

Alert | Health Care & FDA Practice



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Colorado Lowers Age of Consent for Psychotherapy Services to 12 Years Old

Colorado HB 19-1120 was signed into law and went into effect on **May 16, 2019**. HB 19-1120 lowers the age of consent for psychotherapy services from 15 years old to 12 years old.

Baseline Age of Consent of 15 Years Old

Colorado Behavioral Health statutes permit a minor 15 years of age or older to consent to receive mental health services with or without the consent of a parent or legal guardian, to be rendered by a facility, a professional person, or a licensed mental health professional in any practice setting, notwithstanding any other provision of law.¹ Under this law, the professional person or licensed mental health professional rendering mental health services to a minor may, with or without the minor's consent, advise the minor's parent or legal guardian of the services given or needed.²

How HB 19-1120 Changes the Law

Introduced with the intention of increasing access to mental health services in middle schools in response to heightened rates of youth suicide and mental illness,³ **HB 19-1120** adds to the Colorado Mental Health

¹ C.R.S. § 27-65-103(2).

² *Id.*

³ See Sandra Fish, "Younger Colorado Students Seek Access to Mental Health Care Without Parental Permission," Feb. 20, 2019, [available here](#).

Professions and Occupations statutes to permit a minor 12 years of age or older to seek and obtain psychotherapy services with or without the consent of the minor’s parent or guardian if the mental health professional determines (i) the minor is knowingly and voluntarily seeking the psychotherapy services and (ii) such services are clinically indicated and necessary to the minor’s well-being.⁴ A mental health professional providing psychotherapy services to a minor must now obtain the minor’s consent before advising the minor’s parent or legal guardian of provided psychotherapy services, unless the mental health professional believes that the minor is unable to manage his or her care or treatment.⁵ The mental health professional is required to engage the minor in a discussion about the importance of involving and notifying the minor’s parent or legal guardian, and must document any attempt to contact the minor’s parent or legal guardian, including (i) the time of the attempt and whether the attempt was successful or unsuccessful, or (ii) the reason why it would be inappropriate to contact the minor’s parent or legal guardian (i.e., disclosure would be inappropriate or detrimental to the minor’s care and treatment).⁶ The law includes an exception if a minor communicates a clear and imminent threat to commit suicide; in such circumstances, the mental health professional is required to notify the minor’s parent or legal guardian of the minor’s suicidal ideation.⁷

Interplay and Comparison Between the Colorado Behavioral Health Statutes and Colorado Mental Health Professions and Occupations Statutes, as Modified by HB 19-1120

Compared to the Colorado Behavioral Health statute, HB 19-1120 creates a lower age of consent for a limited subset of mental health services (i.e., psychotherapy services), rendered by a broader scope of professionals (i.e., to include professional counselor candidates, psychologist candidates, and licensed school social workers). See the following comparison chart for key differences between the age of consent statutes.

| | Colorado Behavioral Health statutes, C.R.S. § 27-65-103 | Colorado Mental Health Professions and Occupations statutes, as modified by HB 19-1120 |
|-------------------------|--|---|
| Age of consent | 15 years old | 12 years old |
| Covered services | “Mental health services,” not defined | “Psychotherapy,” defined as “the treatment, diagnosis, testing, assessment, or counseling in a professional relationship to assist individuals or groups to alleviate mental disorders; understand unconscious or conscious motivation; resolve emotional, relationship, or attitudinal conflicts; or modify behaviors that interfere with effective emotional, social, or intellectual functioning. Psychotherapy follows a planned procedure of intervention that takes place on a regular basis, over a period of time, or in the cases of |

⁴ C.R.S. § 12-43-202.5(2).

⁵ C.R.S. §§ 12-43-202.5(3)(a),(c).

⁶ C.R.S. §§ 12-43-202.5(3)(b),(4).

⁷ C.R.S. §§ 12-43-202.5(8).

| | | |
|------------------------------------|---|--|
| | | testing, assessment, and brief psychotherapy, psychotherapy can be a single intervention.” ⁸ |
| Covers services rendered by | A facility, A professional person, or A licensed mental health professional in any practice setting | “Mental health professional,” defined to include the following: ⁹ A professional person (as defined by the Behavioral Health statutes), A licensed mental health professional, A licensed professional counselor candidate, A psychologist candidate, or A school social worker licensed by the Dept. of Education |

Mental health service providers ought to review their consent to treat forms and policies to ensure compliance with this new law. For questions about this alert or assistance with any program revisions to come into compliance with this new law, please contact the authors.

Authors

This GT Alert was prepared by **Julie A. Sullivan** and **Merlow Dunham**. Questions about this information can be directed to:

- **Julie A. Sullivan** | +1 303.685.7412 | sullivanjul@gtlaw.com
- **Merlow Dunham** | +1 303.685.7459 | dunhamm@gtlaw.com
- Or your **Greenberg Traurig** attorney

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⁸ C.R.S. § 12-43-201(9)(a).
⁹ C.R.S. § 12-43-202.5(1).