

## DEPARTMENT OF REGULATORY AGENCIES

### Office of Speech-Language Pathology Certification

## RULES REGULATING SPEECH-LANGUAGE PATHOLOGIST CERTIFICATION, PRACTICE, AND DISCIPLINE

### 4 CCR 748-1

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

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#### **Basis, Purpose, and Statutory Authority**

The basis for these rules is House Bill 12-1303, which is codified in Article 305 of Title 12, C.R.S., and is known as the Speech-Language Pathology Practice Act. The purpose of these rules is to regulate persons practicing speech-language pathology in Colorado by implementing the requirements of the Act. The rules generally include provisions regulating certification, reinstatement, continuing competency, reporting, liability insurance, patient records, fines, and non-certified practice. The statutory authority for these rules can be found in sections 12-305-106(1), 107, 108, 109, 110(1)(e), 112(2), 115, and 118(5); 12-305-108; 12-20-203; 24-4-103; 24-4-105(11); 12-20-202 and 12-20-202(4); 12-20-105; and, 24-34-107 C.R.S.

#### **1.1 Application for Certification**

The purpose of this Rule is to specify the form and manner of an application for speech-language pathologist certification, as required by section 12-305-107, C.R.S.

- A. An applicant for certification must:
1. Submit a completed application for certification in a manner prescribed by the Director;
  2. Submit with the application all fees established by the Director pursuant to section 24-34-101 *et seq.*, C.R.S.;
  3. Attest that the applicant will, prior to providing speech-language pathology services to patients, maintain the professional liability insurance coverage required under Rule 1.6;
  4. Attest that the applicant has developed a written plan ensuring the security of patient records in compliance with section 12-305-118, C.R.S.;
  5. Attest that the information in the application is true and correct to the best of the applicant's knowledge and belief; and
  6. Submit additional information as may be required by the Director.

#### **1.2 Education and Clinical Fellowship Requirements**

The purpose of this Rule is to detail the educational and clinical fellowship requirements for certification set forth in section 12-305-107(1), C.R.S.

- A. An applicant for certification must have successfully completed a master's or higher degree in communication sciences and disorders granted by an accredited institution of higher education recognized by the United States Department of Education. An applicant is presumed to have met the requirements of this paragraph if the applicant has successfully completed a master's or higher degree in a speech-language pathology program that is accredited by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or its successor association.
- B. An applicant for certification must have successfully completed a speech-language pathology clinical fellowship approved by either the Director or a Director-approved national certifying body. The American Speech-Language-Hearing Association is a Director-approved national certifying body.
- C. An applicant who holds a current Certificate of Clinical Competence (CCC) granted by the American Speech-Language-Hearing Association in speech-language pathology meets the education and clinical fellowship requirements of this Rule.
- D. The Director does not require that an applicant maintain ASHA membership as a condition of certification.

### **1.3 Examination Requirement**

The purpose of this Rule is to clarify the examination requirement set forth in section 12-305-107(1)(c), C.R.S.

- A. An applicant is eligible for certification by examination only if the applicant:
  - 1. Has passed the national examination approved by the American Speech-Language-Hearing Association or its successor association;
  - 2. Has passed an examination that, in the Director's determination, is substantially equivalent to the examination approved by the American Speech-Language-Hearing Association or its successor association, subject to the requirements of paragraph (B) of this Rule; or
  - 3. Holds a current Certificate of Clinical Competence (CCC), granted by the American Speech-Language-Hearing Association or its successor association, in speech-language pathology.
- B. An applicant seeking certification under subparagraph (A)(2) of this Rule bears the burden of proving to the Director that the examination is substantially equivalent to the examination approved by the American Speech-Language-Hearing Association or its successor association.

### **1.4 Certification by Endorsement**

The purpose of this Rule is to delineate the requirements for certification by endorsement set forth in section 12-305-107(4), C.R.S.

- A. An applicant who holds a current, valid license or certification as a speech-language pathologist in another jurisdiction may apply for certification by endorsement.
- B. A jurisdiction that requires, as a condition of licensure or certification, a current Certificate of Clinical Competence (CCC) granted by the American Speech-Language-Hearing Association in speech-language pathology is deemed to have qualifications substantially equivalent to those required in Colorado.

- C. An applicant for certification by endorsement must meet the requirements set forth in Rules 1.1, 1.2, and 1.3. An endorsement applicant who was licensed or certified in another jurisdiction on the basis of a current Certificate of Clinical Competence (CCC) granted by the American Speech-Language-Hearing Association in speech-language pathology is deemed to have met the requirements of Rules 1.2 and 1.3.
- D. In addition to meeting the requirements set forth in Rules 1.1 through 1.3, an applicant for certification by endorsement must demonstrate competency to practice speech-language pathology. To demonstrate competency an applicant must submit, in a manner required by the Director, information establishing that the applicant:
  - 1. Has actively practiced as a speech-language pathologist for at least 400 hours within a twelve month period during the three years immediately preceding the application;
  - 2. Has completed, during the two years immediately preceding the application, forty-eight hours of continuing education that:
    - a. Relates to the practice of speech-language pathology; and
    - b. Meets the approval of the Director;
  - 3. Holds a current Certificate of Clinical Competence (CCC) granted by the American Speech-Language-Hearing Association in speech-language pathology; or
  - 4. Has otherwise maintained competency as a speech-language pathologist, as determined by the Director.

### **1.5 Certification Requirements: Credit for Military Experience**

The purpose of this Rule is to outline the conditions and procedures governing the evaluation of an applicant's military training and experience under section 12-20-202(4), C.R.S.

- A. An applicant for certification as a speech-language pathologist may submit information about the applicant's education, training, or experience acquired during military service. It is the applicant's responsibility to provide timely and complete information for the Director's review.
- B. In order to meet the requirements for certification, such education, training, or experience must be substantially equivalent to the required qualifications that are otherwise applicable at the time the application is received by the Director.
- C. The Director will determine, on a case-by-case basis, whether the applicant's military education, training, or experience meet the requirements for certification.

### **1.6 Professional Liability Insurance**

The purpose of this Rule is to delineate the professional liability insurance requirements set forth in section 12-305-107(2) and (4), and section 12-305-108(2), C.R.S.

- A. A certificate holder or provisional certificate holder who provides speech-language pathology services to patients shall maintain or be covered by professional liability insurance coverage:
  - 1. With an insurance company authorized to do business in Colorado; and
  - 2. In an amount no less than one million dollars per claim and three million dollars per annum in the aggregate.

- B. A certificate holder or provisional certificate holder who is not providing speech-language pathology services to patients is exempt from maintaining and being covered by professional liability insurance coverage.
- C. An applicant, certificate holder, or provisional certificate holder shall submit proof of coverage to the Director upon request.

### **1.7 Reinstatement of Expired Certification**

The purpose of this Rule is to state the requirements for reinstatement of a certification that has expired, pursuant to sections 12-20-202 and 12-20-105, C.R.S.

- A. An applicant seeking reinstatement of an expired certification must complete a reinstatement application, pay a reinstatement fee, attest to complying with the professional liability insurance coverage requirements of Rule 1.6, and attest that the applicant has developed a written plan ensuring the security of patient records in compliance with section 12-305-118, C.R.S.
- B. An applicant seeking to reinstate a certification that has been expired for less than two (2) years from the date of receipt of the reinstatement application must provide documentation of ten Professional Development Activities (PDA), as defined in Rule 1.9, for each year the certificate was expired.
- C. An applicant seeking to reinstate a certification that has been expired for two or more years but less than five years from the date of receipt of the reinstatement application must demonstrate competency to practice, in a manner required by the Director, by:
  - 1. Providing verification of licensure or certification in good standing from another state, along with proof of active practice in that state for two of the previous five years from the date of application for reinstatement;
  - 2. Providing documentation of the applicant's completion, within the two years immediately preceding the application for reinstatement, of ten PDA, as defined in Rule 1.9, for each year the certificate was expired;
  - 3. Providing documentation that the applicant has active certification by the American Speech-Language-Hearing Association; or
  - 4. Any other means approved by the Director.
- D. An applicant seeking to reinstate a certification that has been expired for five or more years from the date of receipt of the reinstatement application must demonstrate competency to practice, in a manner required by the Director, by:
  - 1. Providing verification of licensure or certification in good standing from another state, along with proof of active practice in that state for two of the previous five years from the date of application for reinstatement;
  - 2. Providing evidence of supervised practice for a period of no less than six months, subject to the terms established by the Director; or
  - 3. Any other means approved by the Director.

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### **1.8 Inactive Certification Status and Reactivation of Certification**

The purpose of this Rule is to specify the regulations governing inactive certification status and reactivation of certification as authorized under section 12-20-203, C.R.S.

- A. A certified speech-language pathologist may request inactive certification status in the manner prescribed by Director.
- B. A speech-language pathologist with an inactive certificate shall not engage in any act or conduct that constitutes the practice of speech-language pathology.
- C. A speech-language pathologist with an inactive certificate is exempt from the continuing professional competency requirements of section 12-305-109, C.R.S., and Rule 1.9.
- D. Inactive certificate status does not:
  - 1. Prevent the Director from investigating complaints or imposing discipline against a speech-language pathologist in accordance with Article 305 of Title 12, C.R.S.; or
  - 2. Limit or restrict the Director's functions, duties, or obligations, under Article 305 of Title 12, C.R.S.
- E. Except as otherwise provided by this Rule, a speech-language pathologist with an inactive certificate remains subject to all provisions of these rules and all provisions of Article 305 of Title 12, C.R.S.
- F. A speech-language pathologist may reactivate an inactive certificate by:
  - 1. Submitting a completed application for reactivation and paying a fee established by the Director;
  - 2. Submitting proof, in a manner prescribed by the Director, that the speech-language pathologist's licenses or certificates held in other states or jurisdictions are in good standing;
  - 3. Attesting that the applicant will, prior to providing speech-language pathology services to patients, maintain the professional liability insurance coverage required under Rule 1.6; and
  - 4. Providing documentation of the applicant's completion, within the two (2) years immediately preceding the application for reactivation, of ten (10) PDA, as defined in Rule 1.9, for each year the certificate was inactive.

### **1.9 Continuing Professional Competency**

The purpose of this Rule is to establish a program of ongoing continuing professional competency as set forth in section 12-305-109, C.R.S., wherein a certified speech-language pathologist shall maintain and demonstrate continuing professional competency in order to renew, reinstate, or reactivate a certificate to practice speech-language pathology in the state of Colorado.

A. Definitions

1. *Continuing Professional Competency*: the ongoing ability of a speech-language pathologist to learn, integrate, and apply the knowledge, skill, and judgment to practice as a speech- language pathologist according to generally accepted standards and professional ethical standards.
2. *Continuing Professional Development (CPD)*: the Director's program through which a certificate holder can satisfy the continuing professional competency requirements in order to renew, reinstate, or reactivate a certificate.
3. *Deemed Status*: a certificate holder who satisfies the continuing professional competency requirements of an accrediting body or entity approved by the Director pursuant to section 12-305-109(2), C.R.S., may qualify for "Deemed Status."
4. *Learning Plan*: the Director-approved form through which a certificate holder documents his/her goals and plans of learning that were developed from his/her reflective self-assessment (RSAT), which is defined below. A certificate holder shall execute his/her learning plan by completing professional development activities (PDA) as required before a certificate is renewed.
5. *Military Exemption*: as set forth in section 12-20-302, C.R.S., a certificate holder who has been called to federally funded active duty for more than 120 days for the purpose of serving in a war, emergency or contingency may request an exemption from the continuing professional competency requirements for the renewal, reinstatement, or reactivation of his/her certification for the one year renewal period that falls within the period of service or within six months following the completion of service.
6. *Professional Development Activities (PDA)*: learning activities undertaken to increase the certificate holder's knowledge and skill or hone existing knowledge and skill for the purpose of continuing professional competency. PDA are equivalent to clock hours; one PDA is equal to one clock hour (60 minutes).
7. *Program Manual*: an instructional guide to assist the certificate holder in understanding the continuing professional competency requirements and the CPD program.
8. *Reflective Self-assessment Tool (RSAT)*: a reflective practice tool in which a certificate holder can reflect upon his/her knowledge and skills pertaining to the foundational areas of speech- language pathology taking into account the certificate holder's current level and area of practice.

B. Continuing Professional Competency Requirements

1. Effective after the 2014 renewal of a certificate, or upon the completion of any renewal of a certificate thereafter, the certificate holder shall demonstrate continuing professional competency in order to renew by:
  - a. Participation in the Continuing Professional Development (CPD) program;
  - b. Participation in a program of continuing professional competency through an accrediting body or an entity approved by the Director as set forth in section 12-305-109(2), C.R.S. this status is hereafter known as "Deemed Status" as defined herein; or

- c. Receiving an exemption for military service as defined in section 12-20-302, C.R.S. Military exemptions must be approved by the Division of Professions and Occupations. A certificate holder seeking a military exemption shall submit a request in writing with evidence that his/her military service meets the criteria established in section 12-20-302, C.R.S., and section (E) of this Rule.
  2. A certificate holder shall attest at the time of the renewal of a certificate to his/her compliance with continuing professional competency requirements.
- C. Continuing Professional Development (CPD) Program
  1. The CPD Program entails the following:
    - a. The certificate holder shall complete the Reflective Self-Assessment Tool (RSAT) once per renewal period. A certificate holder shall use the form approved by the Director.
    - b. The execution of a Learning Plan once per renewal period that is based upon the certificate holder's RSAT. The certificate holder shall use the form approved by the Director.
    - c. Accrual of ten PDA per year of each renewal period.
  2. Professional Development Activities (PDA)
    - a. PDA must be relevant to the certificate holder's practice as a speech-language pathologist and pertinent to his/her learning plan. The Director will not pre-approve specific courses or providers. The certificate holder shall determine which activities and topics will meet his/her learning plan, and select an appropriate course and provider.
    - b. PDA are organized into the following six categories. One PDA is granted per one clock hour of qualifying activity with the exception of the category "Presentations" in which two PDA are credited for every one hour of presentation delivery. This 2:1 ratio acknowledges the preparation of the presentation. PDAs are credited only once per presentation.
      - (1) Volunteer Service
      - (2) Mentoring/Supervision
      - (3) Presentations
      - (4) Coursework
      - (5) Independent Learning
      - (6) Group Study
    - c. PDA must be earned through a minimum of two categories. Specifically, for each year of a renewal period, no more than five PDA will be credited in any one category. The exception to this requirement is the "Coursework" category in which all ten PDA may be accrued and credited.

- d. PDA will be accepted if the activity is included in the current Program Manual. The current Program Manual will be available to all certificate holders through the program and will set forth accepted PDA within each category. The Director has sole discretion to accept or reject PDA that are not identified in the current program manual.
- e. The total required annual PDA must be earned within the same year in which credit is requested. PDA will be credited toward only one renewal period.

D. Audit of Compliance

- 1. The following documentation is required for an audit of compliance of a certificate holder's participation in the CPD program:
  - a. a signed Learning Plan that contains the certificate holder's goals in the form and manner set forth in the current Program Manual as approved by the Director.
  - b. documentation of the required PDA in compliance with the current Program Manual and this Rule.
  - c. the Director has sole discretion to accept or reject PDA that do not meet the criteria established by the Director as defined in the current Program Manual and this Rule.
- 2. As set forth in section 12-305-109(4), C.R.S., records of assessments or other documentation developed or submitted in connection with the CPD Program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a speech-language pathologist or other professional regulated under this title. A person or the Director shall not use the records or documents unless used by the Director to determine whether a speech-language pathologist is maintaining continuing professional competency to engage in the profession.
- 3. The current Program Manual will set forth the documentation methods and standards for compliance with this Rule.

E. Deemed Status

- 1. Qualification. In order to qualify for "Deemed Status" upon renewal, the certificate holder shall:
  - a. Attest to his/her deemed status; and;
  - b. Attest that the requested continuing professional competency program is substantially equivalent to the CPD program administered by the Director and must include, at a minimum each renewal period, the following components:
    - (1) An assessment of knowledge and skills;
    - (2) Ten contact hours of continuing education or learning activities per year of the renewal period; and
    - (3) Demonstration of completion of continuing competency activities.



2. Administrative Approval. The Director has sole discretion to administratively approve accrediting bodies and/or entities meeting the criteria established in this section. Once an accrediting body and/or entity is approved, such approval will be publically published.
  3. Compliance Audit. A Certificate holder claiming “Deemed Status” is subject to an audit of compliance. To satisfy an audit of compliance, the certificate holder shall submit appropriate evidence of participation in a qualifying program through submission of:
    - a. A letter from the accrediting body or entity approved by the Director specifying that the certificate holder has completed the continuing professional competency program, or
    - b. Other documentation approved by the Director which reflects the certificate holder’s completion of a program of continuing professional competency.
- F. Military Exemption.
1. Military exemptions must be approved by the Division of Professions and Occupations. A certificate holder seeking a military exemption shall submit a request in writing with evidence that his/her military service meets the criteria established in section 12-20-302, C.R.S.
  2. After being granted a military exemption, in order to complete the renewal process, a certificate holder shall attest to his/her military exemption.
- G. Records Retention. A certificate holder shall retain documentation demonstrating his/her compliance for either two complete renewal periods or four years, whichever period is longer.
- H. Non-Compliance. Falsifying an attestation or other documentation regarding the certificate holder’s compliance with continuing professional competency requirements constitutes the falsification of information in an application and may be grounds for discipline pursuant to sections 12-305-112(2)(b) and (k), C.R.S.
- I. Reinstatement and Reactivation. A certificate holder seeking to reinstate or reactivate a certificate shall meet the continuing professional competency requirements detailed in Rule 1.7 and Rule 1.8.

#### **1.10 Duty to Self-Report Certain Medical Conditions**

The purpose of this Rule is to specify the notification requirements regarding a physical or mental illness or condition that affects a certificate holder’s ability to practice speech-language pathology or practice as a speech-language pathologist with reasonable skill and safety to patients, pursuant to section 12-305-117, C.R.S.

- A. No later than thirty days from the date a physical or mental illness or condition affects a certified speech-language pathologist’s ability to perform speech-language pathology services with reasonable skill and safety, the certified speech-language pathologist shall provide the Director, 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; and

4. A description of the certified speech-language pathologist's practice and any modifications, limitations or restrictions to that practice that have been made as a result of the illness or condition.
- B. The certified speech-language pathologist shall notify the Director of any worsening of the illness or condition, or any significant change in the illness or condition that affects the certified speech-language pathologist's ability to practice with reasonable skill and safety, within thirty days of the change of the illness or condition. The certified speech-language pathologist shall provide the Director, in writing, the following information:
1. The name of the current treatment provider, documentation from the current treatment provider confirming the change of the illness or condition, the date that the illness or condition changed, the nature of the change of the illness or condition, and the current treatment plan; and
  2. A description of the certified speech-language pathologist's practice, and any modifications, limitations, or restrictions to that practice that have been made as a result of the change of condition.
- C. Compliance with this Rule is a prerequisite for eligibility to enter into a Confidential Agreement with the Director pursuant to section 12-305-117, C.R.S. However, mere compliance with this Rule does not require the Director to enter into a Confidential Agreement. Rather, the Director will evaluate all facts and circumstances to determine whether a Confidential Agreement is appropriate.
- D. If the Director discovers that a certified speech-language pathologist has a mental or physical illness or condition that affects the certified speech-language pathologist's ability to practice with reasonable skill and safety, and the certified speech-language pathologist has not timely notified the Director of such illness or condition, the certified speech-language pathologist may be subject to disciplinary action pursuant to section 12-305-112(2)(d)(I), C.R.S.

#### **1.11 Duty to Report Convictions, Judgments, and Adverse Actions**

The purpose of this Rule is to clarify the requirements and procedures for reporting convictions, judgments, and other adverse actions in order to enforce the provisions of section 12-305-112, C.R.S.

- A. A certified speech-language pathologist shall report to the Director, in a manner established by the Director, within thirty days of:
1. A felony conviction of the certificate holder, or a conviction of any crime related to the practice of speech-language pathology, whether under the laws of this or any other state or the United States (a guilty verdict, or a plea of guilty, nolo contendere, or no contest accepted by the court is considered a conviction);
  2. A disciplinary action imposed upon the certificate holder by another jurisdiction that licenses, certifies, or registers speech-language pathologists which would otherwise be a violation of section 12-305-112, C.R.S., including but not limited to a citation, sanction, probation, civil penalty, or a denial, suspension, revocation or modification of a license or certificate, whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license fee by the due date or failure to meet continuing professional education or competency requirements;
  3. Revocation or suspension by another state board, municipality, federal or state agency of any health services related license or certificate; or

4. Any judgment, award, or settlement of a civil action or arbitration, in any jurisdiction, in which there was a final judgment or settlement against the licensee or certificate holder with respect to the practice of speech-language pathology.
- B. Report contents.
1. If the event is an action by any governmental agency, the report to the Director must include the name of the agency, its jurisdiction, the case name, court docket, proceeding or case number by which the event is designated, and a copy of the consent decree, order, or decision.
  2. If the event is a felony conviction, the report to the Director must include the court, its jurisdiction, the case name, the case number, a description of the matter or a copy of the indictment or charges, and any plea or verdict entered by the court. Within thirty days of the imposition of sentence for a felony conviction, the certificate holder shall provide to the Director a copy of the imposition of sentence. Within thirty days of the completion of any terms of the sentence, the certificate holder shall provide written notice to the Director of the completion of the sentence terms.
  3. If the event concerns a civil action or arbitration proceeding, the report to the Director must include the court or arbiter, the jurisdiction, the case name, the case number, a description of the matter or a copy of the complaint, and a copy of the verdict, the court or arbitration decision, or, if settled, the settlement agreement and court's order of dismissal.
- C. In addition to any report required under this Rule, the speech-language pathologist may also submit a written statement of explanation.

#### **1.12 Duty to Report Change of Contact Information to the Director's Office**

The purpose of this Rule is to clarify the requirement for certificate holders to notify the Director of a change in submitted information pursuant to section 24-34-107, C.R.S.

A certified speech-language pathologist shall report to the Office of Speech-Language Pathology Certification any name, address, telephone, or email change within thirty days of the change. The Office of Speech-Language Pathology Certification will not change a certified speech-language pathologist's information of record without explicit written notification from the certified speech-language pathologist. Notification in any written manner approved by the Division is acceptable.

#### **1.13 Use of Title**

The purpose of this Rule is to clarify the appropriate use of authorized titles pursuant to section 12-305-105, C.R.S.

- A. A speech-language pathologist shall only use the titles authorized by section 12-305-105(1), C.R.S., in conjunction with the practice of speech-language pathology.
- B. A speech-language pathologist shall not use the term "Doctor" or "Dr." in conjunction with the practice of speech-language pathology unless the speech-language pathologist has successfully completed a doctoral degree in communication sciences and disorders as described in section 12-305-107(1)(a), C.R.S.

### **1.14 Protection & Disposition of Patient Records**

The purpose of this Rule is to specify a certified speech-language pathologist's responsibilities with respect to the patient access to, and security, maintenance, storage, disposal, and disposition of patient records as set forth in section 12-305-118, C.R.S.

- A. For purposes of this Rule and section 12-305-118, C.R.S., "certified speech-language pathologist responsible for patient records" means a certified speech-language pathologist who is
  - 1. Required under generally accepted standards of practice to document, without limitation, patient history, care, progress, or status; or
  - 2. Responsible for patient access to, or the security, maintenance, storage, disposal, or disposition of patient records.
- B. A certified speech-language pathologist responsible for patient records shall comply with the requirements of section 12-305-118, C.R.S., and with state and federal laws pertaining to patient access to, or the security, maintenance, storage, disposal, or disposition of patient records.
- C. A certified speech-language pathologist responsible for patient records may comply with the requirements of section 12-305-118(1), C.R.S., by adopting a written plan used by a hospital, clinic, or other organization with whom the speech-language pathologist is affiliated, provided that the written plan complies with the requirements of this Rule.
- D. A certified speech-language pathologist responsible for patient records shall comply with his or her written plan developed under section 12-305-118(1), C.R.S., to the extent said plan does not violate state or federal law.
- E. If a practice is composed of multiple certified speech-language pathologists responsible for patient records, the practice may provide the information required by section 12-305-118(3), C.R.S., on behalf of all certificate holders in the practice.
- F. In the case of an investigation, pending disciplinary action, or other administrative action undertaken by the Director, a certified speech-language pathologist shall retain patient records until the investigation, disciplinary action, or other administrative action is complete.

### **1.15 Imposition of Fines**

The purpose of this Rule is to establish a fine structure and the circumstances under which fines may be imposed by the Director as authorized by section 12-305-112(2), C.R.S.

- A. The Director may impose a fine in lieu of or in addition to any other disciplinary sanction.
- B. The Director may impose a separate fine for each violation of Article 305 of Title 12, C.R.S., any rule adopted by the Director, or any Order issued by the Director.
- C. The Director may impose fines consistent with the following fining schedule:
  - 1. For a certificate holder's first violation, a fine of no more than one thousand dollars (\$1,000.00).
  - 2. For a certificate holder's second violation, a fine of no more than two thousand five hundred dollars (\$2,500.00).

3. For a certificate holder's third and any additional violations, a fine of no more than five thousand dollars (\$5,000.00).
- D. Unless ordered otherwise, a certificate holder shall pay any total fine amount of five hundred dollars (\$500.00) or less, including any applicable surcharge, at the time the Final Agency Order or Stipulation between the parties becomes effective. A certificate holder shall pay any total fine amount greater than five hundred dollars (\$500.00), including any applicable surcharge, in accordance with the terms of the Final Agency Order or Stipulation. A certificate holder who fails to pay a fine required pursuant to a Final Agency Order or Stipulation is subject to additional disciplinary action as set forth in sections 12-305-112(2)(e) and (r), C.R.S., including suspension or revocation of the certificate holder's speech-language pathologist certificate.
- E. Payment of a fine does not exempt the certificate holder from compliance with the statutes and rules governing the practice of speech-language pathology or any orders of the Director.
- F. Except as otherwise required by law, all fines collected under this Rule will be transferred and credited to the State's General Fund.

#### **1.16 The Authorized Practice of Speech-Language Pathology by a Person Not Certified in Colorado**

The purpose of this Rule is to outline the conditions under which a speech-language pathologist not certified in Colorado may practice for a limited period of time under section 12-305-110(1)(e), C.R.S.

A legally qualified speech-language pathologist from another state or country may, without the need for certification in Colorado, provide speech-language pathology services on behalf of a temporarily absent speech-language pathologist certified in this state, so long as the uncertified speech-language pathologist is acting in accordance with these rules and Article 305 of Title 12, C.R.S. The uncertified practice may not occur more than once annually and may not exceed a total of thirty calendar days' duration.

#### **1.17 Declaratory Orders**

The purpose of this Rule is to establish procedures for the handling of requests for declaratory orders filed pursuant to the Colorado Administrative Procedure Act at section 24-4-105(11), C.R.S.

- A. Any person or entity may petition the Director for a declaratory order to terminate controversies or remove uncertainties as to the applicability of any statutory provision or of any rule or order of the Director.
- B. The Director will determine, at her discretion and without notice to petitioner, whether to rule upon such petition. If the Director determines not rule upon such a petition, the Director will promptly notify the petitioner of her action and state the reasons for such decision.
- C. In determining whether to rule upon a petition filed pursuant to this Rule, the Director will consider the following matters, among others:
  1. Whether a ruling on the petition will terminate a controversy or remove uncertainties as to the applicability to petitioner of any statutory provisions or rule or order of the Director.
  2. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Director or a court involving one or more petitioners.

3. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Director or a court but not involving any 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 C.R.C.P. 57, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule, or order in question.
- D. Any petition filed pursuant to this Rule must set forth the following:
1. The name and address of the petitioner and whether the petitioner is certified pursuant to Title 12, Article 305, C.R.S.
  2. The statute, rule, or order to which the petition relates.
  3. A concise statement of all of the 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.
- E. If the Director determines that she will rule on the petition, the following procedures apply:
1. The Director may rule upon the petition based solely upon the facts presented in the petition. In such a case:
    - a. Any ruling of the Director will apply only to the extent of the facts presented in the petition and any amendment to the petition.
    - b. The Director may order the petitioner to file a written brief, memorandum, or statement of position.
    - c. The Director may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.
    - d. The Director may dispose of the petition on the sole basis of the matters set forth in the petition.
    - e. The Director may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition.
    - f. The Director may take administrative notice of facts pursuant to the Colorado Administrative Procedure Act at section 24-4-105(8), C.R.S., and may utilize her experience, technical competence, and specialized knowledge in the disposition of the petition.
    - g. If the Director rules upon the petition without a hearing, she will promptly notify the petitioner of her decision.

2. The Director may, at her discretion, set the petition for hearing, upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The hearing notice to the petitioner must set forth, to the extent known, the factual or other matters that the Director intends to inquire. For the purpose of such a hearing, to the extent necessary, the petitioner has the burden of proving all the facts stated in the petition; all of the 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 and any other facts the petitioner desires the Director to consider.
- F. The parties to any proceeding pursuant to this Rule are the Director and the petitioner. Any other person may seek leave of the Director to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Director. A petition to intervene must set forth the same matters as are required by Section D of this Rule. Any reference to a "petitioner" in this Rule also refers to any person who has been granted leave to intervene by the Director.
- G. Any declaratory order or other order disposing of a petition pursuant to this Rule constitutes agency action subject to judicial review pursuant to the Colorado Administrative Procedure Act at section 24-4-106, C.R.S.

#### 1.18 PROVISIONAL SPEECH LANGUAGE PATHOLOGY CERTIFICATION

The purpose of this Rule is to establish the qualifications and procedures for applicants seeking a provisional license to practice as a Speech Language Pathologist pursuant to section 12-305-108, C.R.S.

- A. An applicant for provisional certification must have:
  1. Successfully completed a master's or higher degree in communication sciences and disorders granted by an accredited institution of higher education recognized by the United States department of education. An applicant is presumed to have met the requirements of this paragraph if the applicant has successfully completed a master's or higher degree in a speech-language pathology program that is accredited by the council on academic accreditation of the American Speech-Language-Hearing Association or its successor association; and,
  2. Passed either:
    - a. The national examination approved by the American Speech-Language-Hearing Association or its successor association; or,
    - b. An examination that, in the Director's determination, is substantially equivalent to the examination approved by the American Speech-Language-Hearing Association or its successor association.
      - (1) An applicant seeking certification under subparagraph (a)(2)(b) of this Rule bears the burden of proving to the Director that the examination is substantially equivalent to the examination approved by the American Speech-Language-Hearing Association or its successor association
- B. An applicant for provisional certification must:
  1. Submit a completed application for provisional certification in a manner prescribed by the Director;

2. Submit with the application all fees established by the Director pursuant to sections 24-34-101 *et seq.*, C.R.S.;
  3. Attest that the applicant will, prior to providing speech-language pathology services to patients, maintain the professional liability insurance coverage required under Rule 1.6;
  4. Attest that the applicant has developed a written plan for the completion of a speech-language pathology clinical fellowship.
  5. Attest that the information in the application is true and correct to the best of the applicant's knowledge and belief; and
  6. Submit additional information as may be required by the Director.
- C. A provisional speech–language pathology certificate may be issued only one time, and cannot be renewed or reinstated.
- D. A provisional speech-language pathologist certificate expires no later than twenty-four months from the date of issuance.
- E. A provisional speech-language pathologist shall maintain and be covered by professional liability insurance in accordance with Rule 1.6, and submit proof of coverage to the Director upon request.
- F. A provisional speech language pathologist shall submit a plan for the completion of a speech-language pathology clinical fellowship upon the Director's request.

**1.19 Concerning Health Care Provider Disclosures to Consumers about the Potential Effects of Receiving Emergency or Nonemergency Services from an Out-of-Network Provider**

This Rule is promulgated and adopted by the Director of the Division of Professions and Occupations ("Director"), pursuant to the rulemaking authority in sections 12-20-204, 12-305-115, and 24-34-113(3), C.R.S., in consultation with the Commissioner of Insurance and the State Board of Health under the authority of section 24-34-113(2), C.R.S.

The purpose of this Rule is to establish requirements for health care providers to provide disclosures to consumers about the potential effects of receiving emergency or non-emergency services from an out-of-network provider as required by section 24-34-113(2), C.R.S.

This Rule applies to health care providers as defined in sections 24-34-113(1)(f) and 10-16-102(56), C.R.S.

- A. Disclosure requirements. Pursuant to section 24-34-113, C.R.S., health care providers shall provide the disclosure contained in Appendix A to all clients about the potential effects of receiving emergency or nonemergency services from an out-of-network facility or agency or an out-of-network provider who provides services at an in-network facility or agency. The health care provider shall provide the disclosure contained in Appendix A at all of the following occasions:
1. For emergency services: after performing an appropriate screening examination and after determining that a client does not have an emergency medical condition or after treatment has been provided to stabilize an emergency medical condition. The disclosure shall be signed by the client or their designated representative prior to discharge;



2. At the time the client consents to care or treatment by the health care provider for nonemergency services. The disclosure shall be signed by the client or their designated representative before the start of services;
  3. On billing statements and billing notices issued by the health care provider; and
  4. On other forms or communications related to the services being provided pursuant to insurance coverage.
- B. Noncompliance with this Rule may result in the imposition of any of discipline made available by section 12-305-112(2)(e), C.R.S.

## APPENDIX A

### Surprise Billing – Know Your Rights

Beginning January 1, 2020, Colorado state law protects you\* from “surprise billing,” also known as “balance billing.” These protections apply when:

- You receive covered emergency services, other than ambulance services, from an out-of-network provider in Colorado, and/or
- You unintentionally receive covered services from an out-of-network provider at an in-network facility in Colorado

### What is surprise/balance billing, and when does it happen?

If you are seen by a health care provider or use services in a facility or agency that is not in your health insurance plan’s provider network, sometimes referred to as “out-of-network,” you may receive a bill for additional costs associated with that care. Out-of-network health care providers often bill you for the difference between what your insurer decides is the eligible charge and what the out-of-network provider bills as the total charge. This is called “surprise” or “balance” billing.

### When you CANNOT be balance-billed:

#### Emergency Services

If you are receiving emergency services, the most you can be billed for is your plan’s in-network cost-sharing amounts, which are copayments, deductibles, and/or coinsurance. You cannot be balance-billed for any other amount. This includes both the emergency facility where you receive emergency services and any providers that see you for emergency care.

#### Nonemergency Services at an In-Network or Out-of-Network Health Care Provider

The health care provider must tell you if you are at an out-of-network location or at an in-network location that is using out-of-network providers. They must also tell you what types of services that you will be using may be provided by any out-of-network provider.

**You have the right** to request that in-network providers perform all covered medical services. However, you may have to receive medical services from an out-of-network provider if an in-network provider is not available. In this case, the most you can be billed for **covered** services is your in-network cost-sharing amount, which are copayments, deductibles, and/or coinsurance. These providers cannot balance bill you for additional costs.

#### Additional Protections

- Your insurer will pay out-of-network providers and facilities directly.
- Your insurer must count any amount you pay for emergency services or certain out-of-network services (described above) toward your in-network deductible and out-of-pocket limit.
- Your provider, facility, hospital, or agency must refund any amount you overpay within sixty days of being notified.
- No one, including a provider, hospital, or insurer can ask you to limit or give up these rights.

***If you receive services from an out-of-network provider or facility or agency OTHER situation, you may still be balance billed, or you may be responsible for the entire bill. If you intentionally receive nonemergency services from an out-of-network provider or facility, you may also be balance billed.***

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If you want to file a complaint against your health care provider, you can submit an online complaint by visiting this website: [https://www.colorado.gov/pacific/dora/DPO\\_File\\_Complaint](https://www.colorado.gov/pacific/dora/DPO_File_Complaint).

If you think you have received a bill for amounts other than your copayments, deductible, and/or coinsurance, please contact the billing department, or the Colorado Division of Insurance at 303-894-7490 or 1-800-930-3745.

\*This law does NOT apply to ALL Colorado health plans. It only applies if you have a "CO-DOI" on your health insurance ID card.

Please contact your health insurance plan at the number on your health insurance ID card or the Colorado Division of Insurance with questions.

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### **Editor's Notes**

#### **History**

Entire rule eff. 05/15/2013.

Basis, Purpose, and Statutory Authority, Rules 7-9 eff. 11/30/2014.

Basis, Purpose, and Statutory Authority, Rules 6, 18 eff. 08/30/2015.

Rule 1.19, Appendix A emer. rules eff. 01/01/2020.