

CHAPTER 77

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 13-1104

BY REPRESENTATIVE(S) Kraft-Tharp, Fischer, Ginal, Hamner, Hullinghorst, Labuda, McLachlan, Melton, Mitsch Bush, Pabon, Pettersen, Ryden, Schafer, Vigil, Young, Buckner, Court, Duran, Fields, Garcia, Lebsock, Lee, Rosenthal, Williams; also SENATOR(S) Newell, Giron, Guzman, Kerr, Nicholson, Tochtrop, Todd.

AN ACT

CONCERNING THE REGULATION OF MENTAL HEALTH PROFESSIONALS, AND, IN CONNECTION THEREWITH, REPEALING THE REQUIREMENT THAT MENTAL HEALTH PROFESSIONALS PROVIDE REQUIRED DISCLOSURES ORALLY AND MODIFYING THE MENTAL HEALTH PROFESSIONAL PEER HEALTH ASSISTANCE PROGRAM.

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

SECTION 1. In Colorado Revised Statutes, 12-43-214, **amend** (1) introductory portion as follows:

12-43-214. Mandatory disclosure of information to clients. (1) Except as otherwise provided in subsection (4) of this section, every licensee, registrant, or certificate holder shall provide the following information ~~verbally and~~ in writing to each client during the initial client contact:

SECTION 2. In Colorado Revised Statutes, 12-43-227.5, **amend** (1) (a), (1) (b) introductory portion, (1) (b) (III), (1) (b) (VI), (1) (b) (VII), (1) (c), (2) (a), and (4); and **add** (1) (b) (VIII) as follows:

12-43-227.5. Mental health professional peer health assistance program - fees - administration - rules. (1) (a) On and after July 1, 2012, as a condition of licensure, registration, or certification and renewal in this state, every person applying for a new license, registration, or certification or to renew his or her license, registration, or certification shall pay a fee, for use by the administering entity selected by the director pursuant to this subsection (1), in an amount not to exceed twenty-five dollars per application for a new or to renew a license, registration, or certification. The director ~~may adjust the maximum fee amount on January 1, 2013, and annually thereafter to reflect changes in the United States~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~bureau of statistics consumer price index for the Denver-Boulder consolidated metropolitan statistical area for all urban consumers or goods, or its successor index~~ SHALL ANNUALLY REVIEW THE FEE AND PROGRAM USAGE LEVEL AND ADJUST THE FEE AMOUNT BASED ON PROGRAM USAGE, BUT THE DIRECTOR SHALL NOT ADJUST THE FEE TO AN AMOUNT IN EXCESS OF TWENTY-FIVE DOLLARS. The DIVISION SHALL FORWARD THE fee ~~shall be forwarded~~ to the chosen administering entity for use in supporting designated providers selected to provide assistance to licensees, registrants, or certificate holders needing help in dealing with physical, emotional, or psychological conditions that may be detrimental to their ability to practice their mental health profession.

(b) BY JANUARY 31, 2014, the director, in consultation with the boards BEFORE MAKING A SELECTION, shall select one or more ~~peer health assistance programs as designated providers~~ TO PROVIDE THE PEER HEALTH ASSISTANCE PROGRAM. For purposes of selecting designated providers, the director shall use a competitive bidding process that encourages participation from interested vendors. To be eligible for designation, a peer health assistance program must:

(III) Evaluate the extent of physical, emotional, or psychological conditions and refer the mental health professional for appropriate treatment, TAKING INTO CONSIDERATION THE COST OF THE TREATMENT, WHETHER THE COST IS PROHIBITIVE FOR OR WILL POSE AN UNDUE FINANCIAL HARDSHIP ON THE MENTAL HEALTH PROFESSIONAL, AND, IF SO, REFERRING THE MENTAL HEALTH PROFESSIONAL TO ALTERNATIVE TREATMENT OR TO A PROVIDER OR TREATMENT PROGRAM THAT OFFERS DISCOUNTED FEES BASED ON ABILITY TO PAY;

(VI) Agree to receive referrals from the board; ~~and~~

(VII) Agree to make its services available to all licensed, registered, or certified mental health professionals; AND

(VIII) NOTIFY THE APPROPRIATE BOARD WHEN A MENTAL HEALTH PROFESSIONAL HAS SUCCESSFULLY COMPLETED THE PEER HEALTH ASSISTANCE PROGRAM.

(c) The director may select an entity to administer the mental health professional peer assistance program. An administering entity must be a nonprofit private foundation that is qualified under section 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, and that is dedicated to providing support for charitable, benevolent, educational, and scientific purposes that ~~are~~ MAY BE related to mental health professions, mental health professional education, mental health research and science, and other mental health charitable purposes.

(2) (a) Any mental health professional who is referred by the applicable board to a peer health assistance program shall enter into a stipulation with the board pursuant to section 12-43-223 (6) before participating in the program. The agreement must contain specific requirements and goals to be met by the participant, including the conditions under which the program will be successfully completed or terminated, and a provision that a failure to comply with the requirements and goals ~~are~~ is to be promptly reported to the board and that such failure will result in disciplinary action by the board. UPON NOTICE FROM THE PEER HEALTH ASSISTANCE PROGRAM THAT A MENTAL HEALTH PROFESSIONAL HAS SUCCESSFULLY COMPLETED

THE PROGRAM, THE BOARD THAT REGULATES THE PROFESSIONAL SHALL REINSTATE THE PROFESSIONAL'S LICENSE, REGISTRATION, OR CERTIFICATION.

(4) The boards may promulgate rules necessary to implement this section. The boards and the director shall seek and obtain input from representatives of ASSOCIATIONS REPRESENTING each type of mental health professional regulated under this article in the development of the peer health assistance program and related rules AND SHALL NOT SELECT A DESIGNATED PROVIDER UNTIL THAT INPUT IS OBTAINED.

SECTION 3. In Colorado Revised Statutes, **repeal** 12-43-411 (4), 12-43-506 (4), 12-43-605 (4), and 12-43-805 (4).

SECTION 4. In Colorado Revised Statutes, 13-90-107, **amend** (1) (g) as follows:

13-90-107. Who may not testify without consent. (1) (g) A licensed psychologist, professional counselor, marriage and family therapist, social worker, or addiction counselor, a registered psychotherapist, ~~or~~ a certified addiction counselor, A PSYCHOLOGIST CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-304(7), C.R.S., A MARRIAGE AND FAMILY THERAPIST CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-504 (5), C.R.S., A LICENSED PROFESSIONAL COUNSELOR CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-603 (5), C.R.S., OR A PERSON DESCRIBED IN SECTION 12-43-215, C.R.S., shall not be examined without the consent of the licensee's, certificate holder's, ~~or~~ registrant's, CANDIDATE'S, OR PERSON'S client as to any communication made by the client to the licensee, certificate holder, ~~or~~ registrant, CANDIDATE, OR PERSON or the licensee's, certificate holder's, ~~or~~ registrant's, CANDIDATE'S, OR PERSON'S advice given in the course of professional employment; nor shall any secretary, stenographer, or clerk employed by a licensed psychologist, professional counselor, marriage and family therapist, social worker, or addiction counselor, a registered psychotherapist, ~~or~~ a certified addiction counselor, A PSYCHOLOGIST CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-304(7), C.R.S., A MARRIAGE AND FAMILY THERAPIST CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-504 (5), C.R.S., A LICENSED PROFESSIONAL COUNSELOR CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-603 (5), C.R.S., OR A PERSON DESCRIBED IN SECTION 12-43-215, C.R.S., be examined without the consent of the employer of the secretary, stenographer, or clerk concerning any fact, the knowledge of which the employee has acquired in such capacity; nor shall any person who has participated in any psychotherapy, conducted under the supervision of a person authorized by law to conduct such therapy, including group therapy sessions, be examined concerning any knowledge gained during the course of such therapy without the consent of the person to whom the testimony sought relates.

SECTION 5. In Colorado Revised Statutes, 19-1-307, **amend** (2) (e.5) (I) (M) and (2) (e.5) (I) (N); and **add** (2) (e.5) (I) (O) as follows:

19-1-307. Dependency and neglect records and information - access - fee - rules - records and reports fund - misuse of information - penalty. (2) **Records and reports - access to certain persons - agencies.** Except as otherwise provided in section 19-1-303, only the following persons or agencies shall be given access to

child abuse or neglect records and reports:

(e.5) (I) A mandatory reporter specified in this subparagraph (I) who is and continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report, but only with regard to information that the mandatory reporter has a need to know in order to fulfill his or her professional and official role in maintaining the child's safety. A county department shall request written affirmation from a mandatory reporter stating that the reporter continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report and describing the nature of the involvement, unless the county department has actual knowledge that the mandatory reporter continues to be officially and professionally involved in the ongoing care of the child who was the subject of the report. This subparagraph (I) applies to:

(M) Clergy members, as defined in section 19-3-304 (2) (aa) (III); ~~and~~

(N) Educators providing services through a federal special supplemental nutrition program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786; AND

(O) A PERSON WHO IS REGISTERED AS A PSYCHOLOGIST CANDIDATE PURSUANT TO SECTION 12-43-304 (7), C.R.S., MARRIAGE AND FAMILY THERAPIST CANDIDATE PURSUANT TO SECTION 12-43-504 (5), C.R.S., OR LICENSED PROFESSIONAL COUNSELOR CANDIDATE PURSUANT TO SECTION 12-43-603 (5), C.R.S., OR WHO IS DESCRIBED IN SECTION 12-43-215, C.R.S.

SECTION 6. In Colorado Revised Statutes, 19-3-304, **add** (2) (jj) as follows:

19-3-304. Persons required to report child abuse or neglect. (2) Persons required to report such abuse or neglect or circumstances or conditions include any:

(jj) PERSON WHO IS REGISTERED AS A PSYCHOLOGIST CANDIDATE PURSUANT TO SECTION 12-43-304 (7), C.R.S., MARRIAGE AND FAMILY THERAPIST CANDIDATE PURSUANT TO SECTION 12-43-504 (5), C.R.S., OR LICENSED PROFESSIONAL COUNSELOR CANDIDATE PURSUANT TO SECTION 12-43-603 (5), C.R.S., OR WHO IS DESCRIBED IN SECTION 12-43-215, C.R.S.

SECTION 7. In Colorado Revised Statutes, 30-10-606, **amend** (6) (a) (II) as follows:

30-10-606. Coroner - inquiry - grounds - postmortem - jury - certificate of death. (6) (a) Notwithstanding sections 12-43-218 and 13-90-107 (1) (d) or (1) (g), C.R.S., the coroner holding an inquest or investigation pursuant to this section has the authority to request and receive a copy of:

(II) Any information, record, or report related to treatment, consultation, counseling, or therapy services from any licensed psychologist, professional counselor, marriage and family therapist, social worker, or addiction counselor, certified addiction counselor, ~~or~~ registered psychotherapist, PSYCHOLOGIST CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-304 (7), C.R.S., MARRIAGE AND FAMILY THERAPIST CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-504

(5), C.R.S., LICENSED PROFESSIONAL COUNSELOR CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-603 (5), C.R.S., OR PERSON DESCRIBED IN SECTION 12-43-215, C.R.S., if the report, record, or information is relevant to the inquest or investigation.

SECTION 8. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 29, 2013