

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 13-0232.01 Christy Chase x2008

HOUSE BILL 13-1104

HOUSE SPONSORSHIP

Kraft-Tharp,

SENATE SPONSORSHIP

Newell,

House Committees

Health, Insurance & Environment

Senate Committees

Health & Human Services

A BILL FOR AN ACT

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

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://www.leg.state.co.us/billsummaries>.)

Current law requires all mental health professionals to disclose

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.

SENATE
Amended 2nd Reading
March 12, 2013

HOUSE
3rd Reading Unamended
February 12, 2013

HOUSE
Amended 2nd Reading
February 11, 2013

specified information to clients during the initial client contact both orally and in writing. **Section 1** of the bill eliminates the requirement that mental health professionals disclose the required information orally.

Current law also requires mental health professionals, upon initial application or renewal of a license, certification, or registration, to pay a fee to fund the costs of the mental health professional peer health assistance program, the purpose of which is to provide assistance to a professional needing help in dealing with a physical, emotional, or psychological condition that may impact his or her ability to practice his or her mental health profession. **Section 2** of the bill modifies the program as follows:

- ! Requires the director of the division of professions and occupations (director) to annually review the fee amount and adjust the fee as necessary to reflect program usage, but not to exceed \$25;
- ! Requires a designated provider that is chosen to provide the program to take into consideration, when referring a mental health professional for treatment, the cost of the treatment and whether it poses a financial hardship on the professional, and, if so, requires the designated provider to consider alternative treatment or referral to a treatment program that offers a sliding-scale fee;
- ! Precludes the director from selecting a designated provider until each mental health board has provided input, and further precludes the selection of a designated provider until the boards and director obtain input from mental health professionals; and
- ! Requires a designated provider to notify the applicable board when a mental health professional successfully completes the program, and requires the board to reinstate the professional's license, registration, or certification upon successful completion of the program.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-43-214, **amend**

3 (1) introductory portion as follows:

4 **12-43-214. Mandatory disclosure of information to clients.**

5 (1) Except as otherwise provided in subsection (4) of this section, every
6 licensee, registrant, or certificate holder shall provide the following
7 information ~~verbally and~~ in writing to each client during the initial client

1 contact:

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

5 **12-43-227.5. Mental health professional peer health assistance**
6 **program - fees - administration - rule.s** (1) (a) On and after July 1,
7 2012, as a condition of licensure, registration, or certification and renewal
8 in this state, every person applying for a new license, registration, or
9 certification or to renew his or her license, registration, or certification
10 shall pay a fee, for use by the administering entity selected by the director
11 pursuant to this subsection (1), in an amount not to exceed twenty-five
12 dollars per application for a new or to renew a license, registration, or
13 certification. The director ~~may adjust the maximum fee amount on~~
14 ~~January 1, 2013, and annually thereafter to reflect changes in the United~~
15 ~~States bureau of statistics consumer price index for the Denver-Boulder~~
16 ~~consolidated metropolitan statistical area for all urban consumers or~~
17 ~~goods, or its successor index~~ SHALL ANNUALLY REVIEW THE FEE AND
18 PROGRAM USAGE LEVEL AND ADJUST THE FEE AMOUNT BASED ON
19 PROGRAM USAGE, BUT THE DIRECTOR SHALL NOT ADJUST THE FEE TO AN
20 AMOUNT IN EXCESS OF TWENTY-FIVE DOLLARS. The DIVISION SHALL
21 FORWARD THE fee ~~shall be forwarded~~ to the chosen administering entity
22 for use in supporting designated providers selected to provide assistance
23 to licensees, registrants, or certificate holders needing help in dealing
24 with physical, emotional, or psychological conditions that may be
25 detrimental to their ability to practice their mental health profession.

26 (b) BY JANUARY 31, 2014, the director, in consultation with the
27 boards BEFORE MAKING A SELECTION, shall select one or more ~~peer health~~

1 ~~assistance programs~~ as designated providers TO PROVIDE THE PEER
2 HEALTH ASSISTANCE PROGRAM. For purposes of selecting designated
3 providers, the director shall use a competitive bidding process that
4 encourages participation from interested vendors. To be eligible for
5 designation, a peer health assistance program must:

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

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

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

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

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

1 (2) (a) Any mental health professional who is referred by the
2 applicable board to a peer health assistance program shall enter into a
3 stipulation with the board pursuant to section 12-43-223 (6) before
4 participating in the program. The agreement must contain specific
5 requirements and goals to be met by the participant, including the
6 conditions under which the program will be successfully completed or
7 terminated, and a provision that a failure to comply with the requirements
8 and goals ~~are~~ IS to be promptly reported to the board and that such failure
9 will result in disciplinary action by the board. UPON NOTICE FROM THE
10 PEER HEALTH ASSISTANCE PROGRAM THAT A MENTAL HEALTH
11 PROFESSIONAL HAS SUCCESSFULLY COMPLETED THE PROGRAM, THE BOARD
12 THAT REGULATES THE PROFESSIONAL SHALL REINSTATE THE
13 PROFESSIONAL'S LICENSE, REGISTRATION, OR CERTIFICATION.

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

20 **SECTION 3.** In Colorado Revised Statutes, **repeal** 12-43-411 (4),
21 12-43-506 (4), 12-43-605 (4), and 12-43-805 (4).

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

24 **13-90-107. Who may not testify without consent.** (1) (g) A
25 licensed psychologist, professional counselor, marriage and family
26 therapist, social worker, or addiction counselor, a registered
27 psychotherapist, ~~or~~ a certified addiction counselor, A PSYCHOLOGIST

1 CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-304 (7), C.R.S., A
2 MARRIAGE AND FAMILY THERAPIST CANDIDATE REGISTERED PURSUANT TO
3 SECTION 12-43-504 (5), C.R.S., A LICENSED PROFESSIONAL COUNSELOR
4 CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-603 (5), C.R.S., OR
5 A PERSON DESCRIBED IN SECTION 12-43-215, C.R.S., shall not be
6 examined without the consent of the licensee's, certificate holder's, or
7 registrant's, CANDIDATE'S, OR PERSON'S client as to any communication
8 made by the client to the licensee, certificate holder, or registrant,
9 CANDIDATE, OR PERSON or the licensee's, certificate holder's, or
10 registrant's, CANDIDATE'S, OR PERSON'S advice given in the course of
11 professional employment; nor shall any secretary, stenographer, or clerk
12 employed by a licensed psychologist, professional counselor, marriage
13 and family therapist, social worker, or addiction counselor, a registered
14 psychotherapist, or a certified addiction counselor, A PSYCHOLOGIST
15 CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-304 (7), C.R.S., A
16 MARRIAGE AND FAMILY THERAPIST CANDIDATE REGISTERED PURSUANT TO
17 SECTION 12-43-504 (5), C.R.S., A LICENSED PROFESSIONAL COUNSELOR
18 CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-603 (5), C.R.S., OR
19 A PERSON DESCRIBED IN SECTION 12-43-215, C.R.S., be examined without
20 the consent of the employer of the secretary, stenographer, or clerk
21 concerning any fact, the knowledge of which the employee has acquired
22 in such capacity; nor shall any person who has participated in any
23 psychotherapy, conducted under the supervision of a person authorized
24 by law to conduct such therapy, including group therapy sessions, be
25 examined concerning any knowledge gained during the course of such
26 therapy without the consent of the person to whom the testimony sought
27 relates.

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

3 **19-1-307. Dependency and neglect records and information -**
4 **access - fee - rules - records and reports fund - misuse of information**
5 **- penalty. (2) Records and reports - access to certain persons -**
6 **agencies.** Except as otherwise provided in section 19-1-303, only the
7 following persons or agencies shall be given access to child abuse or
8 neglect records and reports:

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

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

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

27 (O) A PERSON WHO IS REGISTERED AS A PSYCHOLOGIST CANDIDATE

1 PURSUANT TO SECTION 12-43-304 (7), C.R.S., MARRIAGE AND FAMILY
2 THERAPIST CANDIDATE PURSUANT TO SECTION 12-43-504 (5), C.R.S., OR
3 LICENSED PROFESSIONAL COUNSELOR CANDIDATE PURSUANT TO SECTION
4 12-43-603 (5), C.R.S., OR WHO IS DESCRIBED IN SECTION 12-43-215,
5 C.R.S.

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

8 **19-3-304. Persons required to report child abuse or neglect.**

9 (2) Persons required to report such abuse or neglect or circumstances or
10 conditions include any:

11 (ii) PERSON WHO IS REGISTERED AS A PSYCHOLOGIST CANDIDATE
12 PURSUANT TO SECTION 12-43-304 (7), C.R.S., MARRIAGE AND FAMILY
13 THERAPIST CANDIDATE PURSUANT TO SECTION 12-43-504 (5), C.R.S., OR
14 LICENSED PROFESSIONAL COUNSELOR CANDIDATE PURSUANT TO SECTION
15 12-43-603 (5), C.R.S., OR WHO IS DESCRIBED IN SECTION 12-43-215,
16 C.R.S.

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

19 **30-10-606. Coroner - inquiry - grounds - postmortem - jury -**
20 **certificate of death.** (6) (a) Notwithstanding sections 12-43-218 and
21 13-90-107 (1) (d) or (1) (g), C.R.S., the coroner holding an inquest or
22 investigation pursuant to this section has the authority to request and
23 receive a copy of:

24 (II) Any information, record, or report related to treatment,
25 consultation, counseling, or therapy services from any licensed
26 psychologist, professional counselor, marriage and family therapist, social
27 worker, or addiction counselor, certified addiction counselor, or

1 registered psychotherapist, PSYCHOLOGIST CANDIDATE REGISTERED
2 PURSUANT TO SECTION 12-43-304 (7), C.R.S., MARRIAGE AND FAMILY
3 THERAPIST CANDIDATE REGISTERED PURSUANT TO SECTION 12-43-504 (5),
4 C.R.S., LICENSED PROFESSIONAL COUNSELOR CANDIDATE REGISTERED
5 PURSUANT TO SECTION 12-43-603 (5), C.R.S., OR PERSON DESCRIBED IN
6 SECTION 12-43-215, C.R.S., if the report, record, or information is
7 relevant to the inquest or investigation.

8 **SECTION 8. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part will not take effect
15 unless approved by the people at the general election to be held in
16 November 2014 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.