

DEPARTMENT OF REGULATORY AGENCIES

Board of Registered Psychotherapists

BOARD OF REGISTERED PSYCHOTHERAPISTS RULES

4 CCR 734-1

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

AUTHORITY

These rules are promulgated pursuant to C.R.S. § 12-43-203(3)(a) and C.R.S. §12-43-221(2).

The licensing and regulation of Mental Health Professionals is found in Title 12 ("Professions and Occupations"), Article 43 ("Mental Health") of the Colorado Revised Statutes. Article 43 consists of 8 parts summarized as follows:

<u>Part</u>	<u>Name of Part</u>	<u>Statutes in Part</u>
Part 1	Legislative Declaration	12-43-101
Part 2	General Provisions	12-43-201 - 12-43-229
Part 7	Registered Psychotherapists	12-43-701 - 12-43-710

Part 2 contains general provisions applicable to all Mental Health Professionals. Part 7 applies specifically to Registered Psychotherapists.

PURPOSE AND SCOPE

These rules were promulgated in order to carry out the powers and duties of the Board of Psychotherapist pursuant to C.R.S. § §12-43-203 and 12-43-702. These rules affect every person seeking Colorado registration to practice psychotherapy, and every person who practices as a registered psychotherapist in the State of Colorado, and who is not statutorily exempted.

RULE 1 DEFINITIONS

In addition to the definitions set out in C.R.S. § § 12-43-201 and 12-43-702, unless the context requires otherwise, as used in these Rules:

- (a) The "Board" means the Colorado State Board of Registered Psychotherapists.
- (b) "Director" means the Board's Program Director and staff.
- (c) "Employment counseling" means professional activities that are provided on a short-term basis and that are intended to assist individuals with locating, applying for, interviewing, or otherwise successfully securing paid employment.

- (d) "Registrant in good standing" means a registration to practice psychotherapy is not restricted in any manner.
- (e) "Registrant" as contemplated under C.R.S. § 12-43-223(1)(b) shall include any person who has been registered as a registered psychotherapist at any time under the Mental Health Practice Act.
- (f) "Rehabilitation counseling" means professional activities that are intended to assist a person with a physical handicap, defect, or injury as defined in C.R.S. § 26-8-105(2)(a), (b), or (c) to learn or to relearn to perform routine daily functions including, but not limited to, eating, dressing, transportation, or employment.

RULE 2 PUBLIC PARTICIPATION AT BOARD MEETINGS (C.R.S. § 12-43-203, 12-43-221)

- (a) The Board may provide a person a reasonable opportunity to address the Board at an open meeting if the request is made prior to the meeting in accordance with this Rule and, in the Board's sole discretion, the granting of the request will not result in delay or disruption of the Board's meeting.
- (b) Except in unusual circumstances and in the Board's sole discretion, the Board will rely exclusively on written materials during its initial consideration of inquiries and shall not permit members of the public to address the Board on pending disciplinary proceedings or cases.
- (c) The Board may impose reasonable limitations on the time allotted for comments made pursuant to this Rule.

RULE 3 CONFIDENTIALITY OF PROCEEDINGS AND RECORDS OF THE BOARD (C.R.S. 12-43-218, 12-43-221, 12-43-224)

- (a) General. Inquiries, complaints, investigations, hearings, meetings, or any other proceedings of the Board relating to disciplinary proceedings shall not be open to public inspection until the Board meets for its initial consideration of the inquiry that gave rise to the proceedings. The initial consideration of the inquiry and all further proceedings shall be open and the records available for inspection unless subsection (b) of this Rule, or an exception to the Public Records Act or an exception to the Open Meetings Act applies or C.R.S. 12-43-224(4) prohibits disclosure.
- (b) Subpoenaed Information. Information subpoenaed by the Board shall remain confidential and not be open to public inspection until the Board has reviewed the information and made a determination whether the information should remain confidential. Information which is not determined to be confidential shall be open to public inspection unless an exception to subsection (a), an exception to the Public Records Act or the Open Meetings Act applies or C.R.S. § 12-43-224(4) prohibits disclosure. This exception shall not apply to review of information by a respondent in a Board investigation.

RULE 4 DECLARATORY ORDERS (C.R.S. § 24-4-105(11))

- (a) Any person may petition the Board for a declaratory order to terminate a controversy or to remove uncertainty as to the applicability to the petitioner of any statutory provision or of any Board Rule or Order.
- (b) A petition filed pursuant to this Rule shall set forth the following:
 - (1) The name and address of the petitioner and whether the petitioner is a registered psychotherapist.
 - (2) The statute, rule, or order to which the petition relates.

- (3) A concise statement of all facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner.
- (c) The Board will determine, in its discretion and without notice to petitioner, whether to rule on a petition. In determining whether to rule on a petition, the Board will consider the following matters, among others:
- (1) Whether a ruling on the petition will terminate a controversy or remove uncertainty as to the applicability to petitioner of any statutory provision or Board Rule or Order.
 - (2) Whether the petition involves any subject, question, or issue that is the subject of a formal or informal matter, proceeding, or investigation involving the petitioner and currently pending before the Board, any other agency, or a court.
 - (3) Whether the petition involves any subject, question, or issue that is the subject of a formal or informal matter, proceeding, or investigation currently pending before the Board, any other agency, or a court, but not involving the petitioner.
 - (4) Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.
 - (5) Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Rule 57, Colorado Rules of Civil Procedure, that will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule, or order in question.
- (d) If the Board determines, in its discretion, that it will not rule on the petition pursuant to this Rule, the Board shall promptly notify the petitioner of its action and state the reasons for such action.
- (e) If the Board determines, in its discretion, that it will rule on the petition, any ruling of the Board will apply only to the facts presented in the petition and any amendment to the petition. If the Board rules on the petition without a hearing, it shall notify the petitioner of its decision within 120 days. In ruling on the petition, at its discretion, the Board may take one or more of the following actions:
- (1) The Board may dispose of the petition on the basis of the matters set out in the petition.
 - (2) The Board may request the petitioner to submit additional facts, in writing. In this event, the additional facts amend the petition.
 - (3) The Board may order the petitioner to file a written brief, memorandum, or statement of position.
 - (4) The Board may set the petition for hearing, upon due notice to petitioner, to obtain additional facts or information; to determine the truth of any facts set forth in the petition; or to hear oral argument on the petition. The notice to the petitioner setting the hearing shall state, to the extent known, the factual or other matters into which the Board intends to inquire. For the purpose of the hearing, to the extent necessary, the petitioner shall have the burden of proving all facts stated in the petition; all facts necessary to show the nature of the controversy or uncertainty; the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner; and any other facts the petitioner desires the Board to consider.
- (f) If the Board determines that the petition addresses a matter within the purview of any other agency, the Board shall refer the petition to the other agency for consideration. If the Board refers a

petition to another agency, the Board shall promptly inform the petitioner of the referral. The referral ends the matter before the Board.

- (g) The parties to any proceeding pursuant to this Rule shall be the Board and the petitioner. Any other person may seek leave of the Board to intervene in such a proceeding. A petition to intervene shall set forth the matters required by subsection (b) of this Rule. Based on the information presented, and in its discretion, the board may grant leave to intervene. Any reference to "petitioner" in this Rule includes any person who has been granted leave to intervene by the Board.
- (h) Any declaratory order or other order disposing of a petition pursuant to this Rule shall constitute final agency action subject to judicial review pursuant to C.R.S. § 24-4-106.

RULE 5 MANDATORY DISCLOSURE STATEMENT (C.R.S. § 12-43-214, 12-43-222(1)(p))

(a) As used in C.R.S. § 12-43-214 and this Rule,

- (1) "Incapacitated person" means that the mandatory disclosure is made to the guardian or legal representative if the recipient of psychotherapy services is an adult for whom a guardian or legal representative has been appointed by a court of competent jurisdiction (irrespective of an appeal of the order) because the adult is an "incapacitated person" within the meaning of C.R.S. § 15-14-101(1).
- (2) "Emergency" means those situations in which, on presentation, the client's condition requires immediate intervention and/or stabilization. Emergency situations include any actions taken pursuant to C.R.S. Title 19, Article 3, Parts 3 and 4 (the Colorado Children's Code).

RULE 6 INFORMATION REQUIRED TO BE REPORTED TO THE BOARD (C.R.S. §12-43-224(9))

(a) General. Registered psychotherapists are required to report violations of C.R.S. § 12-43-222 and/or C.R.S. § 12-43-226 to the appropriate Board once they have direct knowledge that a licensee, certified addiction counselor, or registered psychotherapist has violated a provision of C.R.S. § 12-43-222 or C.R.S. § 12-43-226. Registered psychotherapists are not required to report when reporting would violate client/therapist confidentiality (refer to C.R.S. § 12-43-218).

(b) Terms.

- (1) Direct knowledge includes, but is not limited to the following:
- (A) Having seen, heard, or participated in the alleged violation;
 - (B) Having been informed by the client/victim and obtained informed consent to release information as to the event or the client's name;
 - (C) Having been informed of a violation by the violator;
 - (D) Having been informed by a guardian of a minor or adult and obtained informed consent from the guardian to release information; or
 - (E) Having been informed by a professional organization, agency, or any other entity, that an alleged violation occurred.
- (2) "Has violated" means a reasonable belief that a licensee, certified addiction counselor, or registered psychotherapist has engaged in a prohibited activity under C.R.S. § 12-43-222 or unauthorized practice as prohibited under C.R.S. § 12-43-226.

(c) Procedures

- (1) Once direct knowledge is established, the registered psychotherapist must report the alleged violation as soon as possible or, absent unusual circumstances, no later than sixty (60) days.
 - (2) When direct knowledge of a violation of C.R.S. § 12-43-222 or C.R.S. § 12-43-226 is obtained from her/his client, the registered psychotherapist shall:
 - (A) Inform the client a violation may have occurred;
 - (B) Encourage the client to report the violation; and
 - (C) Obtain the client's informed consent before reporting the alleged violation.
 - (3) The report shall be in writing and shall include the specifics of the violation, to the degree known, and any and all relevant information and supporting documentation.
- (d) Nothing in this rule relieves any mental health professional from adhering to any other mandatory disclosure reporting requirements required by statute.

RULE 7 SUPERVISION OF MENTAL HEALTH PRACTITIONERS AND OTHER SUPERVISORY RELATIONSHIPS (C.R.S. § § 12-43-221(2), 12-43-222(1)(n))

- (a) General. Supervision provides a source of knowledge, expertise, and more advanced skills to the person being supervised. The nature of this relationship depends on the respective skills of the two professionals involved, the client population and/or the specific client being served. It is usually ongoing, required, and hierarchical in nature.
- (b) Terms.
- (1) Clinical supervision occurs when there is close, ongoing review and direction of a supervisee's clinical practice.
 - (2) Consultation describes a voluntary relationship between professionals of relative equal expertise or status wherein the consultant offers her/his best advice or information on an individual case or problem for use by the consultee as s/he deems appropriate in her/his professional judgment.
 - (3) Administrative supervisor is the person who bears responsibility for the non-clinical functioning of an employee, such as performance appraisals, personnel decisions, etc. The administrative supervisor may be held accountable for not reporting misconduct by a registered psychotherapist when s/he knew or should have known of a violation of generally accepted standards of practice or any prohibited activity.
 - (4) Modes of Supervision include but are not be limited to individual, group, telephone, electronic mail, audio-visual, process recording, direct observation, telecommunication (teleconferencing, fax, videotapes), and hospital rounds. The appropriate modality of supervision shall be determined by the training, education, and experience of the supervisee, and the treatment setting (i.e. urban/rural, or the availability of resources, etc.); and at all times based on community standards and client needs. The level of supervision provided, including whether every case is directly supervised and whether the supervisor meets with the client, is determined by the education, training, and experience of the supervisee, the specific needs of the clients being served, and the

professional judgment of the supervisor. Nothing in this rule should be assumed to abridge the rights of the client to a reasonable standard of care.

(c) Supervision Shall Include But is Not Limited To The Following:

- (1) Monitoring the supervisee's activities to assure s/he is providing services that meets generally accepted standards of practice.
- (2) Verifying that it is the practice of any supervisee to provide the mandatory disclosure form as required pursuant to C.R.S. § 12-43-214.
- (3) If appropriate, verifying that clients are informed as to any changes in the supervisory relationship.
- (4) Giving an adequate termination of supervision notice to the supervisee.
- (5) Keeping records that document supervision that meet the generally accepted standards of practice.
- (6) Assisting the supervisee in becoming aware of and adhering to all legal, ethical, and professional responsibilities.
- (7) Assuring that no inappropriate relationships exist between the supervisor and supervisee, and supervisor and client.
- (8) Assuring the supervisee meets any licensing, certification or registration requirements prior to engaging in any psychotherapy.
- (9) Assisting to assure that the supervisee is in compliance with the Mental Health Practice Act.
- (10) Verifying and assuring the supervisee is in compliance with any existing restricted licensure, certification or registration status or probation.

(d) Supervisor Qualifications.

- (1) The supervisor shall have sufficient knowledge of legal, ethical, and professional standards relevant to the clients being served.
- (2) The supervisor shall have clinical experience and competence adequate to perform and direct the services provided by the supervisee.

RULE 8 REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (C.R.S. § § 12-43-203, 12-43-205)

- (a) Registered psychotherapists shall inform the Division of any name, telephone number or address change within thirty (30) days of such change. Staff shall not change registered psychotherapist's information without written notification from the registered psychotherapist. Notification via mail, fax, e-mail, and the online system is acceptable. Verbal notification is not acceptable.
- (b) Any of the following documentation is required to change a registered psychotherapist's name: marriage license, divorce decree, or court order. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the Director of Support Services.

RULE 9 REPLACEMENT OF WALLET CARD (C.R.S. § § 12-43-205, 12-43-207)

- (a) Upon registration and at renewal, the Division will issue only one wallet card to a registered psychotherapist. The Division may issue a duplicate wallet card if the registered psychotherapist submits a written request along with the required fee.
- (b) Justification for issuance of a duplicate wallet card may include if the original was lost, stolen, damaged, never received, or printed with the incorrect information, or if the address or name has changed.

A duplicate wallet card may also be issued for those registered psychotherapists that require multiple wallet cards.

RULE 10 RENEWAL OF REGISTRATION (C.R.S. § § 12-43-204(3); 12-43-702.5)

- (a) Failure to Receive Renewal Notice. Failure to receive notice for renewal of registration from the Board does not excuse a registered psychotherapist from the requirement for renewal under the Act and this Rule.
- (b) Grace period. Registered psychotherapists shall have a sixty-day (60) grace period after the expiration of his or her registration to renew such registration without the imposition of a disciplinary sanction for practicing with an expired registration. During this grace period a delinquency fee will be charged for late renewals. A registered psychotherapist who does not renew his or her listing within the sixty-day (60) grace period shall be treated as having an expired registration and shall be ineligible to practice until such listing is reinstated.
- (c) Military Active Duty. Registrants may be exempt from licensing requirements as provided in C.R.S. § 12-70-102.

RULE 11 AUTHORITY TO INVESTIGATE (C.R.S. § 12-43-203)

An application for initial registration, for renewal of registration, or for reinstatement of registration is an express grant to the Board of full authority to make any investigation or personal contact necessary to verify the authenticity of the matters and information stated in the application. If the Board so requests, the applicant must supply verification, documentation and/or complete information on any disciplinary action taken against the applicant in any jurisdiction.

RULE 12 REINSTATEMENT OF REGISTRATION (C.R.S. § 12-43-204)

- (a) General. A registration in the database that has expired is subject to the following reinstatement provisions.
- (b) Application requirements. To be considered for registration in the database reinstatement, an applicant must submit a completed reinstatement application form and the reinstatement fee.
- (c) Required statements. Each applicant for reinstatement shall certify the following:
 - (1) Every license, certificate, listing or registration to practice psychotherapy held by applicant is in good standing;
 - (2) Applicant has reported to the Board any injunction or disciplinary action completed or pending against her/his license, certificate, listing or registration to practice psychotherapy;
 - (3) Applicant has reported to the Board any malpractice judgment against her/him, any settlement of a malpractice action or claim against her/him, and any malpractice action or claim pending against her/him in which the malpractice alleged relates to her/his practice of psychotherapy.

- (4) Applicant has reported to the Board any inquiry/complaint pending, investigation being conducted by, or disciplinary proceeding pending before the licensing, grievance, or disciplinary board of any jurisdiction in which s/he is licensed, certified, registered or listed to practice psychotherapy in which the complaint, investigation, or proceeding concerns her/his practice of psychotherapy.
- (d) Pending discipline or complaints. The Board may decline to reinstate a registration to an applicant for reinstatement if disciplinary action is pending or if there is an unresolved complaint.
- (e) Criteria. The Board may establish criteria for determining whether an applicant for reinstatement has demonstrated her/his continued professional competence as required by C.R.S. § 12-43-204(3). An applicant must meet all applicable criteria to establish her/his continued professional competence.
 - (1) Registration expired more than two (2) years. An applicant whose registration has been expired more than two (2) years shall pass a Board developed jurisprudence examination to demonstrate her/his continued professional competence.

RULE 13 RECORDS REQUIRED TO BE KEPT AND RECORD RETENTION (C.R.S. § § 12-43-203(3), 12-43-222(1)(u))

- (a) General. Except as provided in subsection (g) of this rule every registered psychotherapist engaged in the practice of psychotherapy as defined in C.R.S. § 12-43-101(9) shall create and shall maintain records on each of his/her psychotherapy clients. The registered psychotherapist shall retain a record on each psychotherapy client for a period of seven (7) years commencing on the date of termination of psychotherapy services or the date of last contact with the client, whichever is later.
- (b) Record. Every registered psychotherapist shall maintain, as applicable to the mental health services rendered, a record containing the following information:
 - (1) Name of treating therapist;
 - (2) Client's identifying data to include name, address, telephone number, gender, date of birth, and if applicable the name of the parent or guardian. If the client is an organization, the name of the organization, telephone number and name of the principal authorizing the mental health provider's services or treatment;
 - (3) Reason(s) for the psychotherapy services;
 - (4) Mandatory disclosure statement(s);
 - (5) Dates of service including, but not limited to the date of each contact with client, the date on which services began, and the date of last contact with client;
 - (6) Types of service;
 - (7) Fees;
 - (8) Any release of information;
 - (9) The records must be legible and prepared in a manner that allows any subsequent provider to yield a comprehensive conclusion as to what occurred;

- (10) Name of any test administered, each date on which the test was administered, and the name(s) of the person(s) administering the test;
 - (11) Information on each referral made to and each consultation with another therapist or other health care provider. This information shall include the date of referral or consultation, the name of the person to whom the client was referred, the name of the person with whom consultation was sought; the outcome (if known) of the referral, and the outcome (if known) of the consultation;
 - (12) Adequate and reasonable case management records;
 - (13) Records of counseling, interview notes, correspondence, audio or visual recordings, electronic data storage, and other documents considered professional information for use in counseling; and
 - (14) A final closing statement (if services are over), if applicable.
- (d) Record Storage. Every registered psychotherapist shall keep and store client records in a secure place and in a manner that assures that only authorized persons have access to the records and protects the confidentiality of the records and the information contained within the records.
 - (e) Transfer of Records. Whenever a registered psychotherapist deems it necessary to transfer her/his records to another registered psychotherapist or other health care provider, the registered psychotherapist making the transfer shall obtain the client's consent to transfer (when possible).
 - (f) Disposition of Records. If the registered psychotherapist is not available to handle her/his own records, the registered psychotherapist and/or his estate shall designate an appropriate person to handle the disposition of records. A plan for the disposition of records shall be in place for all registered psychotherapists for the following conditions:
 - (1) Disability, illness or death of the registered psychotherapist;
 - (2) Termination of the registered psychotherapist's practice;
 - (3) Sale or transfer of the registered psychotherapist's practice.
 - (g) Record Destruction. Every registered psychotherapist shall dispose of client records in a manner or by a process that destroys or obliterates all client identifying data. However, records cannot be destroyed until after seven (7) years or as otherwise provided in these rules or any other applicable rules or statutes.
 - (h) Record keeping in agency/institutional settings. A registered psychotherapist need not create and maintain separate client records if the registered psychotherapist practices in an agency or institutional setting and the psychotherapist:
 - (1) Sees the client in the usual course of that practice;
 - (2) Keeps client records as required by the agency or institution; and
 - (3) The agency or institution maintains client records.

RULE 14 RELIGIOUS MINISTRY EXEMPTIONS (C.R.S. § 12-43-215(1))

- (a) Whenever an exemption from the Board's jurisdiction is claimed based on an assertion of the practice of religious ministry as stated in C.R.S. § 12-43-215(1), the Board shall consider factors, including

but not limited to those listed below, which, taken together and placed within the context of the incident in question, would tend to reasonably indicate that the person seeking the exemption was engaged in the practice of religious ministry. Before taking action on a complaint, the Board shall consider the following factors and other information that indicate the person claiming exemption was not engaged in the practice of religious ministry at the time of the alleged violation of the statute. If the Board determines that this exemption applies, and the registrant **was** practicing religious ministry, the Board will have no jurisdiction to take any further action on the complaint.

(b) In determining whether the practice of psychotherapy has occurred, the Board analyzes activities and the basic nature of the interaction among the persons involved. The analysis focuses on what occurred, on how it occurred, and on why it occurred.

(c) Factors.

- (1) Whether the client or guardian had received notice or reasonably understood that the therapy in question was a part of religious practice/ministry.
- (2) Whether the client or guardian was seeking therapy from a religious organization to which the complainant belonged at any time.
- (3) Whether a written agreement or disclosure existed that stated that the therapy in question was part of religious practice/belief.
- (4) Whether the therapy services were conducted in a house of worship or on property belonging to a religious organization.
- (5) Whether the provider of the therapy services represents him or herself as a religious official who is counseling as part of a religious ministry.
- (6) Whether the therapy services were part of an on-going relationship, formed because the provider is spiritual counselor to the client.
- (7) Whether the provider of therapy services holds a position of trust within a religious organization.
- (8) Whether the provider of the therapy services advertises therapy to the general public for a fee.
- (9) Whether the provider of the therapy services collects fees or expects/requires donations, offerings, tithes etc.
- (10) Whether the therapy services provided are based on any religious orientation or viewpoint.
- (11) Whether the provider engaged in the practice of therapy services is accountable or subject to any religious organization or person for misdeeds or acts of misconduct.
- (12) Whether the provider of therapy services is a member of a religious organization recognized by the Internal Revenue Service. Does the organization hold 501(C)(3) tax-exempt status.
- (13) Whether the provider of therapy services is trained in theology or any other field, area, or specialty related to the study of a religious or spiritual orientation.
- (14) Whether the service provided within a private practice setting.

- (15) Whether the provider of the therapy services has a declaration of religious mission or a statement identifying the religious views or beliefs of the organization or person.

RULE 15 IMPOSITION OF ADMINISTRATIVE FINES (C.R.S. § 12-43-223(1)(b))

- (a) Fines: Non-Exclusive Sanction. The Board may, in its discretion, impose a fine or fines in lieu of, or in addition to, any other disciplinary sanction. The term "Registrant" as contemplated under C.R.S. § 12-43-223(1)(b) and this Rule shall include any person who has been registered at any time under the Mental Health Practice Act to practice psychotherapy.
- (b) Fine for Each Violation. Pursuant to C.R.S. § 12-43-223(1)(b) provides authority for the Board to impose an administrative fine against a registered psychotherapist for a violation of an administrative requirement. The Board, in its discretion, may impose a separate fine for each violation and shall consider the nature and seriousness of the violation prior to imposing any fine.
- (c) Fines: Schedule of Fines. The Board may so impose a fine or fines consistent with the following schedule:
- (1) For a Registrant's first violation, a fine of no more than one thousand dollars (\$1,000.00).
 - (2) For a Registrant's second violation, a fine of no more than two thousand five hundred dollars (\$2,500.00).
 - (3) For a Registrant's third and any additional or subsequent violations, a fine of no more than five thousand dollars (\$5,000.00).

In a Disciplinary Proceeding, in which fines are sought to be imposed, the Board, in determining the number of violations for purposes of application of the above schedule, may count as a violation each prior violation adjudicated against the Registrant in a prior disciplinary proceeding.

- (d) Payment of Fines.
- (1) Fine Amount; When Due. A total fine amount of five hundred dollars (\$500.00) or less imposed by the Board must be paid in full, including the applicable surcharge, at the time the Final Agency Order is entered or a Stipulation is reached between the parties. A total fine amount greater than five hundred dollars (\$500.00) imposed by the Board must be paid in full, including the applicable surcharge, in accordance with the time frame set forth in the Final Agency Order or Stipulation.
 - (2) Delinquent Payment Consequences. A Registrant who fails to pay a fine imposed pursuant to under this rule when due as defined above, or a Final Agency Order or Stipulation may be subject to further discipline, including suspension or revocation of his or her registration to practice. C.R.S. § 12-43-222(1)(b) provides that violation of an order of the Board is a Prohibited Activity.
- (e) Compliance With Law. Payment of a fine does not exempt the Registrant from continuing compliance with the Mental Health Practice Act or any orders of the Board.

RULE 16 CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE FOR PHYSICAL OR MENTAL ILLNESS (C.R.S. § 12-43-221.5)

- (a) Notice to Board. No later than thirty (30) days from the date a physical or mental illness or condition impacts a Registrant's ability to perform professional services with reasonable skill and safety, the Registrant shall provide the Board, in writing, the following information:

- (1) The diagnosis and a description of the illness or condition;
 - (2) the date that the illness or condition was first diagnosed;
 - (3) the name of the current treatment provider and documentation from the current treatment provider confirming the diagnosis, date of onset, and treatment plan;
 - (4) a description of the Registrant's practice and any modifications, limitations or restrictions to that practice that have been made as a result of the illness or condition;
 - (5) whether the Registrant has been evaluated by, or is currently receiving services from the Board's authorized peer health assistance program related to the illness or condition and, if so, the date of initial contact and whether services are ongoing.
- (b) Change of Circumstances; Further Notice. The Registrant shall further notify the Board of any significant change in the illness or condition ("change of condition") that impacts the Registrant's ability to perform a Professional Service with reasonable skill and safety. The Registrant must notify the Board of a positive or negative change of condition. Such notification shall occur within thirty (30) days of the change of condition. The Registrant shall provide the Board, in writing, the following information:
- (1) The date of the change of condition;
 - (2) the name of the current treatment provider and documentation from the current treatment provider confirming the change of condition, the date that the condition changed, the nature of the change of condition, and the current treatment plan;
 - (3) a description of the Registrant's practice and any modifications, limitations or restrictions to that practice that have been made as a result of the change of condition;
 - (4) whether the Registrant has been evaluated by, or is currently receiving services from, the peer health assistance program related to the change of condition and, if so, the date of initial contact and whether services are ongoing.
- (b) Confidential Agreement; Board Discretion. Compliance with this rule is a prerequisite for eligibility to enter into a Confidential Agreement with the Board pursuant to C.R.S. § 12-43-221.5. However, mere compliance with this rule does not require the Board to negotiate regarding, or enter into, a Confidential Agreement. Rather, the Board will evaluate all facts and circumstances to determine if a Confidential Agreement is appropriate.
- (c) Failure to Notify. If the Board discovers that a Registrant has a mental or physical illness or condition that impacts the Registrant's ability to perform a psychotherapy service with reasonable skill and safety and the Registrant has not notified the Board of such illness or condition as required under these rules, the Registrant shall not be eligible for a Confidential Agreement and may be subject to disciplinary action for failure to notify under C.R.S. § 12-43-221.5(1), and other related violations contemplated under C.R.S. § 12-43-222(f).

Editor's Notes

History

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Entire rule eff. 02/15/2012.