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SENATE BILL 25-129

BY SENATOR(S) Cutter and Winter F., Amabile, Ball, Bridges, Danielson, Daugherty, Gonzales J., Hinrichsen, Jodeh, Kipp, Kolker, Marchman, Michaelson Jenet, Rodriguez, Snyder, Sullivan, Weissman, Exum, Mullica, Roberts, Coleman;

also REPRESENTATIVE(S) Joseph and McCormick, Bacon, Boesenecker, Brown, Camacho, Carter, Clifford, Espenosa, Froelich, Garcia, Gilchrist, Hamrick, Lieder, Lindstedt, Lukens, Mabrey, Martinez, Rydin, Smith, Stewart K., Stewart R., Story, Titone, Valdez, Velasco, Willford, Woodrow, Zokaie, Duran, Lindsay, Mauro, Paschal, Phillips, Rutinel, Sirota, McCluskie.

CONCERNING PROTECTIONS RELATED TO A LEGALLY PROTECTED
HEALTH-CARE ACTIVITY.

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

SECTION 1. In Colorado Revised Statutes, 12-30-124, **add** (16) as follows:

12-30-124. Out-of-state telehealth providers - registration - financial responsibility - discipline - emergency protocol - disclosures - prescriptions - rules - applicability - definitions. (16) THIS SECTION

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

DOES NOT ALTER OR LIMIT THE RIGHTS AND PROTECTIONS AFFORDED TO A PERSON CONCERNING A LEGALLY PROTECTED HEALTH-CARE ACTIVITY, AS DEFINED IN SECTION 12-30-121.

SECTION 2. In Colorado Revised Statutes, 12-280-124, **amend** (2) as follows:

12-280-124. Labeling - rules - definitions. (2) (a) Except as otherwise required by law, any drug dispensed pursuant to a prescription order must bear a label prepared and placed on or securely attached to the medicine container stating at least the name and address of the prescription drug outlet, the serial number and the date of the prescription or of its dispensing, the name of the drug dispensed unless otherwise requested by the practitioner, the name of the practitioner, the name of the patient, and, if stated in the prescription, the directions for use and cautionary statements, if any, contained in the prescription.

(b) NOTWITHSTANDING THE LABELING REQUIREMENTS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION, AT THE PRACTITIONER'S REQUEST, A PRESCRIPTION LABEL FOR MIFEPRISTONE, MISOPROSTOL, OR THE GENERIC ALTERNATIVES TO THOSE PRESCRIPTIONS MAY INCLUDE THE NAME OF THE PRESCRIBING HEALTH-CARE PRACTICE INSTEAD OF THE NAME OF THE PRACTITIONER, PROVIDED THE PRACTITIONER INCLUDES THE NAME OF THE HEALTH-CARE PRACTICE ON THE PAPER OR ELECTRONIC FORM OF THE PRESCRIPTION.

SECTION 3. In Colorado Revised Statutes, **add** 13-1-140.1 as follows:

13-1-140.1. Subpoena requirements - legally protected health-care activity - enforcement. (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 SECTION 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 OMITTS 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. THE COURT, UPON FINDING 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 OMITTS 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.

SECTION 4. In Colorado Revised Statutes, 13-21-133, **amend** (1) as follows:

13-21-133. Out-of-state civil action against a person or entity prohibited - legally protected health-care activity - out-of-state civil judgment. (1) (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, ~~(1)(d)~~; or for providing insurance coverage for gender-affirming health-care services, as defined in section 12-30-121, ~~(1)(c)~~; or reproductive health care, as defined in section 25-6-402. ~~(4)~~.

(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 ISSUED 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).

SECTION 5. In Colorado Revised Statutes, **amend** 16-19-115 as follows:

16-19-115. Arrest without warrant. EXCEPT IN CASES ARISING PURSUANT TO SECTION 16-19-107 (2), the arrest of a person may be lawfully made ~~also~~ by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year. ~~When so arrested~~ The accused must be taken before a judge with all practicable speed, and A complaint must be made against ~~him~~ THE PERSON under oath setting forth the ~~ground~~ GROUNDS for arrest as in section 16-19-114; and thereafter ~~his~~ THE ACCUSED'S answer ~~shall~~ MUST be heard as if ~~he~~ THE ACCUSED had been arrested on a warrant.

SECTION 6. In Colorado Revised Statutes, 24-31-101, **amend** (1)(i)(XXII); and **add** (1)(i)(XXIV), (1)(i)(XXV), and (1)(i)(XXVI) as follows:

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

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

(XXII) Part 14 of article 12 of title 38; ~~and~~

(XXIV) SECTION 13-1-140.1;

(XXV) SECTION 13-1-140.2; AND

(XXVI) ARTICLE 116 OF TITLE 24.

SECTION 7. In Colorado Revised Statutes, **amend** 24-116-101 as follows:

24-116-101. Prohibition on providing information or expending government resources - legally protected health-care activity. A public ~~agency~~ ENTITY, AS DEFINED IN SECTION 24-10-103, ~~or~~ employee, appointee, officer, official, or any other person acting on behalf of a public ~~agency~~ 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. ~~(1)(d)~~.

SECTION 8. In Colorado Revised Statutes, 24-116-102, **amend** (1) and (2) as follows:

24-116-102. Prohibition on assisting another state - legally protected health-care activity. (1) A ~~state agency or executive department~~ 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. ~~(1)(d)~~.

(2) Notwithstanding subsection (1) of this section, ~~an agency or executive department~~ 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.

SECTION 9. In Colorado Revised Statutes, **add** 24-116-103 as follows:

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

SECTION 10. In Colorado Revised Statutes, **add** 25-2-108.5 as follows:

25-2-108.5. Reports of induced terminations of pregnancy - confidentiality - penalty. (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.

SECTION 11. In Colorado Revised Statutes, **amend** 24-74-107 as follows:

24-74-107. Data privacy breaches - accountability provisions. Any state agency employee who intentionally violates the provisions of this article 74 OR SECTION 25-2-108.5 is subject to an injunction and is liable for a civil penalty of not more than fifty thousand dollars for each violation.

SECTION 12. Severability. If any provision of this act or the application of this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 13. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO