

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0481.01 Christy Chase x2008

HOUSE BILL 14-1323

HOUSE SPONSORSHIP

Primavera,

SENATE SPONSORSHIP

Lundberg and Kefalas,

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING RESTRICTIONS ON THE ABILITY OF A GOVERNMENT
102 ENTITY TO ACCESS AN INDIVIDUAL'S PERSONAL MEDICAL
103 INFORMATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill prohibits the state or a local government from accessing an individual's personal medical information or medical record without the individual's consent. If a state or local government employee authorizes its government employer to access his or her personal medical

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

information or medical record in connection with an employment-related request, occurrence, or claim, such as a request for a workplace accommodation or for family medical leave, the consent applies for the duration of the request, occurrence, or claim. Additionally, if a state or local government department or agency is providing health care services to a person, the person's consent to access his or her personal medical information or record applies throughout the time during which the services are provided.

The bill recognizes exceptions to the prohibition when the access is required for a state or local government department or agency to fulfill its obligations imposed by law. Additionally, the bill does not preclude a state or local government department or agency from accessing an invoice, receipt, or other documentation of a sale of a prescription drug or other item exempt from sales tax as long as:

- ! Personal medical information or a medical record is not contained in the documentation; and
- ! Any information that identifies or could be used to identify an individual patient or that indicates a patient's diagnosis or treatment plan is redacted from the documentation.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 6 to article
3 72 of title 24 as follows:

4 **PART 6**

5 **LIMITS ON GOVERNMENT ACCESS TO**
6 **PERSONAL MEDICAL INFORMATION**

7 **24-72-601. Access to personal medical information prohibited**
8 **- exceptions.** (1) (a) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS
9 SECTION, A STATE OR LOCAL GOVERNMENT DEPARTMENT OR AGENCY AND
10 PERSONNEL OF A STATE OR LOCAL GOVERNMENT DEPARTMENT OR AGENCY
11 SHALL NEITHER ACCESS NOR DISTRIBUTE AN INDIVIDUAL'S PERSONAL
12 MEDICAL INFORMATION OR MEDICAL RECORD WITHOUT THE INDIVIDUAL'S
13 CONSENT CONCURRENT WITH A REQUEST FOR ACCESS.

14 (b) WHEN A STATE OR LOCAL GOVERNMENT DEPARTMENT OR

1 AGENCY REQUESTS ACCESS TO THE PERSONAL MEDICAL INFORMATION OR
2 MEDICAL RECORD OF AN EMPLOYEE OF THE DEPARTMENT OR AGENCY IN
3 CONNECTION WITH ONE OF THE FOLLOWING EMPLOYMENT-RELATED
4 REQUESTS, OCCURRENCES, OR CLAIMS, THE EMPLOYEE'S CONSENT APPLIES
5 THROUGHOUT THE DURATION OF THE EMPLOYMENT-RELATED REQUEST,
6 OCCURRENCE, OR CLAIM FOR WHICH THE ACCESS TO THE EMPLOYEE'S
7 PERSONAL MEDICAL INFORMATION OR MEDICAL RECORD IS REQUESTED:

- 8 (I) FAMILY MEDICAL LEAVE;
- 9 (II) A REQUEST FOR A WORKPLACE ACCOMMODATION UNDER THE
10 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
11 12101 ET SEQ., AS AMENDED;
- 12 (III) A REQUEST FOR SHORT- OR LONG-TERM DISABILITY BENEFITS;
- 13 (IV) DETERMINING FITNESS TO RETURN TO WORK AFTER A
14 LENGTHY ABSENCE;
- 15 (V) PHYSICIAN VERIFICATION OF AN ABSENCE EXCEEDING THREE
16 DAYS;
- 17 (VI) A REQUEST BY A JOB APPLICANT FOR AN ACCOMMODATION
18 THROUGH THE APPLICATION PROCESS;
- 19 (VII) A WORKERS' COMPENSATION CLAIM; OR
- 20 (VIII) DISABILITY RETIREMENT.

21 (c) WHEN A STATE OR LOCAL GOVERNMENT PROVIDES HEALTH
22 CARE SERVICES TO AN INDIVIDUAL, CONSENT FOR ACCESS TO THE
23 INDIVIDUAL'S PERSONAL MEDICAL INFORMATION OR MEDICAL RECORD
24 APPLIES THROUGHOUT THE TIME DURING WHICH THE SERVICES ARE BEING
25 PROVIDED.

- 26 (2) THIS SECTION DOES NOT:
- 27 (a) PROHIBIT A STATE OR LOCAL GOVERNMENT DEPARTMENT OR

1 AGENCY FROM ACCESSING AN INVOICE, SALES RECEIPT, OR OTHER
2 DOCUMENTATION OF A SALE NECESSARY TO SUBSTANTIATE AN EXEMPTION
3 FROM STATE SALES TAX UNDER SECTION 39-26-717, C.R.S., AS LONG AS:

4 (I) NO PERSONAL MEDICAL INFORMATION OR MEDICAL RECORD IS
5 CONTAINED IN THE DOCUMENTATION; AND

6 (II) ANY INFORMATION IN THE DOCUMENTATION THAT IDENTIFIES
7 OR COULD BE USED TO IDENTIFY AN INDIVIDUAL PATIENT OR THAT
8 INDICATES A PATIENT DIAGNOSIS OR TREATMENT PLAN HAS BEEN
9 REDACTED FROM THE DOCUMENTATION; OR

10 (b) OVERRIDE THE AUTHORITY OF THE DEPARTMENT OF REVENUE
11 TO OBTAIN AND USE A WRITTEN MEDICAL OPINION IN ACCORDANCE WITH
12 SECTION 42-2-112, C.R.S.

13 (3) THIS SECTION DOES NOT PROHIBIT THE FOLLOWING STATE OR
14 LOCAL GOVERNMENT DEPARTMENTS OR AGENCIES FROM ACCESSING AN
15 INDIVIDUAL'S PERSONAL MEDICAL INFORMATION OR MEDICAL RECORD
16 WITHOUT CONSENT WHEN THE ACCESS IS AUTHORIZED BY LAW AND IS
17 NECESSARY FOR THE DEPARTMENT TO FULFILL ITS STATUTORY
18 OBLIGATIONS:

19 (a) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR
20 A LOCAL DEPARTMENT OF HEALTH;

21 (b) THE STATE DEPARTMENT OF HEALTH CARE POLICY AND
22 FINANCING;

23 (c) THE STATE DEPARTMENT OF CORRECTIONS;

24 (d) THE STATE DEPARTMENT OF HUMAN SERVICES OR A COUNTY
25 DEPARTMENT OF HUMAN OR SOCIAL SERVICES;

26 (e) THE STATE DEPARTMENT OF PERSONNEL; OR

27 (f) THE BOARDS AND PROGRAMS WITHIN THE DIVISION OF

1 PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF REGULATORY
2 AGENCIES PURSUANT TO STATUTORY AUTHORITY.

3 (4) AS USED IN THIS SECTION:

4 (a) "MEDICAL INFORMATION" MEANS ANY INFORMATION
5 CONTAINED IN THE MEDICAL RECORD OR ANY INFORMATION PERTAINING
6 TO THE MEDICAL, MENTAL HEALTH, OR HEALTH CARE SERVICES
7 PERFORMED AT THE DIRECTION OF A PHYSICIAN OR OTHER LICENSED
8 HEALTH CARE PROVIDER THAT IS PROTECTED BY THE PHYSICIAN-PATIENT
9 PRIVILEGE ESTABLISHED BY SECTION 13-90-107 (1) (d) , C.R.S.

10 (b) (I) "MEDICAL RECORD" MEANS THE WRITTEN OR GRAPHIC
11 DOCUMENTATION, SOUND RECORDING, OR COMPUTER RECORD PERTAINING
12 TO MEDICAL, MENTAL HEALTH, AND HEALTH CARE SERVICES, INCLUDING
13 MEDICAL MARIJUANA SERVICES, PERFORMED AT THE DIRECTION OF A
14 PHYSICIAN OR OTHER LICENSED HEALTH CARE PROVIDER ON BEHALF OF A
15 PATIENT BY PHYSICIANS, DENTISTS, NURSES, SERVICE PROVIDERS,
16 EMERGENCY MEDICAL SERVICE PROVIDERS, MENTAL HEALTH
17 PROFESSIONALS, PREHOSPITAL PROVIDERS, OR OTHER HEALTH CARE
18 PERSONNEL.

19 (II) "MEDICAL RECORD" INCLUDES DIAGNOSTIC DOCUMENTATION
20 SUCH AS X RAYS, ELECTROCARDIOGRAMS, ELECTROENCEPHALOGRAMS,
21 AND OTHER TEST RESULTS AND DATA ENTERED INTO THE PRESCRIPTION
22 DRUG MONITORING PROGRAM UNDER SECTION 12-42.5-403, C.R.S.

23 (c) "PERSONAL MEDICAL INFORMATION OR MEDICAL RECORD"
24 MEANS AN INDIVIDUAL'S MEDICAL INFORMATION OR A MEDICAL RECORD:

25 (I) THAT IDENTIFIES THE INDIVIDUAL; OR

26 (II) WITH RESPECT TO WHICH THERE IS A REASONABLE BASIS TO
27 BELIEVE THE INFORMATION CAN BE USED TO IDENTIFY THE INDIVIDUAL.

1 **SECTION 2. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.