

DEPARTMENT OF REGULATORY AGENCIES

Board of Marriage and Family Therapist Examiners

MARRIAGE AND FAMILY THERAPIST EXAMINERS RULES AND REGULATIONS

4 CCR 736-1

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

AUTHORITY

These Rules are promulgated pursuant to sections 12-245-204(4)(a) and 12-245-222(2), C.R.S.

The licensing and regulation of Mental Health Professionals is found in Title 12 (“Professions and Occupations”), Article 245 (“Mental Health”) of the Colorado Revised Statutes. Article 245 consists of parts summarized as follows:

<u>Part</u>	<u>Name of Part</u>	<u>Statutes in Part</u>
Part 1	Legislative Declaration	12-245-101
Part 2	General Provisions	12-245-202 - 12-245-234
Part 5	Marriage And Family Therapists	12-245-501 - 12-245-506

Part 2 contains general provisions applicable to all Mental Health Professionals. Part 5 applies specifically to licensed marriage and family therapists.

PURPOSE AND SCOPE

These Rules were promulgated in order to carry out the powers and duties of the Board of State Board Of Marriage and Family Therapist Examiners pursuant to sections 12-20-204(1), 12-245-204, and 12-245-502, C.R.S. These Rules affect every person seeking Colorado licensure as a marriage and family therapist, and every person who practices as a licensed marriage and family therapist in the State of Colorado, and who is not statutorily exempted.

1.1 DEFINITIONS

In addition to the definitions set out in sections 12-245-202 and 12-245-501, C.R.S., unless the context requires otherwise, as used in these Rules:

- A. The “Board” means the State Board of Marriage and Family Therapist Examiners established pursuant to section 12-245-302, C.R.S.
- 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. “License in good standing” means a license that is not restricted in any fashion.

- E. "Licensee" as contemplated under section 12-245-225(2), C.R.S., shall include any person who has been licensed at any time, as a licensed marriage and family therapist or marriage and family therapist candidate under the Mental Health Practice Act, pursuant to section 12-245-301, et seq., C.R.S.
- F. "Rehabilitation counseling" means professional activities that are intended to assist a person with a physical handicap, defect, or injury as defined in sections 26-8-105(2)(a), (b), or (c), C.R.S., to learn or to relearn to perform routine daily functions including, but not limited to, eating, dressing, transportation, or employment.

1.2 PUBLIC PARTICIPATION AT BOARD MEETINGS (C.R.S. §§ 12-20-204, 12-245-204, 12-245-222)

- 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 the Board shall not permit members of the public to address the Board on pending disciplinary proceedings or cases.
- C. The Board Chair may impose reasonable limitations on the time allotted for comments made pursuant to this Rule.

1.3 CONFIDENTIALITY OF PROCEEDINGS AND RECORDS OF THE BOARD (C.R.S. §§ 12-245-220, 12-245-222, 12-245-226(4))

- 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 the Public Records Act or an exception to the Open Meetings Act applies or section 12-245-226(4), C.R.S., 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 section 12-245-226(4), C.R.S., prohibits disclosure. This exception shall not apply to review of information by a respondent in a Board investigation.

1.4 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 Licensee.
 - 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 upon a petition. In determining whether to rule upon 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 Procedures, 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 upon 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 section 24-4-106, C.R.S.

1.5 MANDATORY DISCLOSURE STATEMENT (C.R.S. §§ 12-245-216, 12-245-224(1)(p))

- A. As used in section 12-245-216, C.R.S., and this Rule,
 - 1. 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 section 15-14-101(1), C.R.S., the mandatory disclosure is made to the guardian or legal representative.
 - 2. "Emergency" means those situations in which, on presentation, the client's condition requires immediate intervention and/or stabilization.

1.6 INFORMATION REQUIRED TO BE REPORTED TO THE BOARD (C.R.S. § 12-245-226(8))

- A. General. Marriage and family therapists are required to report violations of sections 12-245-224 and/or 12-245-228, C.R.S., to the appropriate Board once they have direct knowledge that a Licensee as defined by section 12-245-202(8), C.R.S., certified addiction counselor, or unlicensed psychotherapist has violated a provision of section 12-245-224, C.R.S. Marriage and family therapists are not required to report when reporting would violate client/therapist confidentiality (refer to section 12-245-220, C.R.S.).
- 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 licensed marriage and family therapist has engaged in a prohibited activity under section 12-245-224, C.R.S., or unauthorized practice as prohibited under section 12-245-228, C.R.S.
- C. Procedures.
1. Once direct knowledge is established, the licensed marriage and family therapist must report the alleged violation as soon as possible or, absent unusual circumstances, no later than sixty days.
 2. When direct knowledge of a violation of section 12-245-224 or 12-245-228, C.R.S., is obtained from her/his client, the licensed marriage and family therapist 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 reporting requirements required by statute.

1.7 SUPERVISION OF MENTAL HEALTH PRACTITIONERS FOR NONLICENSURE PURPOSES AND SUPERVISORY RELATIONSHIPS (C.R.S. §§ 12-245-222(2), 12-245-224(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. This Rule does not apply to the supervision required prior to persons seeking licensure as a licensed marriage and family therapist.
- 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 misconduct by a licensed marriage and family therapist when s/he knew or should have known of a violation of generally accepted standards of practice or any prohibited activity and when s/he had responsibility for corrective administrative action and failed to act.

4. Modes of Supervision. Includes but not be limited to individual, group, telephone, electronic mail, audio-visual, process recording, direct observation, telesupervision, 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 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.

B. Supervision Shall Include But is Not Limited to The Following:

1. Monitoring the supervisee's activities to verify s/he is providing services that meet 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 section 12-245-216, C.R.S.
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 that no inappropriate relationships exist between the supervisor and supervisee, and supervisor and client.
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.

C. 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, including but not limited to substantially equivalent education and training to that of a licensed marriage and family therapist

1.8 REPORTING CHANGE OF ADDRESS TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-20-204, 12-245-204, 12-245-206)

- A. Licensees shall inform the Division of any name, telephone number or address change within thirty days of such change. Staff shall not change licensees' information without written notification from the Licensee. 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 Licensee's name or social security number; 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.

1.9 DUPLICATE OR REPLACEMENT LICENSE (C.R.S. §§ 12-20-204, 12-245-204, 12-245-206, 12-245-209)

- A. Upon licensure and at renewal, the Division will issue only one license to a Licensee. The Division may issue a duplicate license if the Licensee submits a written request along with the required fee.
- B. Justification for issuance of a duplicate license 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.
- C. A duplicate license may also be issued for those licensees who require multiple licenses.

1.10 RENEWAL OF LICENSE (C.R.S. § 12-245-205(3))

- A. Failure to Receive Renewal Notice. Failure to receive notice for renewal of license from the Board does not excuse a Licensee from the requirement for renewal under the Act and this Rule.
- B. Grace Period. Licensees shall have a sixty-day grace period after the expiration of his or her license to renew such license without the imposition of a disciplinary sanction for practicing on an expired license. During this grace period a delinquency fee will be charged for late renewals. A Licensee who does not renew his or her license within the sixty-day grace period shall be treated as having an expired license and shall be ineligible to practice until such license is reinstated.
- C. Continuing Professional Competence. Pursuant to section 12-245-506, C.R.S., and Board Rule 1.18, effective January 1, 2011, licensed marriage and family therapists shall demonstrate continuing professional competence in order to renew.
- D. Military Active Duty. Licensees may be exempt from licensing requirements as provided in section 12-20-302, C.R.S.

1.11 AUTHORITY TO INVESTIGATE (C.R.S. § 12-20-204, 12-245-204)

An application for initial license, for renewal of a license, or for reinstatement of a license 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.

1.12 OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM (C.R.S. §§ 12-245-207, 12-20-202(3))

- A. General. To be considered for licensure by endorsement pursuant to the Occupational Credential Portability Program under sections 12-20-202(3) and 12-245-207, C.R.S., an applicant must submit a completed application form, all supporting documentation, and the appropriate fee.
- B. Complaints/inquiries, investigations, disciplinary actions. The Board may decline to issue a license to an applicant for licensure by endorsement pursuant to the Occupational Credential Portability Program if approving the license would violate an existing compact or reciprocity agreement or if the Board demonstrates by a preponderance of evidence, after notice and opportunity for a hearing, that the applicant:
1. Lacks the requisite substantially equivalent experience or credentials to practice marriage and family therapy; or
 2. Has committed an act that would be grounds for disciplinary action under the law governing the practice of marriage and family therapy.
- C. Criteria. In accordance with 12-20-202(3)(d), C.R.S., the Board has established the following criteria for determining whether an applicant possesses experience and credentials that are substantially equivalent to section 12-245-504, C.R.S. An applicant who possesses a current and unrestricted license, in good standing, to practice marriage and family therapy under the laws of another state, territory or foreign country can apply for licensure by endorsement.

All of the following factors must be certified at the time of application for Colorado licensure by endorsement in order for the applicant to establish that her/his experience and credentials are substantially equivalent to the requirements of section 12-245-504, C.R.S.:

1. Applicant is at least twenty-one years of age;
2. Applicant must attest that they:
 - a. Have reported to the Board any injunction entered against her/him and any injunctive action pending against her/him on any license.
 - b. Have reported any malpractice judgment, settlement, or claim, and any pending action or claim.
 - c. Have reported any pending complaint, investigation, or disciplinary proceeding before the licensing, grievance, or disciplinary Board of any jurisdiction in which a license, registration or certification to practice as a marriage and family therapist is held and where the complaint, investigation, or proceeding concerns the practice of marriage and family therapy.
 - d. Have reported any applicable misdemeanor or felony conviction(s).
 - e. Have reported to the Board any prior disciplinary action by another jurisdiction.
3. Submit verification of licensure from each jurisdiction(s) in which applicant has ever been licensed, registered, listed or certified. The verification can be retrieved by the applicant from the jurisdiction's web site as long as the following information is included and can be verified if necessary:
 - a. Date license was originally issued.

- b. Date of license expiration.
- c. Disciplinary history, if applicable.

If the complete information is not available then the Verification of License Form must be completed by each state

- 4. Applicant holds a master's or doctoral degree in marriage and family therapy from an accredited program or holds a master's or doctoral degree from a program that was equivalent to an accredited program in marriage and family therapy.
 - 5. Applicant attests to having passed a national or state examination, the content of which tested competence to practice marriage and family therapy.
 - 6. Applicant attests that s/he had at least two years of post- master's or one year of post-doctoral practice in individual and marriage and family therapy under CLINICAL supervision prior to licensure, certification, listing or registration in the jurisdiction through which applicant seeks licensure in Colorado; or applicant attests to the Board her/his active practice of marriage and family therapy for two years (as defined below).
 - a. "Active practice of marriage and family therapy" means applicant has engaged in the practice of marriage and family therapy at least twenty hours per week, averaged over the entire time s/he has been in practice, with no more than a six month absence from the practice of marriage and family therapy. If applicant has taught marriage and family therapy, applicant may count the hours spent teaching marriage and family therapy (including time spent in preparation, meeting with students, and related activities) as hours of active practice of marriage and family therapy provided such teaching was in courses in the same or similar field of marriage and family therapy as the competence area claimed by applicant; teaching of marriage and family therapy shall not count more than one-third of the number of active practice hours claimed by applicant.
- D. Licenses, certifications, listings or registrations from outside the United States. Applicants who are licensed, certified, listed or registered marriage and family therapists in a jurisdiction outside the United States must submit their educational credentials for evaluation, including disclosure of any prior or pending disciplinary action against applicant by any jurisdiction, and satisfy the requirements of this Rule.
- E. Jurisprudence Examination. Each applicant shall pass a Board developed jurisprudence examination.

1.13 REINSTATEMENT OF LICENSE (C.R.S. § 12-245-205)

- A. General. A license that has expired is subject to the following reinstatement provisions.
- B. Application requirements. To be considered for license 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 marriage and family therapy held by the 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, registration, or listing to practice psychotherapy or marriage and family therapy;
 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 or marriage and family therapy;
 4. Applicant has reported to the Board any complaint pending, investigation being conducted by, or disciplinary proceeding pending before the licensing, grievance, or disciplinary board of any jurisdiction in which he or she is licensed, certified, or registered or listed to practice psychotherapy or marriage and family therapy in which the complaint, investigation, or proceeding concerns her/his practice of psychotherapy or marriage and family therapy.
- D. Pending discipline or complaints. The Board may decline to issue a license to an applicant for reinstatement if disciplinary action is pending or if there is an unresolved complaint.
- E. Continuing Professional Competence. Pursuant to section 12-245-506, C.R.S., effective January 1, 2011, licensed marriage and family therapists shall demonstrate continuing professional competence in order to reinstate.
1. An applicant for reinstatement must comply with all Continuing Professional Development requirements pursuant to Board Rule 1.18 including the Professional Practice Survey, Learning Plan and documentation of having completed forty Professional Development Hours within the two years immediately preceding the application receipt date.
- F. Criteria. The Board has established the following criteria for determining whether an applicant for reinstatement has demonstrated her/his competency to practice as required by section 12-20-202(2)(c)(II), C.R.S. An applicant must meet all applicable criteria to establish her/his continued professional competence.
1. License expired more than two years. An applicant whose license has been expired more than two years shall pass a Board approved jurisprudence examination and demonstrate her/his continued professional competence by either:
 - a. A written statement detailing work experience related to the practice of marriage and family therapy or psychotherapy during the time the license has been expired. If work experience was in other jurisdiction(s), verification of licensure from each jurisdiction(s) is required; or
 - b. Retaking and passing the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) Examination; or
 - c. Completion of an additional ten Professional Development Hours as defined in Board Rule 1.18 for each year or portion thereof the license has been expired; or
 - d. Other means determined by the Board.

1.14 LICENSURE BY EXAMINATION (C.R.S. § 12-245-504)

- A. Criteria for application.

1. The applicant must submit to the Board a completed application for licensure, all fees, official transcript(s), and all supporting documentation required by the Board in order for the Board to review the application for licensure.
 2. Applicants must meet the experience requirements in effect at the time of the initial application.
 3. Applications for licensure remain active for one (1) year. If the applicant fails to become licensed within this time period, s/he must submit a new application and fee and must meet the educational, experience, and examination requirements in effect at the time of the date of the new application. The Board, in its sole discretion, may extend an application upon written request accompanied by a showing of good cause..
 3. An applicant for licensure must pass the required examination no more than five (5) years prior to the date of the application for licensure. Experience and supervision requirements that predate the application by more than five (5) years will not be accepted by the Board absent a showing of good cause, as determined by the Board. However, this may not apply in those exceptions allowable under statutes concerning marriage and family therapist candidates.
 4. All applicants for licensure have a continuing obligation to update their application with information changes from the original application at any time prior to licensure.
- B. Education and Training Requirements. Many graduate programs in marriage and family therapy go under other names. Some programs labeled as marriage and family programs are not primarily focused on marriage and family therapy. The Board has therefore established the following factors to determine whether or not a particular program from which an applicant for licensure received the master's or doctoral degree qualifies as a master's or doctoral program with a major in marriage and family therapy in compliance with sections 12-245-504(1)(c) and 12-245-503, C.R.S. To meet the statutory requirements, the master's or doctoral program must meet (1) below:
1. Accredited program. The applicant obtained a master's or doctoral degree from a program that was approved by the Commission on Accreditation for Marriage and Family Therapy Education; or
 2. Equivalent program. If the application is received by the Board prior to June 30, 2012, the following requirements shall apply to be considered for equivalency: The applicant received a master's or doctoral degree from a graduate training program that, at the time s/he was enrolled and received her/his degree, fulfilled the equivalency degree requirements used to define a marriage and family therapy graduate training program. An applicant asserting a program is equivalent to an accredited program in marriage and family therapy must furnish to the Board evidence in support of the asserted equivalency and has the burden of establishing equivalency. Evidence may include institutional documents published contemporaneously with the applicant's enrollment, appropriate certifications or affidavits from university officials, dissertation abstracts, and any other evidence the applicant deems useful. The Board may request additional information from the applicant.
- All of the following requirements shall be considered in order to establish equivalency:
- a. The required master's or doctoral level study and master's or doctoral degree were obtained from a regionally-accredited institution of higher learning;

- b. The program stood as a coherent and recognizable entity within the institution, offering an integrated and organized sequence of study planned to provide appropriate training for the practice of marriage and family therapy;
 - c. There was an identifiable full-time faculty, with an individual responsible for the program who was a full-time faculty member and who met the requirements for approval as a supervisor or a person who presents proof satisfactory to the Board, that at the time of serving as the faculty member, s/he possessed essentially the same education, experience, and training as that necessary to qualify for licensure under the Act.
 - d. The program had an identifiable body of students who were matriculated in that program for a degree;
 - e. The master's or doctoral program included examination and grading procedures designed to evaluate the degree of mastery of the subject matter by the students;
3. Foreign-trained applicants. Foreign-trained applicants must submit educational credentials to a credentialing agency utilized by the Board for evaluation of equivalency. After course equivalency is established, the Board will evaluate the educational credentials to determine whether or not the program is equivalent to an accredited MFT program of marriage and family therapy.
- C. Post-Graduate Experience Requirements. The Board will approve post-master's or post-doctoral supervised practice as meeting the requirements for licensure set out in section 12-245-504(1)(d), C.R.S., when that practice satisfies the requirements of this subsection.
- 1. Definitions. As used in sections, 12-245-501(2.5), 12-245-504(1)(d), C.R.S., and this Rule unless the context indicates otherwise:
 - a. "Individual supervision" means supervision rendered to one individual at a time.
 - b. "Group supervision" means supervision rendered to not more than ten individuals at one time.
 - c. "Post-master's experience" or "post-doctoral experience" means experience under approved clinical supervision acquired subsequent to the date certified by the degree-granting institution as that on which all requirements for the master's or doctoral degree (whichever is applicable) have been completed.
 - d. "Practice in individual and marriage and family therapy" means all services included within the definition of psychotherapy in section 12-245-202(14), C.R.S., and particularly those services and practices included within the definition of marriage and family therapy in section 12-245-503, C.R.S.
 - e. "Supervision" means personal direction and responsible direction provided by a supervisor approved by the Board, that may be in-person or telesupervision.
 - (1) "Personal direction" means direction actually rendered by the approved supervisor.

- b. The one year of post-doctoral experience practice in individual and marriage and family therapy under supervision required by section 12-245-504(1)(d), C.R.S., must include at least 1,500 hours of face-to-face direct client contact, including at least 1,000 hours of face-to-face direct client contact with couples and families for the purpose of diagnosis, assessment and intervention obtained in such a manner that they are reasonably uniformly distributed over a minimum of twelve months.
 - c. The teaching of the practice of individual and marriage and family therapy may count up to 300 hours of post-doctoral practice in marriage and family therapy under supervision and up to fifteen hours of supervision, provided this teaching experience was supervised by a supervisor as defined in these Rules.
 - d. "Face-to-face direct client contact with couples and families" includes contact with individual members of the couples and families so long as the contact is done as part of and in furtherance of on-going work with the couples and families.
6. Number of hours of post-master's or post-doctoral supervision.
- a. For each 1,000 hours of supervised practice in individual and marriage and family therapy, applicants must receive a minimum of fifty hours of supervision. A minimum of twenty-five of the fifty hours must be face-to-face individual supervision, which may be in-person or telesupervision. The remaining hours up to the fifty hours may be by group supervision, which may be in-person or telesupervision. No other modes of supervision will be accepted.
 - b. The post-master's or post-doctoral supervision hours must be reasonably distributed over each 1,000 hours of supervised practice in individual and marriage and family therapy in a manner consistent with the accrual of the hours of supervised post-master's or post-doctoral practice.
 - c. With respect to supervision of the teaching of marriage and family therapy, the supervision hours must be reasonably distributed over the teaching experience in a manner consistent with the accrual of the hours of teaching experience.
- d. Examination. In accordance with sections 12-245-204(4)(b), 12-245-504(1)(e), and 12-245-504(3), C.R.S., the Board establishes these requirements for the licensing examination to demonstrate professional competence in individual and marriage and family therapy, including special knowledge and skill in marriage and family therapy.
- 1. Jurisprudence Examination. Applicants shall also be required to pass a Board developed jurisprudence examination.
 - 2. National Examination. The examination in marriage and family therapy shall be the marriage and family therapy examination administered under contract with the Association of Marital and Family Therapy Regulatory Boards (AMFTRB).
 - a. Reexamination. In the event an applicant fails to receive a passing grade on the examination, s/he may apply to the AMFTRB for reexamination and is subject to the requirements of AMFTRB.
 - 3. Application. An applicant for licensure shall apply directly to the AMFTRB, or any other testing service the Board may contract with at the time, to sit for the appropriate examination.

- a. A student in their last semester or quarter of either a Commission On Accreditation for Marriage and Family Therapy Education (COAMFTE) approved or non-COAMFTE approved graduate degree program may apply directly to the AMFTRB to sit for the marriage and family therapist examination.
4. Exam Results. Examination results on the AMFTRB examination will be valid for up to five years after the date of the examination.
5. Exam Scores. Passing scores on the AMFTRB examination will be valid for up to five years after the date of the examination.

1.15 MILITARY EDUCATION, TRAINING AND EXPERIENCE (C.R.S. § 12-20-202(4))

Education, training, or service gained in military services outlined in section 12-20-202(4), C.R.S., to be accepted and applied towards receiving a license, must be substantially equivalent, as determined by the Board, to the qualifications otherwise applicable at the time of receipt of application. It is the applicant's responsibility to provide timely and complete evidence for review and consideration. Satisfactory evidence of such education, training, or service will be assessed on a case by case basis.

1.16 RECORDS REQUIRED TO BE KEPT AND RECORD RETENTION (C.R.S. §§ 12-245-204(4), 12-245-224(1)(u))

- A. General. Except as provided in subsection (D) of this Rule, every licensed marriage and family therapist shall create and shall maintain records on the primary client(s). Every licensed marriage and family therapist shall retain a record as defined in subsection (B) of this Rule, on the primary client(s) for a period of seven years, commencing on the termination of marriage and family therapy/psychotherapy services or on the date of last contact with the client(s), whichever is later. Exception. When the client is a child, the record shall be retained for a period of seven years commencing either upon the last date of treatment or when the child reaches eighteen years of age, whichever is later.
- B. Record. Every licensed marriage and family therapist shall create and shall maintain, as applicable to the mental health services rendered, a record for the primary client(s) 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 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. Records of counseling, interview notes, correspondence, audio or visual recordings, electronic data storage, and other documents considered professional information for use in counseling; and
 13. A final closing statement (if services are over), if applicable.
- C. Record storage. Every licensed marriage and family therapist shall keep and store client records in a secure place and in a manner that both assures that only authorized persons have access to the records and protects the confidentiality of the records and of the information contained in the records.
- D. Transfer of records. Whenever a Licensee deems it necessary to transfer her/his records to another licensee or other health care provider, the Licensee making the transfer shall obtain the client's consent to transfer (when possible).
- E. Disposition of records. If the licensed marriage and family therapist is not available to handle her/his own records, the licensed marriage and family therapist and/or his/her 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 licensed marriage and family therapists for the following conditions:
1. Disability, illness, retirement, or death of the licensed marriage and family therapist;
 2. Termination of the licensed marriage and family therapist's practice;
 3. Sale or transfer of practice.
- The licensed marriage and family therapist or the estate designated representative shall make a reasonable effort to notify the primary client(s) of the transfer.
- F. Record Destruction. Every licensed marriage and family therapist 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 years or as otherwise provided in these Rules or any other applicable statutes.
- G. Record keeping in agency/institutional settings. A licensed marriage and family therapist need not create and maintain separate client records if the licensed marriage and family therapist practices in an agency or institutional setting and the licensed marriage and family therapist:
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.

1.17 RELIGIOUS MINISTRY EXEMPTIONS

- A. Whenever an exemption from the Board's jurisdiction is claimed based on an assertion of the practice of religious ministry as stated in section 12-245-217(1), C.R.S., 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 indicates 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 Licensee 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 normally 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 hold a position of trust within a religious organization.
 8. Whether the provider of the therapy services advertises psychotherapy services 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.

1.18 CONTINUING PROFESSIONAL COMPETENCE (C.R.S. § 12-245-506)

Pursuant to section 12-245-506, C.R.S., effective January 1, 2011, licensed marriage and family therapists shall demonstrate continuing professional competence through participation and compliance with the Continuing Professional Development program in order to renew, reinstate or reactivate a license to practice Marriage and Family Therapy in the State of Colorado.

A. Definitions.

1. Continuing Professional Competence. Continuing Professional Competence (CPC) means the ongoing ability of a licensed marriage and family therapist to learn, integrate and apply the knowledge, skill, and judgment to practice according to generally accepted industry standards and professional ethical standards in a designated role and setting.
2. Continuing Professional Development. Continuing Professional Development (CPD) is the program through which a licensed marriage and family therapist satisfies the Continuing Professional Competence requirements set forth in section 12-245-506, C.R.S., to renew, reinstate or reactivate a license.
3. Continuing Professional Development Portfolio. The Continuing Professional Development Portfolio (CPD Portfolio) is an instructional guide and workbook for the CPD program.
4. Professional Development Hours. Professional Development Hours (PDH) are the units of measurement of active learning used to accrue credit in the CPD program. PDH are equivalent to clock hours.
5. Professional Development Activities. Professional Development Activities (PDA) are Board approved learning activities undertaken for the purpose of continuing professional development.

B. Requirements.

1. Licensed marriage and family therapists shall demonstrate continuing professional competence through participation and compliance with the Continuing Professional Development program in order to renew, reinstate or reactivate a license to practice Marriage and Family Therapy in the State of Colorado.
2. Licensed marriage and family therapists must complete the following requirements in accordance with the current CPD Portfolio:
 - a. Professional Practice Survey;

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- b. Learning plan;
 - c. Documentation of their PDA and PDH.
- C. Professional Practice Survey. The Professional practice survey should be completed prior to renewing, reinstating or reactivating a license.
- D. Learning Plan. Licensees shall draft a Personal Learning Plan based upon the Professional Practice Survey. The Learning Plan shall consist of PDA approved by the Board. Licensees shall execute their Learning Plan by completing all PDA and PDH before the date upon which they renew their license. Changes to the Learning Plan shall not be allowed after renewing, reinstating or reactivating a license.
- E. Professional Development Hours. Licensed marriage and family therapists shall complete forty PDH each renewal cycle in order to renew their license or certification.
- 1. Licensees shall document their completion of their PDA and PDH according to the guidelines set forth in the current CPD Portfolio. Licensees should be prepared to submit documentation of their CPD compliance upon request by the Board.
 - 2. No more than twenty PDH in a single Professional Development Activity shall be credited and recognized each renewal cycle.
 - 3. Licensees receiving an original, reinstated or reactivated license, during the renewal cycle must accrue one point sixty six (1.66) PDH for each month or portion thereof they are licensed during the current renewal cycle.
 - 4. A maximum of five PDH may be carried from the last renewal cycle to the next renewal cycle if the PDH were earned within three months of license expiration and are in excess of the forty PDH required for the current renewal cycle.
 - 5. Licensees shall retain documentation of their CPD compliance for a minimum of five years from the license expiration date for the renewal cycle during which PDH were accrued.
- F. Professional Development Activities. To qualify for PDH credit, Licensees must select PDA that have been approved by the Board.
- 1. The Board approves the following PDA:
 - a. Volunteering
 - b. Mentoring
 - c. Presenting
 - d. Supervision
 - e. Publishing
 - f. Coursework
 - g. Independent Learning
 - h. Group Learning

2. Professional Development Activities must enhance, improve or maintain your competence as a licensed marriage and family therapist. You should be able to show or describe how the activity either provided new knowledge or skills, or how you were able to sharpen or hone existing skills by synthesizing new knowledge.
3. It is within the discretion of the Board to deny credit for any PDH that does not meet the criteria set forth in the current CPD Portfolio or the definition of Continuing Professional Competence contained in section 12-245-506(3), C.R.S.
4. Unacceptable Professional Development Activities. The following types of activities are ineligible for credit: serving on a federal, state or municipal board or commission.

G. Deem Status.

1. To be eligible for Deem Status pursuant to section 12-245-506(1)(c), C.R.S., a State Department CPC program must satisfy the definition of Continuing Professional Competence pursuant to section 12-245-506(3), C.R.S. Employees and contractors of qualifying programs in State Departments shall be deemed to have met the CPC requirements.
2. Licensees deemed to have met the CPC requirements are subject to an audit. The audit shall review the program for which the Licensee has justified their Deem Status to ensure that it meets the definition of CPC outlined in section 12-245-506(3), C.R.S., and shall verify the Licensee's successful completion of the program.
3. Licensees found to have falsified their Deem Status or who attested their fulfillment of CPC requirements for an unqualified State Department program, are subject to discipline by the Board.

H. Exemptions.

1. Military Service. The Board may grant exemptions from the CPD program requirements for reasons of military service pursuant to section 12-20-302, C.R.S., including but not limited to, military personnel who have been called to federally funded active duty for more than 120 days for the purpose of serving in a war, emergency, or contingency from the payment of any professional or occupational license, certification or registration fees, including renewal fees, and from continuing professional competency requirements for a renewal cycle that falls within the period of service or within the six months following the completion of service in the war, emergency or contingency.
2. Dual Licensure. The Board may grant an exemption from the CPD requirement if the licensed marriage and family therapist has fulfilled the CPD requirements set forth in: sections 12-245-410, 12-245-606, or 12-245-806, C.R.S.

1.19 INACTIVE LICENSE STATUS AND REACTIVATION OF LICENSE

- A. Inactive status. Pursuant to section 12-20-203, C.R.S., any Licensee may apply to the Board to be transferred to an inactive status. Such application shall be in the form and manner designated by the Board. The holder of an inactive license shall not be required to comply with the continuing competency requirements for renewal so long as he or she remains inactive.
1. During such time as a Licensee remains in an inactive status, he or she shall not perform those acts restricted to active licensure pursuant to section 12-245-505, C.R.S. The Board shall retain jurisdiction over inactive Licensees for the purposes of disciplinary action pursuant to section 12-245-222(1)(d), C.R.S.

2. Practicing with an inactive license shall constitute unlicensed practice and, therefore, may be grounds for disciplinary or injunctive action, up to and including revocation.
- B. Reactivation requirements. To be considered for license reactivation, an applicant must submit a completed reactivation application and the reactivation fee.
- C. Required statements.
1. Each applicant for reactivation shall certify the following:
 - a. Every license, certificate, or registration to practice marriage and family therapy held by the applicant is in good standing;
 - b. Applicant has no knowledge of any injunction or disciplinary action completed or pending against her/his license, certificate, registration, or listing to practice psychotherapy or marriage and family therapy;
 - c. Applicant has no knowledge of any malpractice judgment against her/him, has no knowledge of any settlement of a malpractice action or claim against her/him, and has no knowledge of any malpractice action or claim pending against her/him, where the malpractice alleged relates to her/his practice of psychotherapy or marriage and family therapy;
 - d. Applicant has no knowledge of any complaint pending before, investigation being conducted by, or disciplinary proceeding pending before the licensing, grievance, or disciplinary board of any jurisdiction in which he or she is licensed, certified, or registered to practice psychotherapy or marriage and family therapy where the complaint, investigation, or proceeding concerns her/his practice of psychotherapy or marriage and family therapy.
 2. The Board may decline to issue a license to an applicant for reactivation if disciplinary action is pending or if there is an unresolved complaint.
- D. Continuing Professional Competence. Pursuant to section 12-245-506, C.R.S., effective January 1, 2011, licensed marriage and family therapists shall demonstrate continuing professional competence in order to reactivate.
1. An applicant for reactivation must comply with Continuing Professional Development reactivation requirements pursuant to Board Rule 1.18 including the professional practice survey, learning plan and documentation of having completed forty Professional Development Hours within the two years immediately preceding the application receipt date.
- E. License inactive more than two years. The Board has established the following criteria for determining whether an applicant for reactivation has demonstrated competency to practice as required by section 12-245-205(3), C.R.S.
1. An applicant whose license has been inactive more than two years shall pass a Board approved jurisprudence examination and either:
 - a. A written statement detailing work experience related to the practice of marriage and family therapy or psychotherapy during the time the license has been inactive. If work experience was in other jurisdiction(s), verification of licensure from each jurisdiction(s) is required; or

- b. Retaking and passing the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) Examination; or
- c. Completion of an additional ten Professional Development Hours as defined in Board Rule 1.18 for each year or portion thereof the license has been inactive; or
- d. Other means determined by the Board.

1.20 IMPOSITION OF ADMINISTRATIVE FINES (C.R.S. § 12-245-225(2))

- A. Fines; Non-Exclusive Sanction. The Board, in its discretion, may impose a fine or fines in lieu of, or in addition to, any other disciplinary sanction. The term "Licensee" as contemplated under section 12-245-225(2), C.R.S., and this Rule shall include any person who has been licensed at any time under the Mental Health Practice Act to practice Marriage and Family Therapy.
- B. Fine for Each Violation. Pursuant to section 12-245-225(2), C.R.S., provides authority for the board to impose an administrative fine against a licensed marriage and family therapist 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 Licensee's first violation, a fine of no more than \$1,000.00.
 - 2. For a Licensee's second violation, a fine of no more than \$2,500.00.
 - 3. For a Licensee's third and any additional or subsequent violations, a fine of no more than \$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 Licensee in a prior Disciplinary Proceeding.

- D. Payment of Fines.
 - 1. Fine Amount; When Due. A total fine amount of \$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 \$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 Licensee who fails to pay a fine imposed under this Rule when due as defined above or pursuant to a Final Agency Order or Stipulation may be subject to further discipline, including suspension or revocation of his or her License to Practice. Section 12-245-224(1)(b), C.R.S., 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 Licensee from continuing compliance with the Mental Health Practice Act or any orders of the Board.

**1.21 CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE FOR PHYSICAL OR MENTAL ILLNESS
(C.R.S. § 12-245-223)**

- A. Notice to Board. No later than thirty days from the date a physical or mental illness or condition impacts a Licensee's ability to perform Professional Services with reasonable skill and safety, the Licensee 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 Licensee'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 Licensee 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 licensee shall further notify the Board of any significant change in the illness or condition ("change of condition") that impacts the Licensee's ability to perform a professional service with reasonable skill and safety. The Licensee must notify the Board of a positive or negative change of condition. Such notification shall occur within thirty days of the change of condition. The Licensee 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 Licensee'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 Licensee 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.
- C. Confidential Agreement; Board Discretion. Compliance with this Rule is a prerequisite for eligibility to enter into a Confidential Agreement with the Board pursuant to section 12-245-223, C.R.S. 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.
- D. Failure to Notify. If the Board discovers that a Licensee has a mental or physical illness or condition that impacts the Licensee's ability to perform a marriage and family Service with reasonable skill and safety and the Licensee has not timely notified the Board of such illness or condition as required under (Section for Notice to Board), the Licensee shall not be eligible for a Confidential Agreement and may be subject to disciplinary action for failure to notify under section 12-245-223, C.R.S., and other related violations contemplated under section 12-245-224(1)(f), C.R.S.

1.22 REQUIRED DISCLOSURE TO PATIENTS – CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT (§12-30-115, C.R.S.)

- A. On or after March 1, 2021, a licensee, as defined in Rule 1.1 (E), shall disclose to a client, 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 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.
1. The client must, through his or her signature on the disclosure form, acknowledge the receipt of the disclosure and agree to treatment with the licensee.
 2. This disclosure shall be separate and apart from the mandatory disclosure required pursuant to section 12-245-216, C.R.S.
- C. Timing of Disclosure: This disclosure shall be provided to a client the same day the client 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 required such as in an inpatient facility, 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 client, unless the treatment will occur in a series over multiple appointments or a client 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 client 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 Rule 1.22. As a licensed, registered, and/or certified health care provider 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 may to include additional information that specifically applies to your situation and practice.

- A. Licensee, as defined in Rule 1.1E, 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 client or presents a significant risk of public harm to clients.
- 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

Rule 17(a) emer. rule eff. 10/26/2007; expired eff. 01/26/2008.

Rule 17 eff. 03/01/2008.

Purpose and Scope, rules 12, 15, 19, 20 emer. rules eff. 01/01/2011.

Purpose and Scope, rules 12, 15, 19, 20 eff. 02/01/2011.

Entire rule emer. rule eff. 12/09/2011.

Entire rule eff. 02/01/2012.

Rule 12 eff. 05/02/2016.

Rules 1.6 A, 1.14 A, 1.14 C.1, 1.14 C.6.a, 1.16 A emer. rules eff. 10/23/2020.

Rules 1.6 A, 1.12, 1.14 A, 1.14 C.1, 1.14 C.6.a, 1.16 A, 1.22, Appendix A eff. 12/15/2020.