



Operational Patient Notification Changes

ISSUE BRIEF | House Bills 23-1077, 23-1218, and Senate Bill 23-020

Background

This session, legislators considered a few bills increasing communication with patients and improving documentation, from intimate patient examinations, denial of care for certain services, and ensuring medical certifications for death certificates are completed in a timely manner. This issue brief outlines the various new requirements related to patient notification that will be placed on hospitals going forward.

HB 23-1077: Informed Consent to Intimate Patient Examinations

Starting on **Jan. 1, 2024**, [the bill](#) prohibits health providers from performing intimate examinations on sedated or unconscious patients without explicit informed consent. The bill requirements apply to health professionals, students, and trainees, as well as health care facilities. Students or trainees may be allowed to perform an intimate examination after obtaining informed consent only if the examination is related to the planned procedure to be performed on the patient; the student or trainee has been introduced to the patient as part of the patient's care team; and the student or trainee is under direct supervision of a licensed provider.

Informed consent must be obtained during a pre-operative appointment or as soon as possible before the intimate examination through a written or electronic document. Such document must:

- Include the heading "Consent for Examination of Breasts, Pelvic Region, Rectum, and/or Prostate" in 18-point, bold-faced type at the top of the document;
- Specify the nature and purpose of the intimate examination;
- Name one or more physicians who the patient may authorize to perform the intimate examination;
- Identify any students or trainees that the patient may authorize to perform an intimate examination for educational or training purposes or to observe or otherwise be present; and,
- Provide the patient with the ability to consent to or decline to an intimate examination for diagnosis or treatment and up to three additional intimate examinations for educational or training purposes.

A health care facility may develop and use its own informed consent document that meets the above requirements or use a document developed by CDPHE for the purpose of informed consent for intimate examinations.

Any violation of the above requirements on the part of the health care facility can be filed as a complaint with CDPHE and will be investigated and disciplined if necessary consistent with CDPHE's existing statutory authority. Violations committed by a health care professional will be grounds for discipline through the Department of Regulatory Agencies.

HB 23-1077 – *continued*

Timeline

- **Jan 1, 2024:** Health providers prohibited from performing intimate examinations on sedated or unconscious patients without explicit informed consent

Additional Resources

- [Final bill text](#)
- [Fiscal note](#)

HB 23-1218: Health Facility Patient Information Denied Service:

By **Aug. 1, 2024**, pursuant to [HB 23-1218](#), CDPHE must identify reproductive, LGBTQ, and end-of-life care health care services that may be subject to denial of care and develop a clear and simple service availability form to convey to patients the health care services that are not generally available or subject to significant restriction at a hospital. In developing the list of services and form, CDPHE must engage in a stakeholder process that includes CHA, patient advocacy groups, physicians, and groups representing populations that are frequently subject to denial of care. The form must be updated, as appropriate, once every two years in consultation with stakeholders. Within 60 days of issuance or update of the service availability form, each hospital must submit a completed form to CDPHE as well as any updates within thirty days of any changes in hospital policy.

By **Oct. 1, 2024**, CDPHE must maintain a list of hospitals and each service availability form on its website. Additionally, each hospital must adopt a policy for providing patients with its service availability form during scheduling for the above-named services.

Starting on **Oct. 1, 2024**, each hospital must provide the service availability form at the time of scheduling, maintain a record of patient receipt of the form, and provide the current service availability form to any person upon request. Violations of this requirement expose a hospital to fines of up to \$1,000 for each day of noncompliance.

Timeline

- **Aug. 1, 2024:** CDPHE must develop service availability form
- **Oct. 1, 2024:** CDPHE must post service availability forms online, hospitals must provide service availability forms at the time of scheduling

Additional Resources

- [Final bill text](#)
- [Fiscal note](#)

SB 23-020: Timely Certified Death Certificates:

[SB 23-020](#) shortens the timeframe within which a funeral director must file a certificate of death from five days to 72 hours. Exceptions to this timeline are provided if:

- A coroner, medical examiner, forensic pathologist, or other qualified individual determines that additional time is needed to determine the cause and manner of death;
- The physician, their associate physician, the chief medical officer of the institution where the death occurred, or the physician who performs an autopsy are unable to complete the medical certification for the death certificate within the required time frame; or,
- The facility at which an individual is employed is closed for an entire calendar day over a weekend or legal holiday.

Who is responsible for completing the medical certification for the death certificate?

1. The physician in charge of the patient's care for the illness or condition that resulted in death if:
 - The death appears to be due to natural causes within a reasonable degree of medical certainty; or/and
 - An inquiry is not required by a coroner, as described under number three.
2. The decedent's established primary care physician if:
 - The death appears to be due to natural causes within a reasonable degree of medical certainty; or/and
 - The decedent received medical care from the primary care physician within a year of the death; or
 - The death occurred when the decedent was not under the direct care of another physician charged with the patient's care during the illness or condition that resulted in death; or
 - An inquiry is not required by a coroner, as described under number three.
3. The county coroner when a death is discovered under certain circumstances, such as the result of an accident or is the death is unnatural as a result of external influences, violence, or injury. A complete list can be found [here](#).
 - a. The coroner must complete and sign the medical certification within 48 hours of receiving an electronic death registration request unless they determine additional time is needed to determine the cause and manner of death.

After **March 1, 2024**, a physician's repeated or willful failure to comply with timely completion of a medical certification for a death certificate without reasonable cause constitutes unprofessional conduct.

Any individual who is required to initiate, complete, respond to, or file a certificate of death must use the electronic death registration system used by the state registrar. By **March 1, 2024**, CDPHE must ensure that all physicians are registered to use the electronic death registration system.

The state registrar will provide a monthly report to the Department of Regulatory Agencies (DORA) and the Colorado Medical Board on any death certificates for which a medical certification was not completed in a timely manner. Starting in 2025, DORA will include a report on this topic during its annual SMART hearings.

SB 23-020 – *continued*

Timeline

- **March 1, 2024:** Physicians must be registered to use the electronic death registration system and complete medical certification in timely manner

Additional Resources

- [Final bill text](#)
- [Fiscal note](#)
- [CDPHE Electronic Death Registration](#)