.S.C. sec. 1681b.
  - (II) This subsection (2)(i) applies only to the extent that the activity is regulated by the federal "Fair Credit Reporting Act", 15 U.S.C. sec. 1681 et seq., as amended, and the personal data are not collected, maintained, disclosed, sold, communicated, or used except as authorized by the federal "Fair Credit Reporting Act", as amended.
- (j) Personal data:
  - (I) Collected and maintained for purposes of article 22 of title 10;
  - (II) Collected, processed, sold, or disclosed pursuant to the federal "Gramm-Leach-Bliley Act", 15 U.S.C. sec. 6801 et seq., as amended, and implementing regulations, if the collection, processing, sale, or disclosure is in compliance with that law;
  - (III) Collected, processed, sold, or disclosed pursuant to the federal "Driver's Privacy Protection Act of 1994", 18 U.S.C. sec. 2721 et seq., as amended, if the collection, processing, sale, or disclosure is regulated by that law, including implementing rules, regulations, or exemptions;
  - (IV) Regulated by the federal "Children's Online Privacy Protection Act of 1998", 15 U.S.C. secs. 6501 to 6506, as amended, if collected, processed, and maintained in compliance with that law; or
  - (V) Regulated by the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g et seq., as amended, and its implementing regulations;

- (k) Data maintained for employment records purposes;
  - (l) An air carrier as defined in and regulated under 49 U.S.C. sec. 40101 et seq., as amended, and 49 U.S.C. sec. 41713, as amended;
  - (m) A national securities association registered pursuant to the federal “Securities Exchange Act of 1934”, 15 U.S.C. sec. 78o-3, as amended, or implementing regulations; maintained, disclosed, sold, communicated, or used except as authorized by state and federal law;
  - (n) Customer data maintained by a public utility as defined in section 40-1-103 (1)(a)(I) or an authority as defined in section 43-4-503 (1), if the data are not collected, **(o) Data** maintained by a state institution of higher education, as defined in section 23-18-102 (10), the state, the judicial department of the state, or a county, city and county, or municipality if the data is collected, maintained, disclosed, communicated, and used as authorized by state and federal law for noncommercial purposes. This subsection (2)(o) does not effect any other exemption available under this part 13.
  - (p) Information used and disclosed in compliance with 45 CFR 164.512; or
  - (q) A financial institution or an affiliate of a financial institution as defined by and that is subject to the federal “Gramm-Leach-Bliley Act”, 15 U.S.C. sec. 6801 et seq., as amended, and implementing regulations, including Regulation P, 12 CFR 1016.
- (3) The obligations imposed on controllers or processors under this part 13 do not:
- (a) Restrict a controller’s or processor’s ability to:
    - (I) Comply with federal, state, or local laws, rules, or regulations;
    - (II) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other governmental authorities;
    - (III) Cooperate with law enforcement agencies concerning conduct or activity that the controller or processor reasonably and in good faith believes may violate federal, state, or local law;
    - (IV) Investigate, exercise, prepare for, or defend actual or anticipated legal claims;
    - (V) Conduct internal research to improve, repair, or develop products, services, or technology;
    - (VI) Identify and repair technical errors that impair existing or intended functionality;
    - (VII) Perform internal operations that are reasonably aligned with the expectations of the consumer based on the consumer’s existing relationship with the controller;
    - (VIII) Provide a product or service specifically requested by a consumer or the parent or guardian of a child, perform a contract to which the consumer is a party, or take steps at the request of the consumer prior to entering into a contract;
    - (IX) Protect the vital interests of the consumer or of another individual;
    - (X) Prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, or malicious, deceptive, or illegal activity; preserve the integrity or security of systems; or investigate, report, or prosecute those responsible for any such action;
    - (XI) Process personal data for reasons of public interest in the area of public health, but solely to the extent that the processing:
      - (A) Is subject to suitable and specific measures to safeguard the rights of the consumer whose personal data are processed; and
      - (B) Is under the responsibility of a professional subject to confidentiality obligations under federal, state, or local law; or
    - (XII) Assist another person with any of the activities set forth in this subsection (3);

- (b) Apply where compliance by the controller or processor with this part 13 would violate an evidentiary privilege under Colorado law;
  - (c) Prevent a controller or processor from providing personal data concerning a consumer to a person covered by an evidentiary privilege under Colorado law as part of a privileged communication;
  - (d) [*Editor's note: This version of subsection (3)(d) is effective until October 1, 2025.*] Apply to information made available by a third party that the controller has a reasonable basis to believe is protected speech pursuant to applicable law; and
    - (d) [*Editor's note: This version of subsection (3)(d) is effective October 1, 2025.*] Apply to information made available by a third party that the controller has a reasonable basis to believe is protected speech pursuant to applicable law;
  - (e) [*Editor's note: This version of subsection (3)(e) is effective until October 1, 2025.*] Apply to the processing of personal data by an individual in the course of a purely personal or household activity.
    - (e) [*Editor's note: This version of subsection (3)(e) is effective October 1, 2025.*] Apply to the processing of personal data by an individual in the course of a purely personal or household activity;
  - (f) [*Editor's note: Subsection (3)(f) is effective October 1, 2025.*] Require a controller or processor to implement an age verification or age-gating system or otherwise affirmatively collect the age of consumers, but a controller that chooses to conduct commercially reasonable age estimation to determine which consumers are minors is not liable for an erroneous age estimation; and
  - (g) [*Editor's note: Subsection (3)(g) is effective October 1, 2025.*] Impose any obligation on a controller or processor that adversely affects the rights of any person to freedom of speech or freedom of the press guaranteed by the first amendment to the United States constitution.
- (4) Personal data that are processed by a controller pursuant to an exception provided by this section:
- (a) Shall not be processed for any purpose other than a purpose expressly listed in this section or as otherwise authorized by this part 13; and
  - (b) Shall be processed solely to the extent that the processing is necessary, reasonable, and proportionate to the specific purpose or purposes listed in this section or as otherwise authorized by this part 13.
- (5) If a controller processes personal data pursuant to an exemption in this section, the controller bears the burden of demonstrating that the processing qualifies for the exemption and complies with the requirements in subsection (4) of this section.

### **6-1-1305. Responsibility according to role.**

- (1) Controllers and processors shall meet their respective obligations established under this part 13.
- (2) Processors shall adhere to the instructions of the controller and assist the controller to meet its obligations under this part 13. Taking into account the nature of processing and the information available to the processor, the processor shall assist the controller by:
  - (a) Taking appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of the controller's obligation to respond to consumer requests to exercise their rights pursuant to section 6-1-1306;

- (b) Helping to meet the controller's obligations in relation to the security of processing the personal data and in relation to the notification of a breach of the security of the system pursuant to section 6-1-716; and
  - (c) Providing information to the controller necessary to enable the controller to conduct and document any data protection assessments required by section 6-1-1309. The controller and processor are each responsible for only the measures allocated to them.
- (3) Notwithstanding the instructions of the controller, a processor shall:
- (a) Ensure that each person processing the personal data is subject to a duty of confidentiality with respect to the data; and
  - (b) Engage a subcontractor only after providing the controller with an opportunity to object and pursuant to a written contract in accordance with subsection (5) of this section that requires the subcontractor to meet the obligations of the processor with respect to the personal data.
- (4) Taking into account the context of processing, the controller and the processor shall implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk and establish a clear allocation of the responsibilities between them to implement the measures.
- (5) Processing by a processor must be governed by a contract between the controller and the processor that is binding on both parties and that sets out:
- (a) The processing instructions to which the processor is bound, including the nature and purpose of the processing;
  - (b) The type of personal data subject to the processing, and the duration of the processing;
  - (c) The requirements imposed by this subsection (5) and subsections (3) and (4) of this section; and
  - (d) The following requirements:
    - (I) At the choice of the controller, the processor shall delete or return all personal data to the controller as requested at the end of the provision of services, unless retention of the personal data is required by law;
    - (II)
      - (A) The processor shall make available to the controller all information necessary to demonstrate compliance with the obligations in this part 13; and
      - (B) The processor shall allow for, and contribute to, reasonable audits and inspections by the controller or the controller's designated auditor. Alternatively, the processor may, with the controller's consent, arrange for a qualified and independent auditor to conduct, at least annually and at the processor's expense, an audit of the processor's policies and technical and organizational measures in support of the obligations under this part 13 using an appropriate and accepted control standard or framework and audit procedure for the audits as applicable. The processor shall provide a report of the audit to the controller upon request.
- (6) In no event may a contract relieve a controller or a processor from the liabilities imposed on them by virtue of its role in the processing relationship as defined by this part 13.
- (7) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data are to be processed. A person that is not limited in its processing of personal data pursuant to a controller's instructions, or that fails to adhere to the instructions, is a controller and not a processor with respect to a specific processing of data. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor. If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, it is a controller with respect to the processing.

(8)

(a) A controller or processor that discloses personal data to another controller or processor in compliance with this part 13 does not violate this part 13 if the recipient processes the personal data in violation of this part 13, and, at the time of disclosing the personal data, the disclosing controller or processor did not have actual knowledge that the recipient intended to commit a violation.

(b) A controller or processor receiving personal data from a controller or processor in compliance with this part 13 as specified in subsection (8)(a) of this section does not violate this part 13 if the controller or processor from which it receives the personal data fails to comply with applicable obligations under this part 13.

### ***6-1-1305.5 Responsibility according to role – processing data of minors.***

[Editor's note: This section is effective October 1, 2025.]

(1) A processor shall adhere to the instructions of a controller and shall assist the controller to meet the controller's obligations under sections 6-1-1308.5 and 6-1-1309.5, taking into account the nature of the processing and the information available to the processor. The processor shall assist the controller by:

(a) Taking appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of the controller's obligations under section 6-1-1308.5; and

(b) Providing information to enable the controller to conduct and document data protection assessments pursuant to section 6-1-1309.5.

(2) A contract between a controller and a processor must satisfy the requirements in section 6-1-1305 (5).

(3) Nothing in this section shall be construed to relieve a controller or processor from the liabilities imposed on the controller or processor by virtue of the controller's or processor's role in the processing relationship as described in sections 6-1-1308.5 and 6-1-1309.5.

(4) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A person that is not limited in the person's processing of personal data pursuant to a controller's instructions, or that fails to adhere to the instructions, is a controller and not a processor with respect to a specific processing of data. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor. If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, the processor is a controller with respect to the processing and may be subject to an enforcement action under section 6-1-1311.

### ***6-1-1306. Consumer personal data rights.***

(1) Consumers may exercise the following rights by submitting a request using the methods specified by the controller in the privacy notice required under section 6-1-1308 (1)(a). The method must take into account the ways in which consumers normally interact with the controller, the need for secure and reliable communication relating to the request, and the ability of the controller to authenticate the identity of the consumer making the request. Controllers shall not require a consumer to create a new account in order to exercise consumer rights pursuant to this section but may require a consumer to use an existing account. A consumer may submit a request at any time to a controller specifying which of the following rights the consumer wishes to exercise:

(a) Right to opt out.

(I) A consumer has the right to opt out of the processing of personal data concerning the consumer for purposes of:

(A) Targeted advertising;

- (B) The sale of personal data; or
- (C) Profiling in furtherance of decisions that produce legal or similarly significant effects concerning a consumer.

(II) A consumer may authorize another person, acting on the consumer's behalf, to opt out of the processing of the consumer's personal data for one or more of the purposes specified in subsection (1)(a)(I) of this section, including through a technology indicating the consumer's intent to opt out such as a web link indicating a preference or browser setting, browser extension, or global device setting. A controller shall comply with an opt-out request received from a person authorized by the consumer to act on the consumer's behalf if the controller is able to authenticate, with commercially reasonable effort, the identity of the consumer and the authorized agent's authority to act on the consumer's behalf.

(III) A controller that processes personal data for purposes of targeted advertising or the sale of personal data shall provide a clear and conspicuous method to exercise the right to opt out of the processing of personal data concerning the consumer pursuant to subsection (1)(a)(I) of this section. The controller shall provide the opt-out method clearly and conspicuously in any privacy notice required to be provided to consumers under this part 13, and in a clear, conspicuous, and readily accessible location outside the privacy notice.

(IV)

(A) Repealed.

(B) Effective July 1, 2024, a controller that processes personal data for purposes of targeted advertising or the sale of personal data shall allow consumers to exercise the right to opt out of the processing of personal data concerning the consumer for purposes of targeted advertising or the sale of personal data pursuant to subsections (1)(a)(I)(A) and (1)(a)(I)(B) of this section by controllers through a user-selected universal opt-out mechanism that meets the technical specifications established by the attorney general pursuant to section 6-1-1313.

(C) Notwithstanding a consumer's decision to exercise the right to opt out of the processing of personal data through a universal opt-out mechanism pursuant to subsection (1)(a)(IV)(B) of this section, a controller may enable the consumer to consent, through a web page, application, or a similar method, to the processing of the consumer's personal data for purposes of targeted advertising or the sale of personal data, and the consent takes precedence over any choice reflected through the universal opt-out mechanism. Before obtaining a consumer's consent to process personal data for purposes of targeted advertising or the sale of personal data pursuant to this subsection (1)(a)(IV)(C), a controller shall provide the consumer with a clear and conspicuous notice informing the consumer about the choices available under this section, describing the categories of personal data to be processed and the purposes for which they will be processed, and explaining how and where the consumer may withdraw consent. The web page, application, or other means by which a controller obtains a consumer's consent to process personal data for purposes of targeted advertising or the sale of personal data must also allow the consumer to revoke the consent as easily as it is affirmatively provided.

(b) Right of access. A consumer has the right to confirm whether a controller is processing personal data concerning the consumer and to access the consumer's personal data.

(c) Right to correction. A consumer has the right to correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data.

- (d) Right to deletion. A consumer has the right to delete personal data concerning the consumer.
- (e) Right to data portability. When exercising the right to access personal data pursuant to subsection (1)(b) of this section, a consumer has the right to obtain the personal data in a portable and, to the extent technically feasible, readily usable format **that allows the** consumer to transmit the data to another entity without hindrance. A consumer may exercise this right no more than two times per calendar year. Nothing in this subsection (1)(e) requires a controller to provide the data to the consumer in a manner that would disclose the controller's trade secrets.
- (2) Responding to consumer requests.
- (a) A controller shall inform a consumer of any action taken on a request under subsection (1) of this section without undue delay and, in any event, within forty-five days after receipt of the request. The controller may extend the forty-five-day period by forty-five additional days where reasonably necessary, taking into account the complexity and number of the requests. The controller shall inform the consumer of an extension within forty-five days after receipt of the request, together with the reasons for the delay.
- (b) If a controller does not take action on the request of a consumer, the controller shall inform the consumer, without undue delay and, at the latest, within forty-five days after receipt of the request, of the reasons for not taking action and instructions for how to appeal the decision with the controller as described in subsection (3) of this section.
- (c) Upon request, a controller shall provide to the consumer the information specified in this section free of charge; except that, for a second or subsequent request within a twelve-month period, the controller may charge an amount calculated in the manner specified in section 24-72-205 (5)(a).
- (d) A controller is not required to comply with a request to exercise any of the rights under subsection (1) of this section if the controller is unable to authenticate the request using commercially reasonable efforts, in which case the controller may request the provision of additional information reasonably necessary to authenticate the request.
- (3)
- (a) A controller shall establish an internal process whereby consumers may appeal a refusal to take action on a request to exercise any of the rights under subsection (1) of this section within a reasonable period after the consumer's receipt of the notice sent by the controller under subsection (2)(b) of this section. The appeal process must be conspicuously available and as easy to use as the process for submitting a request under this section.
- (b) Within forty-five days after receipt of an appeal, a controller shall inform the consumer of any action taken or not taken in response to the appeal, along with a written explanation of the reasons in support of the response. The controller may extend the forty-five-day period by sixty additional days where reasonably necessary, taking into account the complexity and number of requests serving as the basis for the appeal. The controller shall inform the consumer of an extension within forty-five days after receipt of the appeal, together with the reasons for the delay.
- (c) The controller shall inform the consumer of the consumer's ability to contact the attorney general if the consumer has concerns about the result of the appeal.

### ***6-1-1307. Processing de-identified data.***

- (1) This part 13 does not require a controller or processor to do any of the following solely for purposes of complying with this part 13:
- (a) Reidentify de-identified data;

(b) Comply with an authenticated consumer request to access, correct, delete, or provide personal data in a portable format pursuant to section 6-1-1306 (1), if all of the following are true:

(I)

(A) The controller is not reasonably capable of associating the request with the personal data; or

(B) It would be unreasonably burdensome for the controller to associate the request with the personal data;

(II) The controller does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data or associate the personal data with other personal data about the same specific consumer; and

(III) The controller does not sell the personal data to any third party or otherwise voluntarily disclose the personal data to any third party, except as otherwise authorized by the consumer; or

(c) Maintain data in identifiable form or collect, obtain, retain, or access any data or technology in order to enable the controller to associate an authenticated consumer request with personal data.

(2) A controller that uses de-identified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the de-identified data are subject and shall take appropriate steps to address any breaches of contractual commitments.

(3) The rights contained in section 6-1-1306 (1)(b) to (1)(e) do not apply to pseudonymous data if the controller can demonstrate that the information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing the information.

### ***6-1-1308. Duties of controllers.***

#### **(1) Duty of transparency.**

(a) A controller shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice that includes:

(I) The categories of personal data collected or processed by the controller or a processor;

(II) The purposes for which the categories of personal data are processed;

(III) How and where consumers may exercise the rights pursuant to section 6-1-1306, including the controller's contact information and how a consumer may appeal a controller's action with regard to the consumer's request;

(IV) The categories of personal data that the controller shares with third parties, if any; and

(V) The categories of third parties, if any, with whom the controller shares personal data.

(b) If a controller sells personal data to third parties or processes personal data for targeted advertising, the controller shall clearly and conspicuously disclose the sale or processing, as well as the manner in which a consumer may exercise the right to opt out of the sale or processing.

(c) A controller shall not:

(I) Require a consumer to create a new account in order to exercise a right; or

(II) Based solely on the exercise of a right and unrelated to feasibility or the value of a service, increase the cost of, or decrease the availability of, the product or service.

(d) Nothing in this part 13 shall be construed to require a controller to provide a product or service that requires the personal data of a consumer that the controller does not collect or

maintain or to prohibit a controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer, including offering goods or services for no fee, if the offer is related to a consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discount, or club card program.

(2) Duty of purpose specification. A controller shall specify the express purposes for which personal data are collected and processed.

(3) Duty of data minimization. A controller's collection of personal data must be adequate, relevant, and limited to what is reasonably necessary in relation to the specified purposes for which the data are processed.

(4) Duty to avoid secondary use. A controller shall not process personal data for purposes that are not reasonably necessary to or compatible with the specified purposes for which the personal data are processed, unless the controller first obtains the consumer's consent.

(5) Duty of care. A controller shall take reasonable measures to secure personal data during both storage and use from unauthorized acquisition. The data security practices must be appropriate to the volume, scope, and nature of the personal data processed and the nature of the business.

(6) Duty to avoid unlawful discrimination. A controller shall not process personal data in violation of state or federal laws that prohibit unlawful discrimination against consumers.

(7) Duty regarding sensitive data. A controller shall not process or sell a consumer's sensitive data without first obtaining the consumer's consent or, in the case of the processing of personal data concerning a known child, without first obtaining consent from the child's parent or lawful guardian.

#### ***6-1-1308.5. Duties of controllers – duty of care – rebuttable presumption.***

(1)

(a) [*Editor's note: This section is effective October 1, 2025.*] A controller that offers any online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall use reasonable care to avoid any heightened risk of harm to minors caused by the online service, product, or feature.

(b) In any enforcement action brought by the attorney general or a district attorney pursuant to section 6-1-1311, there is a rebuttable presumption that a controller used reasonable care as required under this section if the controller complied with this section.

(2) Unless a controller has obtained consent in accordance with subsection (3) of this section, a controller that offers any online service, product, or feature to a consumer whom the controller actually knows or willfully disregards is a minor shall not:

(a) Process a minor's personal data:

(I) For the purposes of:

(A) Targeted advertising;

(B) The sale of personal data; or

(C) Profiling in furtherance of decisions that produce legal or similarly significant effects concerning a consumer;

(II) For any processing purpose other than the processing purpose that the controller disclosed at the time the controller collected the minor's personal data or that is reasonably necessary for, and compatible with, the processing purpose that the controller disclosed at the time the controller collected the minor's personal data; or

(III) For longer than is reasonably necessary to provide the online service, product, or feature;

(b) Use any system design feature to significantly increase, sustain, or extend a minor's use of the online service, product, or feature; or

(c) Collect a minor's precise geolocation data unless:

- (I) The minor’s precise geolocation data is reasonably necessary for the controller to provide the online service, product, or feature;
- (II) The controller only collects and retains the minor’s precise geolocation data for the time necessary to provide the online service, product, or feature; and
- (III) The controller provides to the minor a signal indicating that the controller is collecting the minor’s precise geolocation data and makes the signal available **to the** minor for the entire duration of the collection of the minor’s precise geolocation data; except that this subsection (2)(c)(III) does not apply to any service or application that is used by and under the direction of a ski area operator, as defined in section 33-44-103 (7).

(3)

(a) A controller shall not engage in the activities described in subsection (2) of this section unless the controller obtains:

- (I) The minor’s consent; or
- (II)

(A) If the minor is a child, the consent of the minor’s parent or legal guardian.

(B) A controller that complies with the verifiable parental consent requirements established in the “Children’s Online Privacy Protection Act of 1998”, 15 U.S.C. sec. 6501 et seq., as amended, and the regulations, rules, guidance, and exemptions adopted pursuant to said act, as amended, is deemed to have satisfied any requirement to obtain parental consent under this subsection (3)(a)(II).

(b)

(I) A controller that offers any online service, product, or feature to a consumer whom that controller actually knows or willfully disregards is a minor shall not:

(A) Provide any consent mechanism that is designed to substantially subvert or impair, or is manipulated with the effect of substantially subverting or impairing, user autonomy, decision-making, or choice; or

(B) Except as provided in subsection (3)(b)(II) of this section, offer any direct messaging apparatus for use by a minor without providing readily accessible and easy-to-use safeguards to limit the ability of an adult to send unsolicited communications to the minor with whom the adult is not connected.

(II) Subsection (3)(b)(I)(B) of this section does not apply to an online service, product, or feature of which the predominant or exclusive function is:

(A) Electronic mail; or

(B) Direct messaging consisting of text, photos, or videos that are sent between devices by electronic means, where messages are shared between the sender and the recipient, only visible to the sender and the recipient, and not posted publicly.

(4) Subsections (2)(a) and (2)(b) of this section do not apply to any service or application that is used by and under the direction of an educational entity, including a learning management system or a student engagement program.

***6-1-1309. Data protection assessments – attorney general access and evaluation – definition.***

(1) A controller shall not conduct processing that presents a heightened risk of harm to a consumer without conducting and documenting a data protection assessment of each of its processing

activities that involve personal data acquired on or after July 1, 2023, that present a heightened risk of harm to a consumer.

(2) For purposes of this section, “processing that presents a heightened risk of harm to a consumer” includes the following:

(a) Processing personal data for purposes of targeted advertising or for profiling if the profiling presents a reasonably foreseeable risk of:

(I) Unfair or deceptive treatment of, or unlawful disparate impact on, consumers;

(II) Financial or physical injury to consumers;

(III) A physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of consumers if the intrusion would be offensive to a reasonable person; or

(IV) Other substantial injury to consumers;

(b) Selling personal data; and

(c) Processing sensitive data.

(3) Data protection assessments must identify and weigh the benefits that may flow, directly and indirectly, from the processing to the controller, the consumer, other stakeholders, and the public against the potential risks to the rights of the consumer associated with the processing, as mitigated by safeguards that the controller can employ to reduce the risks. The controller shall factor into this assessment the use of de-identified data and the reasonable expectations of consumers, as well as the context of the processing and the relationship between the controller and the consumer whose personal data will be processed.

(4) A controller shall make the data protection assessment available to the attorney general upon request. The attorney general may evaluate the data protection assessment for compliance with the duties contained in section 6-1-1308 and with other laws, including this article 1. Data protection assessments are confidential and exempt from public inspection and copying under the “Colorado Open Records Act”, part 2 of article 72 of title 24. The disclosure of a data protection assessment pursuant to a request from the attorney general under this subsection (4) does not constitute a waiver of any attorney-client privilege or work-product protection that might otherwise exist with respect to the assessment and any information contained in the assessment.

(5) A single data protection assessment may address a comparable set of processing operations that include similar activities.

(6) Data protection assessment requirements apply to processing activities created or generated after July 1, 2023, and are not retroactive.

### ***6-1-1309.5 Data protection assessments – heightened risk of harm to minors.***

*[Editor’s note: This section is effective October 1, 2025.]*

(1) A controller that, on or after October 1, 2025, offers any online service, product, or feature to a consumer whom such controller actually knows or willfully disregards is a minor shall conduct a data protection assessment for the online service, product, or feature if there is a heightened risk of harm to minors. The controller shall conduct the data protection assessment:

(a) In a manner that is consistent with the requirements established in section 6-1-1309; and

(b) That addresses:

(I) The purpose of the online service, product, or feature;

(II) The categories of a minor’s personal data that the online service, product, or feature processes;

(III) The purposes for which the controller processes a minor’s personal data with respect to the online service, product, or feature; and

(IV) Any heightened risk of harm to minors that is a reasonably foreseeable result of offering the online service, product, or feature to minors.

(2) A controller that conducts a data protection assessment pursuant to subsection (1) of this section shall:

(a) Review the data protection assessment as necessary to account for any material change to the processing operations of the online service, product, or feature that is the subject of the data protection assessment; and

(b) Maintain documentation concerning the data protection assessment for the longer of:

(I) Three years after the date on which the processing operations cease; or

(II) The date the controller ceases offering the online service, product, or feature.

(3) A single data protection assessment may address a comparable set of processing operations that include similar activities.

(4) If a controller conducts a data protection assessment for the purpose of complying with another applicable law or regulation, the data protection assessment is deemed to satisfy the requirements established in this section if the data protection assessment is reasonably similar in scope and effect to the data protection assessment that would otherwise be conducted pursuant to this section.

(5) If a controller conducts a data protection assessment pursuant to subsection (1) of this section or a data protection assessment review pursuant to subsection (2)(a) of this section and determines that the online service, product, or feature that is the subject of the assessment poses a heightened risk of harm to minors, the controller shall establish and implement a plan to mitigate or eliminate the heightened risk.

(6)

(a) A data protection assessment conducted pursuant to this section:

(I) Is confidential, except as provided in subsection (6)(b) of this section; and

(II) Is not a public record, and is exempt from public inspection and copying, under the “Colorado Open Records Act”, part 2 of article 72 of title 24.

(b)

(I) A controller shall make a data protection assessment conducted pursuant to this section available to the attorney general upon request. The attorney general may evaluate the data protection assessment for compliance with section 6-1-1308.5 and with other laws, including this article 1.

(II) The disclosure of a data protection assessment pursuant to a request from the attorney general does not constitute a waiver of any attorney-client privilege or work-product protection that might otherwise exist with respect to the assessment and any information in the assessment.

(7) Data protection assessment requirements apply to processing activities created or generated after October 1, 2025, and are not retroactive.

### ***6-1-1310. Liability.***

(1) Notwithstanding any provision in part 1 of this article 1, this part 13 does not authorize a private right of action for a violation of this part 13 or any other provision of law. This subsection (1) neither relieves any party from any duties or obligations imposed, nor alters any independent rights that consumers have, under other laws, including this article 1, the state constitution, or the United States constitution.

(2) Where more than one controller or processor, or both a controller and a processor, involved in the same processing violates this part 13, the liability shall be allocated among the parties according to principles of comparative fault.

### ***6-1-1311. Enforcement – penalties – repeal.***

(1)

(a) Notwithstanding any other provision of this article 1, the attorney general and district attorneys have exclusive authority to enforce this part 13 by bringing an action **in the name** of the state or as *parens patriae* on behalf of persons residing in the state to enforce this part 13 as provided in this article 1, including seeking an injunction to enjoin a violation of this part 13.

(b) Notwithstanding any other provision of this article 1, nothing in this part 13 shall be construed as providing the basis for, or being subject to, a private right of action for violations of this part 13 or any other law.

(c) For purposes only of enforcement of this part 13 by the attorney general or a district attorney, a violation of this part 13 is a deceptive trade practice.

(d)

(I) Prior to any enforcement action pursuant to subsection (1)(a) of this section, other than an enforcement action described in subsection (1)(d)(II) of this section, the attorney general or district attorney must issue a notice of violation to the controller if a cure is deemed possible. If the controller fails to cure the violation within sixty days after receipt of the notice of violation, an action may be brought pursuant to this section. This subsection (1)(d)(I) is repealed, effective January 1, 2025.

(II) *[Editor's note: Subsection (1)(d)(II) is effective October 1, 2025.]* Prior to any enforcement action pursuant to subsection (1)(a) of this section to enforce section 6-1-1305.5, 6-1-1308.5, or 6-1-1309.5, the attorney general or district attorney must issue a notice of violation to the controller if a cure is deemed possible. If the controller fails to cure the violation within sixty days after receipt of the notice of violation, an action may be brought pursuant to this section. This subsection (1)(d)(II) is repealed, effective December 31, 2026.

(2) The state treasurer shall credit all receipts from the imposition of civil penalties under this part 13 pursuant to section 24-31-108.

### ***6-1-1312. Preemption – local governments.***

This part 13 supersedes and preempts laws, ordinances, resolutions, regulations, or the equivalent adopted by any statutory or home rule municipality, county, or city and county regarding the processing of personal data by controllers or processors.

### ***6-1-1313. Rules – opt-out mechanism.***

(1) The attorney general may promulgate rules for the purpose of carrying out this part 13.

(2) By July 1, 2023, the attorney general shall adopt rules that detail the technical specifications for one or more universal opt-out mechanisms that clearly communicate a consumer's affirmative, freely given, and unambiguous choice to opt out of the processing of personal data for purposes of targeted advertising or the sale of personal data pursuant to section 6-1-1306 (1)(a)(I)(A) or (1)(a)(I)(B). The attorney general may update the rules that detail the technical specifications for the mechanisms from time to time to reflect the means by which consumers interact with controllers.

The rules must:

(a) Not permit the manufacturer of a platform, browser, device, or any other product offering a universal opt-out mechanism to unfairly disadvantage another controller;

(b) Require controllers to inform consumers about the opt-out choices available under section 6-1-1306 (1)(a)(I);

(c) Not adopt a mechanism that is a default setting, but rather clearly represents the consumer's affirmative, freely given, and unambiguous choice to opt out of the processing of personal data pursuant to section 6-1-1306 (1)(a)(I)(A) or (1)(a)(I)(B);

- (d) Adopt a mechanism that is consumer-friendly, clearly described, and easy to use by the average consumer;
  - (e) Adopt a mechanism that is as consistent as possible with any other similar mechanism required by law or regulation in the United States; and
  - (f) Permit the controller to accurately authenticate the consumer as a resident of this state and determine that the mechanism represents a legitimate request to opt out of the processing of personal data for purposes of targeted advertising or the sale of personal data pursuant to section 6-1-1306 (1)(a)(I)(A) or (1)(a)(I)(B).
- (3) By January 1, 2025, the attorney general may adopt rules that govern the process of issuing opinion letters and interpretive guidance to develop an operational framework for business that includes a good faith reliance defense of an action that may otherwise constitute a violation of this part 13. The rules must become effective by July 1, 2025.

***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 (1)(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.

(2) As used in this section, “prohibited action” means:

- (a) Refusing to issue a medical malpractice policy;
- (b) Canceling or terminating a medical malpractice policy;
- (c) Refusing to renew a medical malpractice policy; or
- (d) Imposing any sanctions, fines, penalties, or rate increases.

[C.R.S. 10-4-109.6](#)

***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:

(a) The contract must contain a provision stating that neither the provider nor the carrier is prohibited from protesting or expressing disagreement with a medical decision, medical policy, or medical practice of the carrier or provider.

(b)

(I) The contract must contain a provision that states the carrier may not take an adverse action against a provider because the provider expresses disagreement with a carrier’s decision to deny or limit benefits to a covered person or because the provider assists the covered person to seek reconsideration of the carrier’s decision or because a provider discusses with a current, former, or prospective patient any aspect of the patient’s medical condition, any proposed treatments or treatment alternatives, whether covered by the plan or not, policy provisions of a plan, or a provider’s personal recommendation regarding selection of a health plan based on the provider’s personal knowledge of the health needs of such patients.

(II) The contract between a carrier and the provider must state that the carrier may not take an adverse action against a provider because the provider, acting in good faith:

(A) Communicates with a public official or other person concerning public policy issues related to health-care items or services;

(B) Files a complaint, makes a report, or comments to an appropriate governmental body regarding actions, policies, or practices of the carrier the provider believes might negatively affect the quality of, or access to, patient care;

(C) Provides testimony, evidence, opinion, or any other public activity in any forum concerning a violation or possible violation of any provision of this section;

(D) Reports what the provider believes to be a violation of law to an appropriate authority; or

(E) Participates in any investigation into a violation or possible violation of any provision of this section.

(c) Any contract providing for the performance of claims processing functions by an entity with which the carrier contracts must require such entity to comply with section 10-16-106.5 (3), (4), and (5).

(d) The contract must contain a provision that the provider shall not be subjected to financial disincentives based on the number of referrals made to participating providers in the health plan for covered benefits so long as the provider making the referral adheres to the carrier's or the carrier's intermediary's utilization review policies and procedures.

(e) The contract must contain a provision that states the carrier shall not take an adverse action against a provider or provide financial incentives or subject the provider to financial disincentives based solely on a patient satisfaction survey or other method of obtaining patient feedback relating to the patient's satisfaction with pain treatment.

(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.

(2) Nothing in subsection (1) of this section shall be construed to prohibit a carrier from:

(a) Including in its provider contracts a provision that precludes a provider from making, publishing, disseminating, or circulating directly or indirectly or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature that is false or maliciously critical of the carrier and calculated to injure such carrier; or

(b) Terminating a contract with a provider because such provider materially misrepresents the provisions, terms, or requirements of a carrier's products; or

(c) Terminating a contract with a provider pursuant to a contract provision that allows either party to the contract to terminate the contract without cause pursuant to specific notice requirements that are the same for both parties.

(3) Each contract between a carrier and an intermediary shall contain a provision requiring that the underlying contract authorizing the intermediary to negotiate and execute contracts with carriers, on behalf of the providers, shall comply with the requirements of subsection (1) of this section.

(4) The commissioner shall not act to arbitrate, mediate, or settle disputes between a carrier, its intermediaries, or a provider network arising under or by reason of a provider contract or its termination. Existing dispute resolution mechanisms available in contract law shall be used to resolve such disputes. Notwithstanding any provision of law to the contrary, the commissioner is not prohibited from enforcing the applicable provisions of this article.

(5) The commissioner shall, after notice and hearing, promulgate reasonable regulations as are necessary or proper to carry out the requirements of this section.

(6) No contract between a carrier and a provider or its representative or between a carrier and an intermediary that concerns the delivery, provision, payment, or offering of care or services covered by a managed care plan shall be issued, renewed, amended, or extended in this state after January 1, 1997, unless it complies with the requirements of this section.

(7)

(a) A provider who is aggrieved by a violation of this section may bring an action for injunctive relief in a court of competent jurisdiction and may seek recovery of reasonable court costs. This section does not change the standards for obtaining injunctive relief.

(b) If a court deems an action frivolous, the court may award costs to the defendant.

(8) As used in this section:

(a) “Adverse action” means a decision by a carrier to terminate, deny, or otherwise condition a provider’s participation in one or more provider networks, including a decision pertaining to participation in a narrow network or allocation within a tiered network.

(b) “Narrow network” means a reduced or selective provider network that is a subgroup or subdivision of a larger provider network and from which providers who participate in the larger network may be excluded.

(c) “Tiered network” means a provider network in which:

(I) Providers are assigned to, or placed in, different benefit tiers, as determined by tiering; and

(II) Patients receive benefits and pay the copayment, coinsurance, or deductible amounts that are associated with the benefit tier to which the provider from whom services were received is assigned.

(d) “Tiering” means a system that compares, rates, ranks, tiers, or classifies a provider’s performance, quality of care, or cost of care against objective standards or against the practice or performance of other health-care providers. “Tiering” includes quality improvement programs, pay-for-performance programs, public reporting on health-care provider performance or ratings, and the use of tiered or narrowed networks.

[C.R.S. 10-16-121](#)

## 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