

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0151.02 Christy Chase x2008

SENATE BILL 20-102

SENATE SPONSORSHIP

Ginal and Cooke, Bridges, Gardner, Gonzales, Hansen, Lundeen, Tate, Todd, Winter, Woodward

HOUSE SPONSORSHIP

Caraveo and Titone, Soper

Senate Committees
Judiciary

House Committees
Health & Insurance

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.

SENATE
3rd Reading Unamended
February 11, 2020

SENATE
Amended 2nd Reading
February 10, 2020

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 ACCEPTANCE OF A GUILTY PLEA BY
19 A COURT FOR A SEX OFFENSE, AS DEFINED IN SECTION 16-11.7-102 (3); OR

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

1 FOLLOWING:

2 (I) A CONVICTION OF OR ACCEPTANCE OF A GUILTY PLEA BY A
3 COURT FOR A SEX OFFENSE, AS DEFINED IN SECTION 16-11.7-102 (3), OR A
4 FINDING THAT THE PROVIDER COMMITTED A SEX OFFENSE AS DEFINED IN
5 SAID SECTION; OR

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

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

18 (b) FOR A DISCLOSURE OF FINAL AGENCY ACTION, THE PROVIDER
19 SHALL INCLUDE THE FOLLOWING INFORMATION, AT A MINIMUM, IN THE
20 WRITTEN DISCLOSURE:

21 (I) THE TYPE, SCOPE, AND DURATION OF THE AGENCY ACTION
22 IMPOSED, INCLUDING WHETHER:

23 (A) THE REGULATOR AND PROVIDER ENTERED INTO A
24 STIPULATION;

25 (B) THE AGENCY ACTION RESULTED FROM AN ADJUDICATION
26 DECISION;

27 (C) THE PROVIDER WAS PLACED ON PROBATION AND, IF SO, THE

1 DURATION AND TERMS OF THE PROBATION; AND

2 (D) THE REGULATOR IMPOSED ANY LIMITATIONS ON THE
3 PROVIDER'S PRACTICE AND, IF SO, A DESCRIPTION OF THE SPECIFIC
4 LIMITATIONS AND THE DURATION OF THE LIMITATIONS;

5 (II) THE NATURE OF THE OFFENSE OR CONDUCT, INCLUDING THE
6 GROUNDS FOR PROBATION OR PRACTICE LIMITATIONS SPECIFIED IN THE
7 FINAL AGENCY ACTION;

8 (III) THE DATE THE FINAL AGENCY ACTION WAS ISSUED;

9 (IV) THE DATE THE PROBATION STATUS OR PRACTICE LIMITATION
10 ENDS; AND

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

15 (c) FOR A DISCLOSURE OF A FINAL CONVICTION OF OR ACCEPTANCE
16 OF A GUILTY PLEA BY A COURT FOR A SEX OFFENSE, AS DEFINED IN SECTION
17 16-11.7-102 (3), THE PROVIDER SHALL INCLUDE THE FOLLOWING
18 INFORMATION, AT A MINIMUM, IN THE WRITTEN DISCLOSURE:

19 (I) THE DATE THAT THE FINAL JUDGEMENT OF CONVICTION OR
20 ACCEPTANCE OF A GUILTY PLEA WAS ENTERED;

21 (II) THE NATURE OF THE OFFENSE OR CONDUCT THAT LED TO THE
22 FINAL CONVICTION OR GUILTY PLEA;

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

26 (A) THE PROVIDER ENTERED A GUILTY PLEA OR WAS CONVICTED
27 PURSUANT TO A CRIMINAL ADJUDICATION; AND

1 (B) THE PROVIDER WAS PLACED ON PROBATION AND, IF SO, THE
2 DURATION AND TERMS OF THE PROBATION AND THE DATE THE PROBATION
3 ENDS; AND

4 (IV) THE JURISDICTION THAT IMPOSED THE FINAL CONVICTION OR
5 ISSUED AN ORDER APPROVING THE GUILTY PLEA.

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

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

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

1 (I) THE PATIENT IS UNCONSCIOUS OR OTHERWISE UNABLE TO
2 COMPREHEND THE DISCLOSURE AND SIGN AN ACKNOWLEDGMENT OF
3 RECEIPT OF THE DISCLOSURE PURSUANT TO SUBSECTION (3)(d) OF THIS
4 SECTION AND A GUARDIAN OF THE PATIENT IS UNAVAILABLE TO
5 COMPREHEND THE DISCLOSURE AND SIGN THE ACKNOWLEDGMENT;

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

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

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

15 (5) (a) FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS
16 SECTION:

17 (I) CONSTITUTES UNPROFESSIONAL CONDUCT OR GROUNDS FOR
18 DISCIPLINE, AS APPLICABLE, UNDER THE ARTICLE OR PART OF THIS TITLE 12
19 THAT REGULATES THE PROVIDER'S HEALTH CARE PROFESSION; AND

20 (II) DOES NOT CREATE A PRIVATE RIGHT OF ACTION.

21 (b) NOTHING IN THIS SECTION PREVENTS THE DISCOVERY OF
22 RECORDS, REPORTS, OR OTHER INFORMATION, OR THE ADMISSIBILITY OF
23 EVIDENCE, RELATED TO A PROVIDER'S FAILURE TO COMPLY WITH THE
24 REQUIREMENTS OF THIS SECTION IN ANY CIVIL, CRIMINAL, OR
25 ADMINISTRATIVE PROCEEDING.

26 **SECTION 2. Act subject to petition - effective date -**
27 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

1 the expiration of the ninety-day period after final adjournment of the
2 general assembly (August 5, 2020, if adjournment sine die is on May 6,
3 2020); except that, if a referendum petition is filed pursuant to section 1
4 (3) of article V of the state constitution against this act or an item, section,
5 or part of this act within such period, then the act, item, section, or part
6 will not take effect unless approved by the people at the general election
7 to be held in November 2020 and, in such case, will take effect on the
8 date of the official declaration of the vote thereon by the governor.

9 (2) This act applies to convictions and final agency actions
10 entered, issued, or taken on or after the effective date of this act.