

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 17-0574.01 Kip Kolkmeier x4510 & Thomas Morris x4218 **HOUSE BILL 17-1011**

HOUSE SPONSORSHIP

Melton,

SENATE SPONSORSHIP

Tate,

House Committees
Health, Insurance, & Environment

Senate Committees
Health & Human Services

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.

HOUSE
3rd Reading Unamended
February 2, 2017

HOUSE
Amended 2nd Reading
February 1, 2017

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 PROVIDED TO THE CLIENT
2 IN WRITING NO LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE END
3 OF THE CLIENT'S TREATMENT. THE NOTICE MAY BE INCLUDED WITH THE
4 LICENSEE'S DISCLOSURES PURSUANT TO SECTION 12-43-214(1) OR SENT TO
5 THE CLIENT'S LAST-KNOWN MAILING ADDRESS. CONSISTENT WITH ALL
6 PROCEDURAL REQUIREMENTS OF THIS ARTICLE 43, OR OTHERWISE
7 REQUIRED BY LAW, THE BOARD MUST EITHER TAKE DISCIPLINARY ACTION
8 ON THE COMPLAINT OR DISMISS THE COMPLAINT NO LATER THAN TWO
9 YEARS AFTER THE DATE THE COMPLAINT OR NOTICE WAS FILED WITH THE
10 BOARD.

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

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

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