

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0574.01 Kip Kolkmeier x4510

HOUSE BILL 17-1011

HOUSE SPONSORSHIP

Melton,

SENATE SPONSORSHIP

(None),

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A LIMITATION ON WHEN CERTAIN DISCIPLINARY ACTIONS**
102 **MAY BE COMMENCED AGAINST A MENTAL HEALTH**
103 **PROFESSIONAL, AND, IN CONNECTION THEREWITH, REQUIRING**
104 **THAT A MENTAL HEALTH PROFESSIONAL PROVIDE NOTICE TO**
105 **FORMER CLIENTS REGARDING RECORD RETENTION AND THAT**
106 **ALL COMPLAINTS BE RESOLVED BY THE AGENCY WITHIN TWO**
107 **YEARS AFTER THE DATE THE COMPLAINT WAS FILED.**

Bill Summary

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

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

The bill requires that any complaint filed with the division of professions and occupations in the department of regulatory agencies against a mental health professional alleging a maintenance-of-records violation must be commenced within 7 years after the alleged act or failure to act giving rise to the complaint. Mental health professionals must give notice to former clients that a client's records may not be retained after the 7-year period. Complaints subject to the 7-year filing period must be resolved by the agency within 2 years after the date the complaint was filed.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-43-224, **amend**
3 (1)(a) as follows:

4 **12-43-224. Disciplinary proceedings - judicial review - mental**
5 **and physical examinations - multiple licenses.** (1) (a) (I) A proceeding
6 for discipline of a licensee, registrant, or certificate holder may be
7 commenced when the board that licenses, registers, or certifies the
8 licensee, registrant, or certificate holder has reasonable grounds to believe
9 that the licensee, registrant, or certificate holder under the board's
10 jurisdiction has committed any act or failed to act pursuant to the grounds
11 established in section 12-43-222 or 12-43-226.

12 (II) (A) ANY PERSON WHO ALLEGES THAT A LICENSEE,
13 REGISTRANT, OR CERTIFICATE HOLDER VIOLATED A PROVISION OF THIS
14 ARTICLE 43 RELATED TO MAINTENANCE OF RECORDS OF A CLIENT
15 EIGHTEEN YEARS OF AGE OR OLDER MUST FILE A COMPLAINT OR OTHER
16 NOTICE WITH THE BOARD WITHIN SEVEN YEARS AFTER THE PERSON
17 DISCOVERED OR REASONABLY SHOULD HAVE DISCOVERED THE
18 MISCONDUCT. A LICENSEE, REGISTRANT, OR CERTIFICATE HOLDER SHALL
19 NOTIFY A CLIENT THAT THE CLIENT'S RECORDS MAY NOT BE MAINTAINED
20 AFTER THE SEVEN-YEAR PERIOD FOR FILING A COMPLAINT PURSUANT TO

1 THIS SECTION. THE REQUIRED NOTICE MUST BE SENT NO SOONER THAN SIX
2 YEARS, AND NO LATER THAN SIX YEARS AND SIX MONTHS, AFTER THE END
3 OF THE CLIENT'S TREATMENT. THE NOTICE MUST BE SENT TO THE CLIENT'S
4 LAST-KNOWN MAILING ADDRESS. CONSISTENT WITH ALL PROCEDURAL
5 REQUIREMENTS OF THIS ARTICLE 43, OR OTHERWISE REQUIRED BY LAW,
6 THE BOARD MUST EITHER TAKE DISCIPLINARY ACTION ON THE COMPLAINT
7 OR DISMISS THE COMPLAINT NO LATER THAN TWO YEARS AFTER THE DATE
8 THE COMPLAINT OR NOTICE WAS FILED WITH THE BOARD.

9 (B) THE SEVEN-YEAR LIMITATION PERIOD SPECIFIED IN
10 SUBSECTION (1)(a)(II)(A) OF THIS SECTION DOES NOT APPLY TO THE FILING
11 OF A COMPLAINT OR OTHER NOTICE WITH THE BOARD FOR ANY OTHER
12 VIOLATION OF THIS ARTICLE 43, INCLUDING THE ACTS DESCRIBED IN
13 SECTION 12-43-222 OR 12-43-226.

14 **SECTION 2. Effective date - applicability.** This act takes effect
15 July 1, 2017, and applies to complaints or notices filed with a board
16 within the division of professions and occupations on or after said date.

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