

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

**CONTENTS OF THIS SECTION**

<i>Content Area</i>	<i>Page #</i>
Summary of Title X Federal Regulations	
Program Services .....	2
Program Administration .....	3
Applicable Colorado State Laws	
Colorado Constitution	
Public Funding of Abortion Forbidden (Article V, Section 50) .....	4
Colorado Revised Statutes	
Family Planning (Title 25, Article 6) .....	5
Minors – Age of Competence (Title 13, Article 22) .....	9
Reporting Sexually Transmitted <b>Infections and Human Immunodeficiency Virus</b> (Title 25, Article 4) .....	12
Abortion (Title 18, Article 6) .....	13
<b>Colorado Parental Notification Law (Title 12, Article 37.5)</b> .....	<b>14</b>
Guidance on Complying with Title X Federal Requirements Prohibiting Abortion Services .....	20
Procedures to Ensure Compliance with Title X Abortion Services Regulations .....	23
Mandatory Reporting	
Requirements of the Family Planning Program Staff .....	24
Applicable Colorado Revised Statutes	
Sexual Assault (CRS §18-3-402) .....	24
Child Abuse (CRS §18-6-401) .....	25
Definitions (CRS §19-1-103) .....	25
Persons Required to Report Child Abuse or Neglect (CRS §19-3-304) ....	26
Reporting Procedures (CRS §19-3-307) .....	28
Immunity from Liability – Persons Reporting (CRS §19-3-309) .....	29
Injuries to be Reported – Penalty for Failure to Report-Immunity from Liability (CRS §12-36-135) .....	29
Algorithms	
Child Abuse .....	31
Domestic Violence .....	32
Sexual Assault and Sexual Assault on a Child .....	33
Health Insurance Portability and Accountability Act (HIPPA) Compliance Policy .....	34

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

**SUMMARY OF TITLE X FEDERAL REGULATIONS\* -  
PROGRAM SERVICES**

SUBJECT	REQUIREMENT	REFERENCE
<b>INVENTIONS OR DISCOVERIES</b>	Subject to federal regulations, 45 CFR, Parts 6 and 8	42 CFR 59.12
<b>NO COERCION</b>  <b>DIGNITY</b>  <b>NO DISCRIMINATION</b>	Services must be provided voluntarily without coercion to protect dignity of clients without regard to: - Residency - Religion - Creed - Race, color, national origin - Handicapping condition - Age - Sex - Number of pregnancies - Marital status	42 CFR 59.5 (a) (2) 42 CFR 59.5 (a) (3) 42 CFR 59.5 (a) (5) 42 CFR 59.5 (a) (4)
<b>CONFIDENTIALITY</b>	Personal information must not be disclosed without client consent except in summary form. When provided where required by law or necessary to provide services, confidentiality must be safeguarded.	42 CFR 59.11
<b>NO REFERRAL REQUIREMENT</b>	Without requiring referral from a private physician.	42 CFR 59.5 (b) (5)
<b>NO ABORTIONS</b>	Services provided must not include abortion as a method of family planning.	42 CFR 59.5 (a) (5)
<b>CLINIC SERVICES</b>	Services must include: Broad range of medically approved and accepted family planning methods, Natural family planning, Provision for diagnosis and treatment of infertility, Physician's consultation, Prescription, Laboratory tests (continuing supervision), Contraceptive supplies, Services to adolescents.	42 CFR 59.5 (a) (1) 42 CFR 59.5 (a) (2) 42 CFR 59.5 (b) (8) 42 CFR 59.5 (b) (1) 42 CFR 59.5 (b) (1) 42 CFR 59.5 (b) (1) 42 CFR 59.5 (b) (1) 42 CFR 59.5 (b) (1)
<b>SOCIAL SERVICES</b>	Services must include family planning related counseling and referral.	42 CFR 59.5 (b) (2)
<b>COORDINATION AND REFERRAL</b>	Services must include referral for other medical and social services.  Programs must have referral arrangements with other health care providers, welfare departments, hospitals, and voluntary agencies.	42 CFR 59.5 (b) (1) 42 CFR 59.5 (b) (9) 42 CFR 59.5 (b) (8)
<b>COMMUNITY EDUCATION, OUTREACH, AND FOLLOW UP</b>	Services must include community education to achieve community understanding, inform potential clients of availability of services, and promote continued participation of clinic clients.	42 CFR 59.5 (b) (3)

Note: The Title X regulations were published prior to the 1981 parental participation amendment to the Title X legislation which states, "To the extent practical, entities which receive grants or contracts under this subsection (Section 1001) shall encourage family participation in projects assisted under this subsection."

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

**SUMMARY OF TITLE X FEDERAL REGULATIONS\* -  
PROGRAM ADMINISTRATION**

SUBJECT	REQUIREMENT	REFERENCE
<b>TARGET POPULATION</b>	Priority must be given to low-income persons.	42 CFR 59.5 (a) (6)
<b>CONSUMER PARTICIPATION</b>	Participation of consumers and community in planning, development, and implementation	42 CFR 59.5 (b) (10)
<b>INFORMATION AND EDUCATION ADVISORY COMMITTEE</b>	An advisory committee that consists of not less than 5 or more than 9 members broadly representative of the community for whom materials are intended. Review and approval of information and educational materials by an advisory committee before distribution. Oversight responsibility for the I & E committee(s) rests with the grantee. The grantee may delegate the I & E operations for the review and approval of materials to delegate/contract agencies. <u>Review Criteria:</u> Background of individuals addressed. Community standards. Factual correctness. Suitability. Documentation of committee actions.	42 CFR 59.5 (a) (11) and 59.6
<b>DELEGATE PARTICIPATION</b>	Participation of existing and potential subgrantees in policy and decision making; preparation of grant application; consolidation of proposals.	42 CFR 59.5 (a) (10) (11)
<b>THIRD PARTY PAYMENT COLLECTIONS</b>	Third party payments must be collected from Title XIX, Title XX, and health insurance.	42 CFR 59.5 (a) (9)
<b>CLIENT CHARGES</b>	No charge for services to low income (100% Federal poverty level or below) except responsible third party payor including government. Clients with incomes over 250% poverty level will be charged for reasonable cost of providing services. Other clients must be charged according to a fee schedule based on ability to pay.	42 CFR 59.5 (a) (7) 42 CFR 59.5 (a) (8) 42 CFR 59.5 (a) (8)
<b>PHYSICIAN DIRECTOR</b>	Medical services must be provided under direction of a physician with family planning training or experience.	42 CFR 59.5 (b) (6)
<b>STAFF TRAINING</b>	Orientation and in-service training must be provided to all staff.	42 CFR 59.5 (b) (4)
<b>PURCHASED SERVICES AUTHORIZATION</b>	Services purchased for clients must be authorized by project director or designee	42 CFR 59.5 (b) (7)
<b>PURCHASED SERVICES REIMBURSEMENT RATES</b>	Reasonable reimbursement rates for purchased services must be established and documented	42 CFR 59.5 (b) (9)

*\*The complete text for the Title X Federal Regulations [42 CFR 59.5] is available in Attachment B of the Program Guidelines For Project Grants For Family Planning (January 2001) or on the internet at: [http://www.hhs.gov/opa/familyplanning/toolsdocs/2001\\_ofp\\_guidelines\\_complete.pdf](http://www.hhs.gov/opa/familyplanning/toolsdocs/2001_ofp_guidelines_complete.pdf) \*\*\**

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

**SELECTED APPLICABLE COLORADO STATE LAWS – COLORADO CONSTITUTION**

**This section contains a “select” sampling of laws related to the provision of family planning services, abortion, provision of services to minors and mandatory reporting. This section is not intended to be nor should it be construed as legal advice. Agencies should consult with legal counsel when in need of advice regarding any legal issues or concerns.**

**A complete statute is not reproduced here if “(in part)” is noted after the statute titles. Statute language may be amended or repealed at times. Statute language in this section may not be the most current language. Please consult the Colorado Revised Statutes for current language.**

---

Colorado Constitution Article V Section 50. Public funding of abortion forbidden

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.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

**APPLICABLE COLORADO STATE LAWS – COLORADO REVISED STATUTES**

---

Family Planning (Title 25, Article 6 of the Colorado Revised Statutes):

**PART 1**  
**FAMILY PLANNING**

*CRS §25-6-101 Legislative declaration.*

- (1) Continuing population growth either causes or aggravates many social, economic, and environmental problems, both in this state and in the nation.
- (2) Contraceptive procedures, supplies, and information are not available as a practical matter to many persons in this state.
- (3) It is desirable that inhibitions and restrictions be eliminated so that all persons desiring contraceptive procedures, supplies, and information shall have ready and practicable access thereto.
- (4) Section 25-6-102 sets forth the policy and authority of this state, its political subdivisions, and all agencies and institutions thereof, including prohibitions against restrictions with respect to contraceptive procedures, supplies, and information.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

*CRS §25-6-102 Policy, authority, and prohibitions against restrictions.*

- (1) All medically acceptable contraceptive procedures, supplies, and information shall be readily and practicably available to each person desirous of the same regardless of sex, **sexual orientation**, race, **color**, **creed**, **religion**, **disability**, age, income, number of children, marital status, citizenship, **national origin**, **ancestry**, or motive.
- (2) Medical evaluation and advice is encouraged for all persons seeking any contraceptive procedures, supplies, and information.
- (3) No hospital, clinic, medical center, institution, or pharmacy shall subject any person to any standard or requirement as a prerequisite for any contraceptive procedures, supplies, or information, including sterilization, other than referral to a physician.
- (4) No hospital, clinic, medical center, or pharmacy licensed in this state, nor any agency or institution of this state, nor any unit of local government shall have any policy which interferes with either the physician-patient relationship or any physician or patient desiring to use any medically acceptable contraceptive procedures, supplies, or information.
- (5) Contraceptive procedures, including medical procedures for permanent sterilization, when performed by a physician on a requesting and consenting patient, are consistent with public policy.
- (6) Notwithstanding any other provision of this part 1, no unmarried person under eighteen years of age may consent to permanent sterilization procedures without the consent of parent or guardian.
- (7) Nothing in this part 1 shall inhibit a physician from refusing to furnish any contraceptive procedures, supplies, or information for medical reasons.
- (8) Dissemination of medically acceptable contraceptive information by duly authorized persons at schools, in state, **district**, and county health and welfare departments **or public health agencies**, in medical facilities at institutions of higher education, and at other agencies and instrumentalities of this state is consistent with public policy.
- (9) No private institution or physician, nor any agent or employee of such institution or physician, shall be prohibited from refusing to provide contraceptive procedures, supplies, and information when such refusal is based upon religious or conscientious objection, and no such institution, employee, agent or physician shall be held liable for such refusal.
- (10) To the extent family planning funds are available, each agency and institution of this state and each of its political subdivisions shall provide contraceptive procedures, supplies, and information, including permanent sterilization procedures, to indigent persons free of charge and to other persons at cost.

*CRS §25-6-103 Department of public health and environment – powers and duties.*

- The department of public health and environment is authorized to receive and disburse such funds as may become available to it for family planning programs to any organization, public or private, engaged in providing contraceptive procedures, supplies, and information. Any family planning program administered by the department of public health and environment shall be developed in consultation and coordination with other family planning agencies in this state, including but not limited to the department of human services.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

PART 2  
FAMILY PLANNING AND BIRTH CONTROL

*CRS §25-6-201 This part 2 to be liberally construed.*

- This part 2 shall be liberally construed to protect the rights of all individuals to pursue their religious beliefs, to follow the dictates of their own consciences, to prevent the imposition upon any individual of practices offensive to the individual's moral standards, to respect the right of every individual to self-determination in the procreation of children, and to insure a complete freedom of choice in pursuance of constitutional rights.

*CRS §25-6-202 Services to be offered by the county.*

- The governing body of each county and each city and county or any **county or district public health agency** thereof or any welfare department thereof may provide and pay for, and each county and each city and county or any **county or district public health agency** thereof or any welfare department thereof may offer, family planning and birth control services to every parent who is a public assistance recipient and to any other parent or married person who might have interest in, and benefit from, such services; except that no county or city and county or **public health agency** thereof is required by this section to seek out such persons.

*CRS §25-6-203 Extent of services.*

- Family planning and birth control services shall include: Interview with trained personnel; distribution of literature; referral to a licensed physician **or advance practice nurse** for consultation, examination, tests, medical treatment and prescription; and, to the extent so prescribed, the distribution of rhythm charts, drugs, medical preparations, contraceptive devices, and similar products.

*CRS §25-6-204 Counties may charge for services.*

- The governmental unit making provision for and offering such services may charge those persons to whom family planning and birth control services are rendered a fee sufficient to reimburse the county or city and county all or any portion of the costs of the services rendered.

*CRS §25-6-205 Services may be refused.*

- The refusal of any person to accept family planning and birth control services shall in no way affect the right of such person to receive public assistance or to avail himself of any other public benefit, and every person to whom such services are offered shall be so advised initially both orally and in writing. County and city and county employees engaged in the administration of this part 2 shall recognize that the right to make decisions concerning family planning and birth control is a fundamental personal right of the individual, and nothing in this part 2 shall in any way abridge such individual right, nor shall any individual be required to state his reason for refusing the offer of family planning and birth control services.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

*CRS §25-6-206 Interviews conducted in language recipient understands.*

- In all cases where the recipient does not speak or read the English language, the services shall not be given unless the interviews are conducted and all literature is written in a language, which the recipient understands.

*CRS §25-6-207 County employee exemption.*

- Any county employee or city and county employee may refuse to accept the duty of offering family planning and birth control services to the extent that such duty is contrary to his personal religious beliefs, and such refusal shall not be grounds for any disciplinary action, for dismissal, for any interdepartmental transfer, for any other discrimination in his employment, for suspension from employment with the county or city and county, or for any loss in pay or other benefits.

**PART 3**  
**BREAST-FEEDING**

**25-6-301. Legislative declaration.**

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

- (a) The American academy of pediatrics recommends breast-feeding exclusively for the first six months of an infant's life but continuing with other forms of nutrition for at least the first twelve months of an infant's life and as long thereafter as is mutually desired.**
- (b) The American academy of pediatrics has continuously endorsed breast-feeding as the optimal form of nutrition for infants and as a foundation for good feeding practices. Extensive research indicates that there are diverse and compelling advantages to breast-feeding for infants, mothers, families, and society.**
- (c) Epidemiologic research shows that breast-feeding of infants provides benefits to their general health, growth, and development and results in significant decreases in risk for numerous acute and chronic diseases.**
- (d) Research in developed countries provides strong evidence that breast-feeding decreases the incidence and severity of diarrhea, lower respiratory infection, otitis media, and urinary tract infection.**
- (e) Research studies have also shown that human milk and breast-feeding have possible protective effects against the development of a number of chronic diseases, including allergic diseases and some chronic digestive diseases. In addition, human milk and breast-feeding may prevent obesity.**
- (f) In addition, breast-feeding has been related to the possible enhancement of cognitive development.**
- (g) Breast-feeding has been shown to have numerous health benefits for mothers, including an earlier return to prepregnant weight, delayed resumption of ovulation with increased child spacing, improved bone remineralization postpartum with reduction in hip fractures in the postmenopausal period, and reduced risk of ovarian cancer and premenopausal breast cancer, as well as increased levels of oxytocin, resulting in less postpartum bleeding and more rapid uterine involution.**

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

- (h) In addition to individual health benefits, breast-feeding results in substantial benefits to society, including reduced health care costs, reduced environmental damage, reduced governmental spending on the women, infants, and children supplementary feeding programs, and reduced employee absenteeism for care attributable to infant illness.
  - (i) Breast-feeding is a basic and important act of nurturing that should be encouraged in the interests of maternal and infant health.
- (2) The general assembly further declares that the purpose of this part 3 is for the state of Colorado to become involved in the national movement to recognize the medical importance of breast-feeding, within the scope of complete pediatric care, and to encourage removal of societal boundaries placed on breast-feeding in public.

**25-6-302. Breast-feeding.**

**A mother may breast-feed in any place she has a right to be.**

---

Minors – Age of Competence (Title 13, Article 22 of the Colorado Revised Statutes):

*CRS §13-22-102 Minors – consent for medical care and treatment for addiction to or use of drugs.*

- Notwithstanding any other provision of law, any physician licensed to practice in this state, upon consultation by a minor as a patient, with the consent of such minor patient, may examine, prescribe for, and treat such minor patient for addiction to or use of drugs without the consent of or notification to the parent, parents, or legal guardian of such minor patient, or to any other person having custody or decision-making responsibility with respect to the medical care of such minor patient. In any such case the physician or any person acting pursuant to the minor's direction shall incur no civil or criminal liability by reason of having made such examination or prescription or having rendered such treatment, but this immunity shall not apply to any negligent acts or omissions by the physician or any person acting pursuant to the physician's direction.

*CRS §13-22-103 Minors – consent for medical, dental, and related care.*

- (1) Except as otherwise provided in sections **18-1.3-407** (4,5), 18-6-101, 25-4-402, and 12-34-**104**, C.R.S., a minor eighteen years of age or older, or a minor fifteen years of age or older who is living separate and apart from his or her parent, parents, or legal guardian, with or without the consent of his or her parent, parents, or legal guardian, and is managing his or her own financial affairs, regardless of the source of his or her income, or any minor who has contracted a lawful marriage may give consent to organ or tissue donation or the furnishing of hospital, medical, dental, emergency health, and surgical care to himself or herself. Such consent shall not be subject to disaffirmance because of minority, and, when such consent is given, said minor shall have the same rights, powers, and obligations as if he or she had obtained majority. Consent to organ or tissue donation may be revoked pursuant to section 12-34-**106**, C.R.S.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

- (2) **The consent of the parent, parents, or legal guardian of a minor described in subsection (1) of this section shall not be necessary in order to authorize organ or tissue donation or hospital, medical, dental, emergency health, or surgical care, and no hospital, physician, surgeon, dentist, trained emergency health care provider, or agent or employee thereof who, in good faith, relies on such a minor's consent shall be liable for civil damages for failure to secure the consent of such a minor's parent, parents, or legal guardian prior to rendering such care. The parent, parents, or legal guardian of a minor described in subsection (1) of this section shall not be liable to pay the charges for the care provided the minor on said minor's consent, unless said parent, parents, or legal guardian agrees to be so liable.**
- (3) **In addition to the authority granted in section 25-4-1704 (2.5), C.R.S., any parent, including a parent who is a minor, may request and consent to organ or tissue donation of his or her child or the furnishing of hospital, medical, dental, emergency health, and surgical care to his or her child or ward. The consent of a minor parent shall not be subject to disaffirmance because of minority, and, when such consent is given, said minor parent has the same rights, powers, and obligations as if he or she were of legal age.**

***CRS §13-22-103.5. Minors - consent for medical care – pregnancy.***

**Notwithstanding any other provision of law, a pregnant minor may authorize prenatal, delivery, and post-delivery medical care for herself related to the intended live birth of a child.**

***CRS §13-22-105 Minors – birth control services rendered by physicians.***

- **Except as otherwise provided in part 1 of article 6 of title 18, C.R.S., birth control procedures, supplies, and information may be furnished by physicians licensed under article 36 of title 12, C.R.S., to any minor who is pregnant, or a parent, or married, or who has the consent of his parent or legal guardian, or who has been referred for such services by another physician, a clergyman, a family planning clinic, a school or institution of higher education, or any agency or instrumentality of this state or any subdivision thereof, or who requests and is in need of birth control procedures, supplies, or information.**

***CRS §13-22-106 Minors – consent – sexual offense.***

- (1) **Any physician licensed to practice in this state, upon consultation by a minor as a patient who indicates that he or she was the victim of a sexual assault, with the consent of such minor patient, may perform customary and necessary examinations to obtain evidence of the sexual assault and may prescribe for and treat the patient for any immediate condition caused by the sexual assault.**
- (2) (a) **Prior to examining or treating a minor pursuant to subsection (1) of this section, a physician shall make a reasonable effort to notify the parent, parents, legal guardian, or any other person having custody or decision-making responsibility with respect to the medical care of such minor of the sexual assault.**
  - (b) **So long as the minor has consented, the physician may examine and treat the minor as provided for in subsection (1) of this section whether or not the physician has been able to make the notification provided for in paragraph (a) of this subsection (2) and whether**

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

or not those notified have given consent, but, if the person having custody or decision-making responsibility with respect to the minor's medical care objects to treatment, then the physician shall proceed under the provisions of part 3 of article 3 of title 19, C.R.S.

(c) Nothing in this section shall be deemed to relieve any person from the requirements of the provisions of part 3 of article 3 of title 19, C.R.S. concerning child abuse. (CRS 19-3-304 on page 26)

- (3) If a minor is unable to give the consent required by this section by reason of age or mental or physical condition and it appears that the minor has been the victim of a sexual assault, the physician shall not examine or treat the minor as provided in subsection (1) of this section but shall proceed under the provisions of part 3 of article 3 of title 19, C.R.S.**
- (4) A physician shall incur no civil or criminal liability by reason of having examined or treated a minor pursuant to subsection (1) of this section, but this immunity shall not apply to any negligent acts or omissions by the physician.**

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

Reporting Sexually Transmitted Infections and Human Immunodeficiency Virus (Title 25, Article 4 of the Colorado Revised Statutes):

*CRS §25-4-402 Sexually transmitted infections reported – physician’s immunity.*

- (1) Any physician, intern, or other person who makes a diagnosis in, prescribes for, or treats a **sexually transmitted infection and** any superintendent or manager of a state, county, or city hospital, dispensary, sanitarium, or charitable or penal institution in which there is a **sexually transmitted infection** shall make a report of such **infection** to the health authorities in accordance with the provisions of section 25-1-122 (1).
- (2) (Deleted by amendment, L. 91, p. 945, 4, effective May 6, 1991.)
- (3) Reports of **sexually transmitted infections** shall be made in accordance with the requirements set forth in section 25-1-122 (1).
- (4) Any physician, upon consultation by a minor as a patient and with the consent of such minor patient, may make a diagnostic examination for **sexually transmitted infection** and may prescribe for and treat such minor patient for **sexually transmitted infection** without the consent of or notification to the parent or guardian of such minor patient or to any other person having custody of or parental responsibilities with respect to such minor patient. In any such case, the physician shall **not be civilly or criminally liable for making the** diagnostic examination or **rendering the** treatment, but such immunity **from liability** shall not apply to any negligent acts or omissions **of the physician**.

*CRS §25-4-1403 Reports of positive HIV tests*

All laboratories or persons performing laboratory tests for HIV shall report to the state department of public health and environment or appropriate local department of health, in a form and within a time period designated by the state department of public health and environment, the name, date of birth, sex, and address of any individual whose specimen submitted for examination tests positive for HIV as defined by the state board of health. Such report shall include the test results and the name and address of the attending physician and any other person or agency referring such positive specimen for testing.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

Abortion (Title 18, Article 6 of the Colorado Revised Statutes):

*CRS §18-6-101 Definitions\*.*

As used in sections 18-6-101 to 18-6-104, unless the context otherwise requires:

- (1) "Justified medical termination" means the intentional ending of the pregnancy of a woman at the request of said woman **or, if said woman is under the age of eighteen years, then at the request of the woman and her then living parent or guardian, or, if the woman is married and living with her husband, at the request of said woman and her husband,** by a licensed physician using accepted medical procedures ***in a licensed hospital upon written certification by all of the members of a special hospital board that:***
  - (a) ***Continuation of the pregnancy, in their opinion, is likely to result in: The death of the woman; or the serious permanent impairment of the physical health of the woman; or the serious permanent impairment of the mental health of the woman as confirmed in writing under the signature of a licensed doctor of medicine specializing in psychiatry; or the birth of a child with grave and permanent physical deformity or mental retardation; or***
  - (b) ***Less than sixteen weeks of gestation have passed and that the pregnancy resulted from conduct defined as criminal in sections 18-3-402 and 18-3-403, or if the female person is unmarried and has not reached her sixteenth birthday at the time of such conduct regardless of the age of the male, or incest, as defined in sections 18-6-301 and 18-6-302, and that the district attorney of the judicial district in which the alleged sexual assault or incest has occurred has informed the committee in writing over his signature that there is probable cause to believe that the alleged violation did occur.***
- (2) ***"Licensed hospital" means one licensed or certificated by the department of public health and environment.***
- (3) ***"Pregnancy" means the implantation of an embryo in the uterus.***
- (4) ***"Special hospital board" means a committee of three licensed physicians who are members of the staff of the hospital where the proposed termination would be performed if certified in accordance with subsection (1) of this section, and who meet regularly or on call for the purpose of determining the question of medical justification in each individual case, and which maintains a written record, signed by each member, of the proceedings and deliberations of the board.***

**\*NOTE:** The *italicized* portions of this section were held unconstitutional in *People v. Norton*, 181 Colo. 47, 507 P.2d 862 (1973).

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

**Colorado Parental Notification Act (Title 12, Article 37.5 of the Colorado Revised Statutes):**

In 2000, the federal district court for the district of Colorado declared the Colorado Parental Notification Act (Act) to be unconstitutional, as described in the annotation to CRS §12-37.5-101 below. In 2003, the Colorado General Assembly amended the Act by adding several definitions, including a definition of medical emergency that concerns the health of the pregnant minor. To the extent any of the provisions in the Act remain unconstitutional, those provisions would be unenforceable.

***CRS §12-37.5-101. Short title.***

This article shall be known and may be cited as the "Colorado Parental Notification Act".

**ANNOTATION**

Colorado Parental Notification Act is unconstitutional. The act violates the rights of minor women protected by the fourteenth amendment to the U.S. Constitution. The U.S. supreme court has required that any abortion regulation except from its reach an abortion medically necessary for the preservation of the mother's health. The act fails to provide such a health exception, and the delay inherent in the act's notification requirements will place some women at risk of serious health problems or even death. *Planned Parenthood of Rocky Mountains Servs. Corp. v. Owens*, 107 F. Supp. 2d 1271 (D. Colo. 2000), *aff'd*, 287 F.3d 910 (10th Cir. 2002).

***CRS §12-37.5-102. Legislative declaration.***

- (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.**

**ANNOTATION**

The legislative declaration of the Colorado Parental Notification Act does not provide any positive indication that the act should be interpreted in conjunction with the Colorado Children's Code to protect the health of a minor. *Planned Parenthood of Rocky Mountains Servs. Corp. v. Owens*, 107 F. Supp. 2d 1271 (D. Colo. 2000), *aff'd on other grounds*, 287 F.3d 910 (10th Cir. 2002).

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

***CRS §12-37.5-103. Definitions.***

As used in this article, 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 article 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.

***CRS §12-37.5-104. Notification concerning abortion.***

- (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 article 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-

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

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 article shall commence to run at 12:00 o'clock noon on the next day on which regular mail delivery takes place.
  - (II) Whenever the parent of the minor includes two persons to be notified as provided in this article 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.
    - (III) 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 paragraph (a) of this subsection (2), 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.

**ANNOTATION**

The provisions of the Parental Notification Act supersede § 19-1-104 (3) of the Children's Code with regard to the provision of notice to parents about abortions. *Planned Parenthood of Rocky Mountains Servs. Corp. v. Owens*, 287 F.3d 910 (10th Cir. 2002).

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

As a result, the Parental Notification Act must be held unconstitutional because it lacks a health exception to the parental notification requirement. *Planned Parenthood of Rocky Mountains Servs. Corp. v. Owens*, 287 F.3d 910 (10th Cir. 2002).

Applied in *In re Doe*, 166 P.3d 293 (Colo. App. 2007).

***CRS §12-37.5-105. No notice required - when.***

**(1) No notice shall be required pursuant to this article if:**

- (a) The person or persons who may receive notice pursuant to section 12-37.5-104 (1) certify in writing that they have been notified; or**
- (a.5) The person whom the minor elects to notify pursuant to section 12-37.5-104 (2) certifies in writing that he or she has been notified; or**
- (b) 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 title 19, article 3, of the Colorado Revised Statutes, 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.**
- (c) 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 12-37.5-104; or**
- (d) A valid court order is issued pursuant to section 12-37.5-107.**

***CRS §12-37.5-106. Penalties - damages - defenses.***

**(1) Any person who performs or attempts to perform an abortion in willful violation of this article:**

- (a) (Deleted by amendment, L. 2003, p. 2364, § 7, effective June 3, 2003.)**
- (b) 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 article 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 article commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.**

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

**CRS §12-37.5-107. Judicial bypass.**

- (1) (Deleted by amendment, L. 2003, p. 2364, § 8, effective June 3, 2003.)
- (2) (a) If any pregnant minor elects not to allow the notification required pursuant to section 12-37.5-104, 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 article 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 12-37.5-104 (1) and section 12-37.5-106 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 (2) 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 (2) 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 article. 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 article 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 (2).
- (f) If either the district court or the court of appeals fails to act within the time periods required by this subsection (2), the court in which the proceeding is pending shall immediately issue an order dispensing with the notice requirements of this article.
- (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 article until forty-five days after the Colorado supreme court publishes final rules and a final form.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

***CRS §12-37.5-108. Limitations.***

- (1) This article 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 article 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.**

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

**GUIDANCE ON COMPLYING WITH TITLE X FEDERAL REQUIREMENTS PROHIBITING  
ABORTION SERVICES**

Section 1008 of the Public Health Services Act provides:

*“None of the funds appropriated under this title (Title X) shall be used in programs where abortion is a method of family planning.”*

The Department of Health and Human Services (DHHS) prohibits the provision by Title X grantees of abortion as a method of family planning, as well as prohibits activities that promote or encourage the use of abortion as a method of family planning. The activities falling under this category and thus proscribed by Section 1008 and Federal Register Volume 65, No. 128 include **(this information is taken directly from Federal Register Volume 65, No. 128<sup>1</sup>):**

*General Principles:*

**In general, section 1008 prohibits Title X programs from engaging in activities which promote or encourage abortion as a method of family planning. However, section 1008 does not prohibit the funding under Title X of activities which have only a possibility of encouraging or promoting abortion; rather, a more direct nexus is required. The general test is whether the immediate effect of the activity in question is to promote or encourage the use of abortion as a method of family planning. If the immediate effect of the activity in question is essentially neutral, then it is not prohibited by the statute.**

**Thus,** a Title X project may not provide services that directly facilitate the use of abortion as a method of family planning, **such as:**

- **Providing transportation for an abortion,**
- Explaining and obtaining signed abortion consent forms from clients interested in abortions,
- Negotiating a reduction in fees for an abortion, **and**
- **Scheduling or arranging for the performance of an abortion,**
- Promoting or advocating abortion within Title X program activities,
- Failing to preserve sufficient separation between Title X program activities and abortion-related activities.

---

<sup>1</sup> [http://www.dhhs.gov/opa/familyplanning/toolsdocs/xgag\\_notice\\_07-03-2000.pdf](http://www.dhhs.gov/opa/familyplanning/toolsdocs/xgag_notice_07-03-2000.pdf)

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

***Abortion Counseling and Referral:***

***Under 42 CFR 59.5(a)(5), a Title X project must: Not provide abortion as a method of family planning. A project must:***

*(i) Offer pregnant women the opportunity to be provided information and counseling regarding each of the following options:*

- (A) Prenatal care and delivery;*
- (B) Infant care, foster care, **or** adoption; and*
- (C) Pregnancy termination.*

*(ii) If requested to provide such information and counseling, provide neutral, factual information and non-directive counseling on each of the options, and referral upon request, except with respect to any option(s) about which the pregnant women indicates she does not wish to receive such information and counseling.*

**However, there are limitations on what abortion counseling and referral is permissible under the statute.**

**A Title X project may not provide pregnancy options counseling which promotes abortion or encourages persons to obtain abortion, although the project may provide patients with complete factual information about all medical risks and benefits.**

While a Title X provider may provide a referral for abortion, which may include providing a client with the name, address, telephone number, and other relevant factual information (**such as whether the provider accepts Medicaid, charges, etc.**) about an abortion provider, the project may not take **further** affirmative action (**such as negotiating a fee reduction, making an appointment, providing transportation**) to secure abortion services for the patient.

**Where a referral to another provider who might perform an abortion is medically indicated because of the patient's condition or the condition of the fetus (such as where the woman's life would be endangered), such a referral by a Title X project is not prohibited by section 1008 and is required by 42 CFR 59.5(b)(1). The limitations on referrals do not apply in cases in which a referral is made for medical indications.**

***Advocacy Activities:***

A Title X project may not promote or encourage the use of abortion as a method of family planning through:

- Advocacy activities such as **providing speakers to debate** in opposition to antiabortion speakers
- Bringing legal action to liberalize statutes relating to abortion, **or**
- Producing and/or showing films that encourage or promote a favorable attitude toward abortion as a method of family planning. Films that present only neutral, factual information are permissible.

A Title X project may be a dues paying participant in a national abortion advocacy organization, so long as there are other legitimate program-related reasons for the affiliation (such as access to certain information or data useful to the Title X project).

A Title X project may also discuss abortion as an available alternative when a family planning method fails in a discussion of relative risks of various methods of contraception.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

*Separation:*

Non-Title X abortion activities must be separate and distinct from Title X project activities. Where a grantee conducts abortion activities that are not part of the Title X project and would not be permissible if they were, the grantee must ensure that the Title X-supported project is separate and distinguishable from those other activities.

**What must be looked at is whether the abortion element in a program is so large and so intimately related to all aspects of the program as to make it difficult or impossible to separate the eligible and non-eligible items of cost.**

**The Title X project is the set of activities the grantee agreed to perform in the relevant grant documents as a condition of receiving Title X funds. A grant applicant may include both project and nonproject activities in its grant application, and, so long as these are properly distinguished from each other and prohibited activities are not reflected in the amount of the total approved budget, no problem is created.**

Separation of Title X from abortion activities does not require separate grantees or even a separate health facility, but separate bookkeeping entries alone will not satisfy the spirit of the law. Mere technical allocation of funds, attributing federal dollars to non-abortion activities, is not a legally supportable avoidance of section 1008.

Certain kinds of shared facilities are permissible, so long as it is possible to distinguish between the Title X supported activities and non-Title X abortion-related activities:

- a) A common waiting room is permissible, as long as the costs are properly pro-rated;
- b) Common staff is permissible, so long as salaries are properly allocated and all abortion related activities of the staff members are performed in a program which is entirely separate from the Title X project;
- c) A hospital offering abortions for family planning purposes and also having a Title X project is permissible, as long as the abortion activities are sufficiently separate from the Title X project; and**
- d) Maintenance of a single file system for abortion and family planning patients is permissible, so long as costs are properly allocated.

**ADDITIONAL GUIDANCE**

Section 205 of Public Law 94-63 states that ANY “(3) person who receives, under any program receiving federal financial assistance, compensation for services, who coerces or endeavors to coerce any person to undergo an abortion or sterilization procedure by threatening such person with the loss of, or disqualification for the receipt of, any benefit or service under a program receiving federal financial assistance shall be fined not more than \$1,000 or imprisoned for not more than one year or both.”

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

**PROCEDURES TO ENSURE COMPLIANCE WITH TITLE X ABORTION SERVICES REGULATIONS**

During delegate agency site visits, the following elements will be reviewed.

1. Verify that brochures made available to Title X family planning clients do not list abortion as a method of family planning.
2. Verify that written information given to Title X family planning clients subsequent to options counseling includes a list of providers for each of the required pregnancy options so that the client has a choice.
3. Delegate agencies providing or planning to provide abortion services at a site that also provides Title X family planning services will be asked verify financial separation of Title X family planning funding and abortion service funding, including proper allocation of costs. Written verification (e.g. a letter of determination) assuring that the financial system utilized by the delegate agency separates Title X family planning service dollars and abortion service dollars must be received annually from the agency's independent audit firm. The following elements, in addition to numbers 1 and 2 above, will also be assessed during an annual site visit:
  - Verify financial separation of Title X family planning services and abortion service funding.
  - Verify that abortion services are not provided at the same time and in the same space as Title X family planning services.
  - Review procedures for making appointments for Title X family planning clients and abortion clients to assure that there is a separation of staff time for accounting purposes.
  - Verify that staff training to assure staff understanding of the need for separation of Title X funded family planning services and abortion services.
  - Verify that written procedures exist covering the above.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

**MANDATORY REPORTING**

Delegate agencies must be compliant with all applicable state laws regarding the mandatory reporting of child abuse, child molestation, sexual abuse, rape, incest, or domestic violence. Agencies must have written procedures in place demonstrating compliance.

*Requirements of the Family Planning Program Staff*

Family Planning Coordinators must assure that all staff is familiar with Colorado law as summarized on the following pages. At the end of the following excerpts from the Colorado Revised Statutes there are summary tables outlining: who is required to report, to whom the report is made, and what the penalties are for failure to report.

It is an expectation that the Family Planning Coordinator will solicit input from the various agencies and entities involved before writing up a procedure for how the clinic will respond to any reportable or potentially reportable situation as outlined in this policy. All Family Planning Program staff must be familiar with the policy and procedures outlined in this section.

*Applicable statutes:*

Colorado Revised Statutes (CRS)

*CRS §18-3-402 Sexual assault. (In part)*

- (1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if:
  - (a) The actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will; or
  - (b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or
  - (c) The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or
  - (d) At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or
  - (e) At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim...

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

*CRS §18-6-401 Child abuse. (In part)*

- (1)(a) A person commits child abuse if such person causes an injury to a child's life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or an accumulation of injuries that ultimately results in the death of a child or serious bodily injury to a child.
- (b) (I) Except as otherwise provided in subparagraph (III) of this paragraph (b), a person commits child abuse if such person excises or infibulates, in whole or in part, the labia majora, labia minora, vulva, or clitoris of a female child. A parent, guardian, or other person legally responsible for a female child or charged with the care or custody of a female child commits child abuse if he or she allows the excision or infibulation, in whole or in part, of such child's labia majora, labia minora, vulva, or clitoris.
- (II) Belief that the conduct described in subparagraph (I) of this paragraph (b) is required as a matter of custom, ritual, or standard practice or consent to the conduct by the child on whom it is performed or by the child's parent or legal guardian shall not be an affirmative defense to a charge of child abuse under this paragraph (b).

*CRS §19-1-103 Definitions. (In part)*

As used in this title or in the specified portion of this title, unless the context otherwise requires:

- (1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of article 3 of this title, means an act or omission in one of the following categories that threatens the health or welfare of a child:
- (I) Any case in which a child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, or death and either: Such condition or death is not justifiably explained; the history given concerning such condition is at variance with the degree or type of such condition or death; or the circumstances indicate that such condition may not be the product of an accidental occurrence;
- (II) Any case in which a child is subjected to unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.;
- (III) Any case in which a child is a child in need of services because the child's parents, legal guardian, or custodian fails to take the same actions to provide adequate food, clothing, shelter, medical care, or supervision that a prudent parent would take. The requirements of this subparagraph (III) shall be subject to the provisions of section 19-3-103.
- (IV) Any case in which a child is subjected to emotional abuse. As used in this subparagraph (IV), "emotional abuse" means an identifiable and substantial impairment of the child's intellectual or psychological functioning or development or a substantial risk of impairment of the child's intellectual or psychological functioning or development.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

*CRS §19-3-304 Persons required to report child abuse or neglect.*

- (1) (a) Except as otherwise provided by section 19-3-307 and sections 25-1-122 (4) (d) and 25-4-1404 (1) (d), C.R.S., **and paragraph (b) of this subsection (1)**, any person specified in subsection (2) of this section who has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions which would reasonably result in abuse or neglect shall immediately upon receiving such information report or cause a report to be made of such fact to the county department or local law enforcement agency.
- (b) The reporting requirement described in paragraph (a) of this subsection (1) shall not apply if the person who is otherwise required to report does not:**
- (I) Learn of the suspected abuse or neglect until after the alleged victim of the suspected abuse or neglect is eighteen years of age or older; and**
- (II) Have reasonable cause to know or suspect that the perpetrator of the suspected abuse or neglect:**
- (A) Has subjected any other child currently under eighteen years of age to abuse or neglect or to circumstances or conditions that would likely result in abuse or neglect; or**
- (B) Is currently in a position of trust, as defined in section 18-3-401 (3.5), C.R.S., with regard to any child under eighteen years of age.**
- (2) Persons required to report such abuse or neglect or circumstances or conditions shall include any:
- (a) Physician or surgeon, including a physician in training;
  - (b) Child health associate;
  - (c) Medical examiner or coroner;
  - (d) Dentist;
  - (e) Osteopath;
  - (f) Optometrist;
  - (g) Chiropractor;
  - (h) Podiatrist;
  - (i) Registered nurse or licensed practical nurse;
  - (j) Hospital personnel engaged in the admission, care, or treatment of patients;
  - (k) Christian science practitioner;
  - (l) Public or private school official or employee;
  - (m) Social worker or worker in any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.;
  - (n) Mental health professional;
  - (o) Dental hygienist;
  - (p) Psychologist;
  - (q) Physical therapist;

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

- (r) Veterinarian;
  - (s) Peace officer as described in section 16-2.5-101, C.R.S.;
  - (t) Pharmacist;
  - (u) Commercial film and photographic print processor as provided in subsection (2.5) of this section;
  - (v) Firefighter as defined in section 18-3-201 (1), C.R.S.;
  - (w) Victim's advocate, as defined in section 13-90-107 (1) (k) (II), C.R.S.;
  - (x) Licensed professional counselors;
  - (y) Licensed marriage and family therapists;
  - (z) Unlicensed psychotherapists;
  - (aa) (I) Clergy member.
    - (II) The provisions of this paragraph (aa) shall not apply to a person who acquires reasonable cause to know or suspect that a child has been subjected to abuse or neglect during a communication about which the person may not be examined as a witness pursuant to section 13-90-107 (1) (c), C.R.S., unless the person also acquires such reasonable cause from a source other than such a communication.
    - (III) For purposes of this paragraph (aa), unless the context otherwise requires, "clergy member" means a priest, rabbi, duly ordained, commissioned, or licensed minister of a church, member of a religious order, or recognized leader of any religious body.
  - (bb) Registered dietitian who holds a certificate through the commission on dietetic registration and who is otherwise prohibited by 7 CFR 246.26 from making a report absent a state law requiring the release of this information;
  - (cc) Worker in the state department of human services;
  - (dd) Juvenile parole and probation officers;**
  - (ee) Child and family investigators, as described in section 14-10-116.5, C.R.S.;**
  - (ff) Officers and agents of the state bureau of animal protection, and animal control officers;**
  - (gg) The child protection ombudsman as created in article 3.3 of this title.**
- (2.5) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative, or slide depicting a child engaged in an act of sexual conduct shall report such fact to a local law enforcement agency immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative, or slide attached within thirty-six hours of receiving the information concerning the incident.
- (3) In addition to those persons specifically required by this section to report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in abuse or neglect, any other person may report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in child abuse or neglect to the local law enforcement agency or the county department.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

- (3.5) No person, including a person specified in subsection (1) of this section, shall knowingly make a false report of abuse or neglect to a county department or local law enforcement agency.
- (4) Any person who willfully violates the provisions of subsection (1) of this section or who violates the provisions of subsection (3.5) of this section:
  - (a) Commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;
  - (b) Shall be liable for damages proximately caused thereby.

*CRS §19-3-307 Reporting procedures.*

- (1) Reports of known or suspected child abuse or neglect made pursuant to this article shall be made immediately to the county department or the local law enforcement agency and shall be followed promptly by a written report prepared by those persons required to report. The county department shall submit a report of confirmed child abuse or neglect within sixty days of receipt of the report to the state department in a manner prescribed by the state department.
- (2) Such reports, when possible, shall include the following information:
  - (a) The name, address, age, sex, and race of the child;
  - (b) The name and address of the person responsible for the suspected abuse or neglect;
  - (c) The nature and extent of the child's injuries, including any evidence of previous cases of known or suspected abuse or neglect of the child or the child's siblings;
  - (d) The names and addresses of the persons responsible for the suspected abuse or neglect, if known;
  - (e) The family composition;
  - (f) The source of the report and the name, address, and occupation of the person making the report;
  - (g) Any action taken by the reporting source;
  - (h) Any other information that the person making the report believes may be helpful in furthering the purposes of this part 3.
- (2.5) Notwithstanding the requirements set forth in subsection (2) of this section, any officer or employee of a **county, district or municipal public health agency** or state department of public health and environment who makes a report pursuant to section 25-1-122 (4) (d) or 25-4-1404 (1) (d), C.R.S., shall include only the information described in said sections.
- (3)
  - (a) A copy of the report of known or suspected child abuse or neglect shall be transmitted immediately by the county department to the district attorney's office and to the local law enforcement agency.
  - (b) When the county department reasonably believes a criminal act of abuse or neglect of a child in foster care has occurred, the county department shall transmit immediately a copy of the written report prepared by the county department in accordance with subsection (1) of this section to the district attorney's office and to the local law enforcement agency.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

- (4) A written report from persons or officials required by this part 3 to report known or suspected child abuse or neglect shall be admissible as evidence in any proceeding relating to child abuse, subject to the limitations of section 19-1-307.

*CRS §19-3-309 Immunity from liability – persons reporting.*

Any person, other than the perpetrator, complicitor, coconspirator, or accessory, participating in good faith in the making of a report, in the facilitation of the investigation of such a report, or in a judicial proceeding held pursuant to this title, the taking of photographs or X rays, or the placing in temporary protective custody of a child pursuant to section 19-3-405 or otherwise performing his duties or acting pursuant to this part 3 shall be immune from any liability, civil or criminal, or termination of employment that otherwise might result by reason of such acts of participation, unless a court of competent jurisdiction determines that such person's behavior was willful, wanton, and malicious. For the purpose of any proceedings, civil or criminal, the good faith of any such person reporting child abuse, any such person taking photographs or X rays, and any such person who has legal authority to place a child in protective custody shall be presumed.

*CRS §12-36-135 Injuries to be reported – penalty for failure to report – immunity from liability.*

- (1)(a) It shall be the duty of every licensee who attends or treats a bullet wound, a gunshot wound, a powder burn, or any other injury arising from the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument that the licensee believes to have been intentionally inflicted upon a person, **or an injury arising from a dog bite that the licensee believes was inflicted upon a person by a dangerous dog, as defined in section 18-9-204.5 (2) (b), C.R.S.**, or any other injury that the licensee has reason to believe involves a criminal act, including injuries resulting from domestic violence, to report such injury at once to the police of the city, town, or city and county or the sheriff of the county in which the licensee is located. Any licensee who fails to make a report as required by this section commits a class 2 petty offense, as defined by section 18-1.3-503, C.R.S., and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

**(b) When a licensee performs a forensic medical examination that includes the collection of evidence at the request of a victim of sexual assault, not in connection with a referring or requesting law enforcement agency, and the licensee's employing medical facility knows where the crime occurred, the facility shall contact the law enforcement agency in whose jurisdiction the crime occurred regarding preservation of the evidence. If the medical facility does not know where the crime occurred, the facility shall contact its local law enforcement agency regarding preservation of the evidence.**

- (1.5) As used in subsection (1) of this section, unless the context otherwise requires:
- (a) "Domestic violence" means an act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Domestic violence also includes any other crime against a person or any municipal ordinance violation against a person when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

- (b) "Intimate relationship" means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.
- (2) Any licensee who, in good faith, makes a report pursuant to subsection (1) of this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of such report, and shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.
- (3) Any licensee who makes a report pursuant to subsection (1) of this section shall not be subject to the physician-client relationship described in section 13-90-107 (1) (d), C.R.S., as to the medical examination and diagnosis. Such licensee may be examined as a witness, but not as to any statements made by the client that are the subject matter of section 13-90-107 (1) (d), C.R.S.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

**MANDATORY REPORTING - ALGORITHMS**  
**Child Abuse**  
**Statute: C.R.S. §19-1-103, §§19-3-304, 307, and 309**

Definition	Required Reporters	To Whom is Issue Reported	What is Reported	Penalties for Failure to Report
<p><b>§19-1-103</b> Definitions. (1) (a) “Abuse” or “child abuse or neglect”, as used in part 3 of article 3 of this title, means an act or omission in one of the following categories that threatens the health or welfare of a child:</p> <p>(I) Any case in which a child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fractures of any bone, subdural hematoma, soft tissue swelling, or death and either: Such condition or death is not justifiably explained; the history given concerning such condition is at variance with the degree or type of such condition or death; or the circumstances indicate that such condition may not be the product of an accidental occurrence.</p> <p>(II) Any case in which a child is subjected to unlawful sexual behavior as defined in section 16-22-102 (9), C.R.S.;</p> <p>(III) A case in which a child is a child in need of services because the child's parents, legal guardian, or custodian fails to take the same actions to provide adequate food, clothing, shelter, medical care or supervision that a prudent parent would take...</p> <p><b>§18-6-401.</b> A person commits child abuse if such person causes injury to a child's life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or an accumulation of injuries that ultimately results in the death of a child or serious bodily injury of a child.</p>	<p><b>§19-3-304</b> A physician or surgeon (includes in-training), child health associate; medical examiner or coroner; dentist; osteopath; optometrist; chiropractor; podiatrist; registered nurse or licensed practical nurse; hospital personnel engaged in the admission, care, or treatment of clients; Christian Science practitioner; public or private school official or employee; social worker or worker in a any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.; mental health professional; dental hygienist; psychologist; physical therapist; veterinarian; peace officer; pharmacist; commercial film and photographic print processor; firefighter; victim's advocate; licensed professional counselors; licensed marriage and family therapists; unlicensed psychotherapists; clergy; registered dietician; worker in the state department of human services; <b>juvenile parole and probation officers; child and family investigators, as described in section 14-10-116.5, C.R.S.; officers and agents of the state bureau of animal protection, and animal control officers; the child protection ombudsman as created in article 3.3 of this title.</b></p>	<p><b>§19-3-307</b> County department of Human services or local law enforcement agency.</p> <p>Report known or suspected child abuse or neglect immediately and follow with a written report</p> <p><b>Third party abuse</b> (see definition bottom of page) is reported to law enforcement <i>where the crime occurs.</i></p> <p><b>Intrafamilial abuse</b> is reported to the department of Human services <i>where the victim lives.</i></p>	<p><b>§19-3-307</b> When possible include:</p> <p>Name, address, age, sex, and race of child; name and address of person responsible for suspected abuse or neglect; nature and extent of child's injuries, including previous cases of known or suspected abuse or neglect of the child or the child's siblings; names and addresses of the persons responsible for the suspected abuse or neglect, if known; the family composition, the source of the report and the name, address and occupation of the person making the report; any action taken by the reporting source; any other information the person making the report believes may be helpful.</p>	<p><b>§19-3-309</b> grants immunity to those persons who have made a report of child abuse or neglect, thereby protecting the reporting person from civil and criminal liability as well as termination of employment...</p> <p>Failure to report constitutes a class 3 misdemeanor.</p> <p>Punishment is up to six months in prison and up to \$750 fine.</p> <p>Additionally, the person shall be liable for damages proximately caused by failure to report.</p>

GLOSSARY: Third Party Abuse is by any person who is not a parent, stepparent, guardian, legal custodian, spousal equivalent... or any person who is not included in the definition of Intrafamilial abuse. Intrafamilial Abuse occurs within a family context by a child's parent, stepparent, guardian, legal custodian, or relative, by a spousal equivalent...or by any other person who resides in the child's home or who is regularly in the child's home for the purpose of exercising authority over or care for the child...except if the person is paid for such care and is not related to the child.

**SECTION 1.2  
TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

**MANDATORY REPORTING – ALGORITHMS**

**Domestic Violence  
Statute: C.R.S. §12-36-135**

Definition	Who Reports	To Whom is Issue Reported	What is Reported	Penalties for Failure to Report
<p><b>§12-36-135</b> Any injury arising from the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument that the licensee has reason to believe to have been intentionally inflicted, <b>or an injury arising from a dog bite that the licensee believes was inflicted upon a person by a dangerous dog, as defined in §18-9-204.5</b>, or any other injury that the licensee has reason to believe involves a criminal act, including injuries resulting from domestic violence.</p>	<p><b>§12-36-135</b> Every licensee who attends or treats any injury that the licensee has reason to believe is the result of domestic violence.</p> <p><i>When setting your agency's policy, it is our recommendation that you consult with your county District Attorney regarding how broadly to interpret "licensee." It should include anyone licensed to practice such as RN, NP, PA, MD, DO, etc.</i></p>	<p><b>§12-36-135(1)(a)</b> Police of the city, town, or city and county or sheriff of the county in which the licensee is located.</p> <p><b>b) If forensic medical exam that includes collection of evidence at request of sexual assault victim ...and licensee's employing medical facility knows where the crime occurred, the facility shall contact law enforcement agency in whose jurisdiction the crime occurred regarding preservation of evidence.</b></p>	<p><b>§12-36-135</b> Name and address of the victim. Name and address of the perpetrator, if known. Where the crime occurred.</p>	<p><b>§12-36-135</b> grants immunity from any liability, civil or criminal to any licensee who, in good faith, makes a report...</p> <p>Failure to report constitutes a class 2 petty offense. (Defined in <b>§18-1.3-503</b>)</p> <p>A fine of not more than three hundred dollars and/or imprisonment in the county jail for not more than ninety days.</p>

Glossary: Domestic Violence means an act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Domestic violence also includes any other crime against a person or any municipal ordinance violation against a person when used as a method of coercion, control, punishment, intimidation or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

Intimate relationship means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child.

**SECTION 1.2  
TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

**MANDATORY REPORTING - ALGORITHMS**

**Sexual Assault and Sexual Assault on a Child**

**Statute: C.R.S. §18-3-402 and 405; C.R.S. 19-3-304, 307, and 309**

Definition	Who Reports	To Whom is Issue Reported	What is Reported	Penalties for Failure to Report
<p><b>§18-3-402</b> Sexual contact by someone not the spouse where “...the victim is less than fifteen years old and the <i>actor is at least four years older...</i>” (also contained in 18-3-405, Sexual Assault on a Child)</p> <p>or</p> <p>“...the <i>victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older</i> than the victim and is not the spouse of the victim...” (Bold added)</p> <p>This includes sexual contact, sexual intrusion, and sexual penetration as defined in C.R.S. §18-3-401 Definitions.</p>	<p><b>§19-3-304</b> A physician or surgeon (includes in-training), child health associate; medical examiner or coroner; dentist; osteopath; optometrist; chiropractor; podiatrist; registered nurse or licensed practical nurse; hospital personnel engaged in the admission, care, or treatment of clients; Christian Science practitioner; public or private school official or employee; social worker or worker in any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.; mental health professional; dental hygienist; psychologist; physical therapist; veterinarian; peace officer; pharmacist; commercial film and photographic print processor; firefighter; victim's advocate; licensed professional counselors; licensed marriage and family therapists; unlicensed psychotherapists; clergy; registered dietician; worker in the state department of human services; <b>juvenile parole and probation officers; child and family investigators, as described in section 14-10-116.5, C.R.S.; officers and agents of the state bureau of animal protection, and animal control officers; the child protection ombudsman as created in article 3.3 of this title.</b></p>	<p><b>§19-3-307</b> County department of social services or local law enforcement agency.</p> <p>Third party perpetrators (see definitions at bottom of page) are reported to law enforcement <i>where the crime occurs</i>.</p> <p>Intrafamilial cases are reported to the department of social services <i>where the victim lives</i>.</p>	<p><b>§19-3-307</b> Name, address, age, sex, and race of child; name and address of person responsible for suspected abuse or neglect; nature and extent of child's injuries, including previous cases of known or suspected abuse or neglect of the child or the child's siblings; names and addresses of the persons responsible for the suspected abuse or negligence, if known; the family composition, the source of the report and the name, address and occupation of the person making the report; any action taken by the reporting source; any other information the person making the report believe may be helpful.</p>	<p><b>§19-3-309</b> Grants immunity to those persons who have made a report of child abuse or neglect, thereby protecting the reporting person from civil and criminal liability as well as termination of employment...</p> <p>Failure to report constitutes a class 3 misdemeanor.</p> <p>Punishment is up to six months in prison and up to \$750 fine.</p> <p>Additionally, the person shall be liable for damages proximately caused by failure to report.</p>

GLOSSARY: Third party abuse is by any person who is not a parent, stepparent, guardian, legal custodian, spousal equivalent...or any person who is included in the definition of intrafamilial abuse. Intrafamilial abuse occurs within a family context by a child's parent, stepparent, guardian, legal custodian, or relative, by a spousal equivalent...or by any other person who is regularly in the child's home for the purpose of exercising authority over or care for the child...except if the person is paid for such care and is not related to the child.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

**HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**  
**COMPLIANCE POLICY**

The majority of delegate agencies fall under HIPAA as Covered Entities. Under federal law, these delegates must be compliant with HIPAA regulations. Any delegate agency that is not a Covered Entity is expected to have adequate administrative, technical and physical safeguards in place to protect personal health information under its control.

A summary of the HIPAA privacy rule is available at:

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/summary/privacysummary.pdf>

**Information about the HIPAA Administrative Simplification Statute and Privacy and Security Rules are available at:** <http://www.hhs.gov/ocr/privacy/hipaa/administrative/index.html>

**The Health Information Technology for Economic and Clinical Health (HITECH) Act and the related HIPAA Enforcement Rule address the privacy and security concerns associated with the electronic transmission of health information. More information about this rule is available at:**

<http://www.hhs.gov/ocr/privacy/hipaa/administrative/enforcementrule/hitechenforcementifr.html>

The Colorado Department of Public Health and Environment (**CDPHE**) has determined that it is not a Covered Entity under HIPAA, as it does not meet the definition of a health plan, a healthcare provider billing electronically, a clearinghouse or a Medicare Drug Plan. However, CDPHE does receive Personal Health Information (PHI) from its delegates. CDPHE is committed to protecting the privacy of the individuals whose PHI it receives. CDPHE has a privacy and security program designed to meet industry standards for safeguarding information under its control, and assuring that adequate physical, administrative and technical safeguards are in place.

### **Privacy Rules**

#### **Accounting for Disclosures**

Under HIPAA, any client may request an accounting of disclosures of her/his PHI. That accounting should note the disclosure to public health that takes place when data is entered into the IRIS system or when third-party files are submitted to CDPHE in lieu of IRIS. Agencies do not have to provide an accounting unless a client requests it.

**Clients are informed about the statewide database (IRIS) in the Family Planning Program consent with the following wording:**

**“I understand that this agency may use a statewide database that makes my health information available to the state health department and other participating family planning programs in Colorado. The benefit to me is that I can change to another participating family planning clinic and that clinic can access the health information I have already shared.”**

HIPAA does provide for an easy way to account for repeated disclosures made to the same entity for the same purpose. This description fits agency data activities using IRIS or the agency’s own data system. Therefore, CDPHE has developed a form detailing this summary of disclosures, which follows this policy page. If a client requests an accounting of all disclosures, agencies can use this form to account for disclosures to **the CDPHE Family Planning Program**.

Use of this form is provided for the delegate agency’s benefit and is optional. Your agency’s Privacy Officer can advise staff on your agency’s preferred procedures for accounting for disclosures.

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

Please note that the form does have to state a start and an end date. Should an individual request an accounting, the dates should be filled in to coincide with their dates of participation in the family planning program. However, the “First date of disclosure” should not be before 4/14/2003, the date that the HIPAA Privacy Rule took effect. It may be later if the individual became a family planning program client after that date. The last date of disclosure is the last date the individual participated in the program.

**Notice of Privacy**

HIPAA requires Covered Entities to have a Notice of Privacy Practice. There are many other requirements under HIPAA, but this is one that **the CDPHE Family Planning Program** will look for during a visit. Your Notice of Privacy must be posted in the clinic and given to all clients who present for services, informing them of your agency’s privacy practices in accordance with your status as a Covered Entity under HIPAA. Program staff may look for evidence that the individuals in the program have signed an acknowledgment of receipt of the notice. The Notice of Privacy does not have to be signed every year. It only has to be updated if you have a change in your own privacy policies or practices.

More information about the HIPAA required content of the notice of privacy practices can be found starting on page 11 of the following document:

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/summary/privacysummary.pdf>

HIPAA notices and acknowledgements are vital documents that should be translated into the appropriate language if the agency serves a significant number of clients who have limited English proficiency (LEP) (see **Section 1.3 – Client Rights and Services** of this Manual for more information on serving LEP clients).

**Applicable HIPAA standards for Covered Entity delegate agencies:**

1. Transaction and Code Sets
2. Privacy Standards
3. Security Rule
4. National Provider Identifier

More information about HIPAA can be found at: <http://www.hhs.gov/ocr/hipaa/>

**SECTION 1.2**  
**TITLE X FEDERAL REGULATIONS AND FEDERAL AND STATE LAWS**

---

*A sample Disclosure Accounting form follows. This form can be downloaded from the **CDPHE Family Planning Program** website at:*

*<http://www.cdphe.state.co.us/pp/womens/FPNursingConsntsForms.html>.*

**SAMPLE DISCLOSURE ACCOUNTING: FAMILY PLANNING PROGRAM PARTICIPANTS**

The following is designed to meet the requirements of The Health Insurance Portability and Accountability Act of 1996 (HIPAA) §164.528 regarding accounting for disclosures.

\_\_\_\_\_ (agency name, program name) provides Family Planning services under a grant from the Colorado Department of Public Health and Environment. Information on services provided under this grant is reported back to the Colorado Department of Public Health and Environment, **Family Planning Program**, 4300 Cherry Creek Drive South, Denver, Colorado, 80246. Information reported includes demographic information about the participants, eligibility for services as well as services received. This reporting is done for program evaluation purposes and related public health intervention activities. The reporting is done daily as participants come to clinic and reports are prepared.

First date of disclosure:

Last date of disclosure: