

DEPARTMENT OF REGULATORY AGENCIES

Colorado Podiatry Board

RULE 310 – REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT

3 CCR 712-19

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

19.1 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT

- A. On or after March 1, 2021, a licensee, shall disclose to a patient, as defined in section 12-30-115(1)(a), C.R.S., instances of sexual misconduct, including a conviction or guilty plea as set forth in section 12-30-115 (2)(a) C.R.S., or final agency action resulting in probation or limitation of the licensee's ability to practice as set forth in section 12-30-115(2)(b), C.R.S.
- B. Form of Disclosure: The written disclosure shall include all information specified in section 12-30-115(3), C.R.S., and consistent with the sample model disclosure form as set forth in Appendix A to these rules. The patient must, through his or her signature on the disclosure form, acknowledge the receipt of the disclosure and agree to treatment with the registrant.
- C. Timing of Disclosure: This disclosure shall be provided to a patient the same day the patient schedules a professional services appointment with the licensee. If an appointment is scheduled the same day that services will be provided or if an appointment is not necessary, the disclosure must be provided in advance of the treatment.
 - 1. The written disclosure and agreement to treatment must be completed prior to each treatment appointment with a patient unless the treatment will occur in a series over multiple appointments or a patient/patient schedules follow-up treatment appointments.
 - 2. For treatment series or follow-up treatment appointments, one disclosure prior to the first appointment is sufficient, unless the information the licensee is required to disclose pursuant to section 12-30-115, C.R.S., has changed since the most recent disclosure, in which case an updated disclosure must be provided to a patient and signed before treatment may continue.
- D. As set forth in section 12-30-115(3)(e), C.R.S., the requirement to disclose the conviction, guilty plea, or agency action ends when the licensee has satisfied the requirements of the probation or other limitation and is no longer on probation or otherwise subject to a limitation on the ability to practice the licensee's profession.
- E. A licensee is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-20-115(4), C.R.S.:
 - 1. The patient is unconscious or otherwise unable to comprehend the disclosure and a guardian of the patient is unavailable;
 - 2. The patient visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or

3. The licensee providing the professional service to the patient is not known to the patient until immediately prior to the start of the visit; or
4. The licensee does not have a direct treatment relationship or have direct contact with the patient.

APPENDIX A

MODEL SEXUAL MISCONDUCT DISCLOSURE STATEMENT

DISCLAIMER: This Model Sexual Misconduct Disclosure Statement is to be used as a guide only and is aimed only to assist the practitioner in complying with section 12-30-115, C.R.S., and the rules promulgated pursuant to this statute by the Director. As a licensed, registered, and/or certified health care licensee in the State of Colorado, you are responsible for ensuring that you are in compliance with state statutes and rules. While the information below must be included in your Sexual Misconduct Disclosure Statement pursuant to section 12-30-115, C.R.S., you are welcome to include additional information that specifically applies to your situation and practice.

- A. Licensee information, including, at a minimum: name, business address, and business telephone number.
- B. A listing of any final convictions of or a guilty plea to a sex offense, as defined in section 16-11.7-102(3), C.R.S.
- C. For each such conviction or guilty plea, the licensee shall provide, at a minimum:
 - 1. The date that the final judgment of conviction or guilty plea was entered;
 - 2. The nature of the offense or conduct that led to the final conviction or guilty plea;
 - 3. The type, scope, and duration of the sentence or other penalty imposed, including whether:
 - a. The provider entered a guilty plea or was convicted pursuant to a criminal adjudication;
 - b. The provider was placed on probation and, if so, the duration and terms of the probation and the date the probation ends; and
 - c. The jurisdiction that imposed the final conviction or issued an order approving the guilty plea.
- D. A listing of any final agency action by a professional regulatory board or agency that results in probationary status or other limitation on the licensee's ability to practice if the final agency action is based in whole or in part on:
 - 1. a conviction for or a guilty plea to a sex offense, as defined in section 16-11.7-102(3), C.R.S., or a finding by the professional regulatory board or Director that the provider committed a sex offense, as defined in as defined in section 16-11.7-102(3), C.R.S.; OR
 - 2. a finding by a professional regulatory board or agency that the provider engaged in unprofessional conduct or other conduct that is grounds for discipline under the part or article of Title 12 of the Colorado Revised Statutes that regulates the provider's profession, where the failure or conduct is related to, includes, or involves sexual misconduct that results in harm to a patient or presents a significant risk of public harm to patients.
- E. For each such final agency action by a professional regulatory board or agency the provider shall provide, at a minimum:

1. The type, scope, and duration of the agency action imposed, including whether:
 - a. the regulator and licensee entered into a stipulation;
 - b. the agency action resulted from an adjudicated decision;
 - c. the licensee was placed on probation and, if so, the duration and terms of probation; and
 - d. the professional regulatory board or agency imposed any limitations on the licensee's practice and, if so, a description of the specific limitations and the duration of the limitations.
2. The nature of the offense or conduct, including the grounds for probation or practice limitations specified in the final agency action;
3. The date the final agency action was issued;
4. The date the probation status or practice limitation ends; and
5. The contact information for the professional regulatory board or agency that imposed the final agency action on the licensee, including information on how to file a complaint.

Sample Signature Block

I have received and read the sexual misconduct disclosure by [Provider Name] and I agree to treatment by [Provider Name].

Print Client Name

Client or Responsible Party's Signature

Date

If signed by Responsible Party (parent, legal guardian, or custodian), print Responsible Party's name and relationship to client:

Print Responsible Party Name

Print Relationship to Client

Licensee Signature

Date

Editor's Notes

History

New rule eff. 01/30/2021.