Proposed Initiative 2023-2024 #149
Redline

Be it enacted by the People of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** ~~13-64-103~~25-1-804 as follows:

~~**13-64-103**~~**25-1-804 Disclosure of adverse medical incidents to patients - definitions.** (1) IN ADDITION TO ANY OTHER SIMILAR RIGHTS PROVIDED IN LAW, A PATIENT~~S~~ OR THE~~IR~~ PATIENT'S REPRESENTATIVE~~S~~, INCLUDING A PARENT OF A MINOR CHILD, OR THE PATIENT'S LEGAL REPRESENTATIVE~~S~~, HAVE A RIGHT TO ACCESS, INCLUDING INSPECTION AND COPYING, UPON REQUEST, ANY MEDICAL RECORD, MEDICAL INFORMATION, OR MEDICAL COMMUNICATION MADE OR RECEIVED IN THE COURSE OF BUSINESS, TREATMENT, ~~AND/~~OR EVALUATION OF PRIOR OR ONGOING TREATMENT OF A PATIENT BY A HEALTH-CARE INSTITUTION OR HEALTH-CARE PROFESSIONAL RELATING TO ANY ADVERSE MEDICAL INCIDENT THAT CAUSED OR COULD HAVE CAUSED INJURY TO OR DEATH OF THE PATIENT.

(2) ~~FOR PURPOSES OF~~AS USED IN THIS SECTION, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:
  (a) "HEALTH-CARE INSTITUTION" HAS THE SAME MEANING AS PROVIDED IN SECTION 13-64-202, AND ADDITIONALLY INCLUDES ANY FACILITY LICENSED OR CERTIFIED BY THE ~~D~~DEPARTMENT OF ~~P~~PUBLIC ~~H~~HEALTH AND ~~E~~ENVIRONMENT AS ~~REFERENCED~~DEFINED IN SECTION 25-1.3-103 AND APPLIED IN SECTION 25-3-109.
  (b) "HEALTH-CARE PROFESSIONAL" HAS THE SAME MEANING AS PROVIDED IN SECTION 13-64-202, AND ADDITIONALLY INCLUDES THE TERM HEALTH-CARE PROVIDER, AS USED IN THIS ARTICLE.
  (c) "PATIENT" MEANS AN INDIVIDUAL WHO HAS SOUGHT, IS SEEKING, IS UNDERGOING, OR HAS UNDERGONE CARE OR TREATMENT IN A HEALTH-CARE INSTITUTION ~~AND/~~OR FROM A HEALTH-CARE PROFESSIONAL.
  (d) "ADVERSE MEDICAL INCIDENT" MEANS MEDICAL NEGLIGENCE, BREACH OF THE PROFESSIONAL STANDARD OF CARE, INTENTIONAL MISCONDUCT, AND ANY OTHER ACT, NEGLECT, OR DEFAULT OF A HEALTH-CARE INSTITUTION OR HEALTH-CARE PROFESSIONAL THAT CAUSED OR COULD HAVE CAUSED INJURY TO OR DEATH OF THE PATIENT, INCLUDING, BUT NOT LIMITED TO, THOSE INCIDENTS THAT ARE REQUIRED BY STATE OR FEDERAL LAW TO BE REPORTED TO ANY GOVERNMENTAL AGENCY OR BODY, AND INCIDENTS THAT ARE REPORTED TO OR REVIEWED BY ANY HEALTH-CARE INSTITUTION OR HEALTH-CARE PROFESSIONAL THROUGH A PEER REVIEW, RISK MANAGEMENT, QUALITY ASSURANCE, CREDENTIALING, OR SIMILAR COMMITTEE, GROUPS, OR INDIVIDUALS THAT REVIEW ADVERSE MEDICAL INCIDENTS, OCCURRENCES, "NEAR MISSES", OR OTHER INCIDENTS RELATED TO INJURIES TO PATIENTS, INCLUDING SUCH INFORMATION OR DOCUMENTS REPORTED TO OR REVIEWED BY ANY REPRESENTATIVE OF ANY SUCH COMMITTEES, EVEN IF NOT FORMALLY CONVENED, INCLUDING THOSE COMMITTEES ADDRESSED IN SECTIONS 12-30-204, AND 12-30-205.
  (e) "MEDICAL RECORD" HAS THE SAME MEANING AS PROVIDED IN SECTION 18-4-412(2)(a), AND ADDITIONALLY INCLUDES ANY MEDICAL RECORDS AND DRAFT RECORDS PERTAINING TO ANY TREATMENT BY ANY LICENSED HEALTH-CARE PROFESSIONAL, INCLUDING, BUT NOT LIMITED TO, CHIROPRACTORS, MASSAGE THERAPISTS, PHYSICAL THERAPISTS, DENTAL ASSISTANTS, DENTAL HYGIENISTS, AND PHYSICIAN ASSISTANTS/ASSOCIATES.

(f) "MEDICAL INFORMATION" HAS THE SAME MEANING AS PROVIDED IN SECTION 18-4-412(2)(b), AND ADDITIONALLY INCLUDES INFORMATION CREATED BY A PHYSICIAN, OTHER LICENSED HEALTH-CARE PROFESSIONAL, OR HEALTH-CARE INSTITUTION STAFF, MANAGEMENT, EXECUTIVE STAFF, OR CORPORATE DIRECTORS, AND INCLUDES INFORMATION THAT ~~NOT~~ MAY NOT BE PROTECTED BY THE PHYSICIAN-PATIENT PRIVILEGE, INCLUDING, BUT NOT LIMITED TO, AUDIT TRAILS, TEXT MESSAGES, MESSAGES ON ANY MESSAGING SYSTEM, ELECTRONIC MAIL COMMUNICATIONS, OTHER ELECTRONIC COMMUNICATIONS, AND HANDWRITTEN DOCUMENTS.

(g) "MEDICAL COMMUNICATION" MEANS CORRESPONDENCE TO OR FROM A HEALTH-CARE PROFESSIONAL OR HEALTH-CARE INSTITUTION SENT VIA U.S. MAIL, PRIVATE COURIER, HAND-DELIVERY, FACSIMILE, ELECTRONIC MAIL, TEXT MESSAGE, MESSAGES ON ANY MESSAGING SYSTEM, OR ANY OTHER FORMAT THAT CONTAINS INFORMATION ABOUT A PATIENT'S ADVERSE MEDICAL INCIDENT.
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SECTION 2. Effective date. This act takes effect on the date of the proclamation of the Governor announcing the approval, by the registered electors of the state, of the proposed initiative.