

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0151.02 Christy Chase x2008

SENATE BILL 20-102

SENATE SPONSORSHIP

Ginal and Cooke,

HOUSE SPONSORSHIP

Caraveo, Soper

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING REQUIRED DISCLOSURES TO PATIENTS REGARDING
102 FORMAL ACTIONS BASED ON SEXUAL MISCONDUCT.

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>.)

The bill requires certain health care providers to disclose to patients if the provider has been convicted of a sex offense or has been subject to final disciplinary action resulting in probation or a limitation on practice when the discipline is based in whole or in part on the provider's sexual misconduct. The bill specifies the form, manner, and content of the disclosures and requires the provider to obtain the patient's signed

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

agreement to treatment and acknowledgment of receipt of the disclosure before rendering services to the patient. Failure to comply with the requirements of the bill constitutes unprofessional conduct or grounds for discipline under the practice act that regulates the provider's profession.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 12-30-115 as
3 follows:

4 **12-30-115. Required disclosure to patients - conviction of or**
5 **discipline based on sexual misconduct - signed agreement to**
6 **treatment - exceptions - violation grounds for discipline - rules -**
7 **definitions.** (1) AS USED IN THIS SECTION:

8 (a) "PATIENT" MEANS A PERSON WHO IS SEEKING OR RECEIVING
9 HEALTH CARE SERVICES FROM A PROVIDER. THE TERM INCLUDES THE
10 PARENT, LEGAL GUARDIAN, OR CUSTODIAN OF A PATIENT WHO IS A MINOR
11 UNDER EIGHTEEN YEARS OF AGE OR A PATIENT WHO LACKS THE LEGAL
12 CAPACITY TO CONSENT.

13 (b) "PROVIDER" MEANS A LICENSEE, CERTIFICATE HOLDER, OR
14 REGISTRANT WHO IS SUBJECT TO THE REQUIREMENTS OF SECTION
15 12-30-102.

16 (2) ON OR AFTER JANUARY 1, 2021, A PROVIDER SHALL DISCLOSE
17 TO PATIENTS ANY:

18 (a) FINAL CONVICTION OF OR PLEA ARRANGEMENT FOR A SEX
19 OFFENSE, AS DEFINED IN SECTION 16-11.7-102 (3); OR

20 (b) FINAL DISCIPLINARY ACTION THAT RESULTS IN PROBATIONARY
21 STATUS OR OTHER LIMITATION ON THE PROVIDER'S ABILITY TO PRACTICE
22 THE PROVIDER'S HEALTH CARE PROFESSION WHEN THE FINAL DISCIPLINARY
23 ACTION IS BASED IN WHOLE OR IN PART ON ANY OF THE FOLLOWING:

1 (I) A CONVICTION OF OR PLEA ARRANGEMENT FOR A SEX OFFENSE,
2 AS DEFINED IN SECTION 16-11.7-102 (3), OR A FINDING THAT THE
3 PROVIDER COMMITTED A SEX OFFENSE AS DEFINED IN SAID SECTION; OR

4 (II) A FINDING THAT THE PROVIDER ENGAGED IN UNPROFESSIONAL
5 CONDUCT OR OTHER CONDUCT THAT IS GROUNDS FOR DISCIPLINE UNDER
6 THE PART OR ARTICLE OF THIS TITLE 12 THAT REGULATES THE PROVIDER'S
7 HEALTH CARE PROFESSION, WHERE THE FAILURE OR CONDUCT IS RELATED
8 TO, INCLUDES, OR INVOLVES SEXUAL MISCONDUCT THAT RESULTS IN HARM
9 TO A PATIENT OR PRESENTS A SIGNIFICANT RISK OF PUBLIC HARM TO
10 PATIENTS.

11 (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION,
12 A PROVIDER SHALL PROVIDE THE DISCLOSURE SPECIFIED IN SUBSECTION (2)
13 OF THIS SECTION TO THE PATIENT IN WRITING, IN THE FORM AND MANNER
14 SPECIFIED BY THE DIRECTOR BY RULE, BEFORE PROVIDING PROFESSIONAL
15 SERVICES TO THE PATIENT.

16 (b) FOR A DISCLOSURE OF FINAL DISCIPLINARY ACTION, THE
17 PROVIDER SHALL INCLUDE THE FOLLOWING INFORMATION, AT A MINIMUM,
18 IN THE WRITTEN DISCLOSURE:

19 (I) THE TYPE, SCOPE, AND DURATION OF THE DISCIPLINARY ACTION
20 IMPOSED, INCLUDING WHETHER:

21 (A) THE REGULATOR AND PROVIDER ENTERED INTO A
22 STIPULATION;

23 (B) THE DISCIPLINARY ACTION RESULTED FROM AN ADJUDICATION
24 DECISION;

25 (C) THE PROVIDER WAS PLACED ON PROBATION AND, IF SO, THE
26 DURATION AND TERMS OF THE PROBATION; AND

27 (D) THE REGULATOR IMPOSED ANY LIMITATIONS ON THE

1 PROVIDER'S PRACTICE AND, IF SO, A DESCRIPTION OF THE SPECIFIC
2 LIMITATIONS AND THE DURATION OF THE LIMITATIONS;

3 (II) THE NATURE OF THE OFFENSE OR CONDUCT, INCLUDING THE
4 CAUSES AND GROUNDS FOR PROBATION OR PRACTICE LIMITATIONS
5 SPECIFIED IN THE FINAL DISCIPLINARY ORDER;

6 (III) THE DATE THE FINAL DISCIPLINARY ORDER WAS ISSUED;

7 (IV) THE DATE THE PROBATION STATUS OR PRACTICE LIMITATION
8 ENDS; AND

9 (V) THE CONTACT INFORMATION FOR THE REGULATOR THAT
10 IMPOSED THE DISCIPLINARY ACTION ON THE PROVIDER FOR THE PATIENT
11 TO OBTAIN ADDITIONAL INFORMATION, INCLUDING INFORMATION ON HOW
12 TO FILE A COMPLAINT.

13 (c) FOR A DISCLOSURE OF A FINAL CONVICTION OF OR PLEA
14 ARRANGEMENT FOR A SEXUAL OFFENSE, AS DEFINED IN SECTION
15 16-11.7-102 (3), THE PROVIDER SHALL INCLUDE THE FOLLOWING
16 INFORMATION, AT A MINIMUM, IN THE WRITTEN DISCLOSURE:

17 (I) THE DATE THAT THE FINAL JUDGEMENT OF CONVICTION OR
18 ACCEPTANCE OF A PLEA ARRANGEMENT WAS ENTERED;

19 (II) THE NATURE OF THE OFFENSE OR CONDUCT THAT LED TO THE
20 FINAL CONVICTION OR PLEA ARRANGEMENT;

21 (III) THE TYPE, SCOPE, AND DURATION OF THE SENTENCE OR OTHER
22 PENALTY IMPOSED AS A RESULT OF THE FINAL CONVICTION OR PLEA
23 ARRANGEMENT, INCLUDING WHETHER:

24 (A) THE PROVIDER ENTERED INTO A PLEA ARRANGEMENT OR WAS
25 CONVICTED PURSUANT TO A CRIMINAL ADJUDICATION; AND

26 (B) THE PROVIDER WAS PLACED ON PROBATION AND, IF SO, THE
27 DURATION AND TERMS OF THE PROBATION AND THE DATE THE PROBATION

1 ENDS; AND

2 (IV) THE JURISDICTION THAT IMPOSED THE FINAL CONVICTION OR
3 ISSUED AN ORDER APPROVING THE PLEA ARRANGEMENT.

4 (d) BEFORE TREATING A PATIENT AFTER A FINAL CONVICTION, PLEA
5 ARRANGEMENT, OR FINAL DISCIPLINARY ACTION DESCRIBED IN
6 SUBSECTION (2) OF THIS SECTION HAS BEEN IMPOSED, THE PROVIDER
7 SHALL OBTAIN THE PATIENT'S AGREEMENT TO TREATMENT AND
8 ACKNOWLEDGMENT OF RECEIPT OF THE DISCLOSURE IN A FORM
9 PRESCRIBED BY THE DIRECTOR BY RULE AND SIGNED BY THE PROVIDER
10 AND THE PATIENT. THE PATIENT'S ACKNOWLEDGMENT OF RECEIPT OF THE
11 DISCLOSURE DOES NOT WAIVE ANY FUTURE CLAIMS AGAINST THE
12 PROVIDER.

13 (e) IF A PROVIDER IS PLACED ON PROBATION AS PART OF A FINAL
14 CONVICTION OR PLEA ARRANGEMENT FOR A SEX OFFENSE, AS DEFINED IN
15 SECTION 16-11.7-102 (3), OR ON PROBATIONARY STATUS OR OTHER
16 LIMITATION ON THE PROVIDER'S ABILITY TO PRACTICE PURSUANT TO A
17 FINAL DISCIPLINARY ACTION DESCRIBED IN SUBSECTION (2) OF THIS
18 SECTION, THE REQUIREMENT TO DISCLOSE THE CONVICTION, PLEA
19 ARRANGEMENT, OR DISCIPLINARY ACTION ENDS WHEN THE PROVIDER HAS
20 SATISFIED THE REQUIREMENTS OF THE PROBATION OR OTHER LIMITATION
21 AND IS NO LONGER ON PROBATION OR OTHERWISE SUBJECT TO A
22 LIMITATION ON THE ABILITY TO PRACTICE THE PROVIDER'S PROFESSION.

23 (4) (a) A PROVIDER NEED NOT MAKE THE DISCLOSURE REQUIRED
24 BY THIS SECTION BEFORE PROVIDING PROFESSIONAL SERVICES TO A
25 PATIENT IF ANY OF THE FOLLOWING APPLIES:

26 (I) THE PATIENT IS UNCONSCIOUS OR OTHERWISE UNABLE TO
27 COMPREHEND THE DISCLOSURE AND SIGN AN ACKNOWLEDGMENT OF

1 RECEIPT OF THE DISCLOSURE PURSUANT TO SUBSECTION (3)(d) OF THIS
2 SECTION AND A REPRESENTATIVE OF THE PATIENT IS UNAVAILABLE TO
3 COMPREHEND THE DISCLOSURE AND SIGN THE ACKNOWLEDGMENT;

4 (II) THE VISIT OCCURS IN AN EMERGENCY ROOM OR FREESTANDING
5 EMERGENCY DEPARTMENT OR THE VISIT IS UNSCHEDULED, INCLUDING
6 CONSULTATIONS IN INPATIENT FACILITIES; OR

7 (III) THE PROVIDER WHO WILL BE TREATING THE PATIENT DURING
8 THE VISIT IS NOT KNOWN TO THE PATIENT UNTIL IMMEDIATELY PRIOR TO
9 THE START OF THE VISIT.

10 (b) A PROVIDER WHO DOES NOT HAVE A DIRECT TREATMENT
11 RELATIONSHIP OR HAVE DIRECT CONTACT WITH THE PATIENT IS NOT
12 REQUIRED TO MAKE THE DISCLOSURE REQUIRED BY THIS SECTION.

13 (5) FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS
14 SECTION CONSTITUTES UNPROFESSIONAL CONDUCT OR GROUNDS FOR
15 DISCIPLINE, AS APPLICABLE, UNDER THE ARTICLE OR PART OF THIS TITLE 12
16 THAT REGULATES THE PROVIDER'S HEALTH CARE PROFESSION.

17 **SECTION 2. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2020 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.