

## DEPARTMENT OF REGULATORY AGENCIES

### Office of Massage Therapy Licensure

## MASSAGE THERAPY LICENSURE RULES AND REGULATIONS

### 3 CCR 722-1

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

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#### Basis

These Rules are promulgated and adopted by the Director of the Division of Professions and Occupations ("Division") pursuant to section 12-235-118, C.R.S.

#### Purpose

These Rules are adopted to implement the Director's authority to license persons as massage therapists and to set forth the requirements for being so licensed pursuant to the Massage Therapy Practice Act ("MTPA") sections 12-235-101 *et seq.*, C.R.S.

#### 1.1 Application for Licensure

The purpose of this Rule is to specify the form and manner of an application for massage therapy licensure, as required by sections 12-235-108(1) and (2), C.R.S.

An applicant for licensure must:

- A. Submit a completed application for licensure on forms provided by the Director;
- B. Submit with the application all fees established by the Director pursuant to section 12-235-108(1)(d), C.R.S.;
- C. Submit an official certificate or transcript in the form and manner required by the Director detailing 500 hours of coursework and clinical work from an approved school as defined in Rule 1.2. If a program or institution granting credit is no longer in operation, the Director may approve a copy of a certificate of completion, transcript or diploma if the documentation meets the program hour requirements set out in Rule 1.2.
- D. Submit, in the form and manner required by the Director, proof of passing one of the examinations as detailed in Rule 1.3.
- E. Submit proof that the applicant is at least eighteen years old in the form and manner required by the Director.
- F. Sign the attestation that the applicant has obtained, and will maintain, professional liability insurance as required by section 12-235-116, C.R.S.
- G. Undergo a fingerprint-based criminal history record check as required by section 12-235-108(2), C.R.S., and in accordance with procedures set forth by the Director; and
- H. Submit additional information as may be requested by the Director to fully and fairly evaluate the applicant's qualifications for licensure and to protect the public health, safety, and welfare.

## **1.2 Education and Training Requirements**

The purpose of this Rule is to provide additional guidance regarding the educational and training requirements for licensure set forth in sections 12-235-104(2) and 12-235-108(1)(a), C.R.S.

- A. An applicant for licensure must have successfully completed a massage therapy program from an approved massage school.
- B. An applicant for licensure must have successfully completed at least five-hundred total hours of course work and clinical work from an approved massage school.
- C. “Approved massage school” means:
  - 1. A massage therapy educational school that has a valid certificate of approval from the Division of Private and Occupational Schools in accordance with the provisions of Article 64 of Title 23, C.R.S.; or
  - 2. A massage therapy educational program certified by the Colorado Community College System; or
  - 3. A massage therapy educational program that is accredited by a nationally recognized accrediting agency including but not limited to a massage therapy educational program that is accredited by an accrediting agency published by the U.S. Department of Education; or
  - 4. A massage therapy program at a school located in another state or territory of the United States if the school was approved by that state or territory’s community college system or educational regulatory body at the time the applicant completed the program; or
  - 5. A massage therapy program at a school located in a foreign country provided that:
    - a. The foreign-trained applicant submits his/her qualifications, credentials, and work experience to one of the following credentialing agencies for review:
      - (1) International Education Research Foundation (IERF).
      - (2) International Consultants of Delaware, Inc. (ICD).
      - (3) A credentialing agency approved by the Director.
    - b. Failure to have a review completed by the credentialing agency pursuant to the terms of this subsection and the massage therapy application procedures identified by the Director may result in the Director denying the application.
    - c. The Director, in her discretion, may accept or refuse any recommendation made by the credentialing agency.
- D. An applicant who has completed a massage therapy program at a school that is assigned a school code in good standing with the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) at the time the applicant completed the program shall be deemed to have met the education and training requirements for licensure set forth in Rule 1.2 (A) and (B), above

### **1.3 Examination Requirement**

The purpose of this Rule is to delineate the examination requirement for licensure set forth in section 12-235-108(1)(b), C.R.S.

An applicant for licensure must pass one of the following examinations:

- A. The Massage and Bodywork Licensing Examination (MBLEx) offered by the Federation of State Massage Therapy Boards; or
- B. The National Certification Examination for Therapeutic Massage (NCETM) or the National Certification Examination for Therapeutic Massage & Bodywork (NCETMB) offered by NCBTMB; or
- C. An examination approved by the Director.

### **1.4 Licensure by Endorsement**

The purpose of this Rule is to delineate the requirements for licensure by endorsement set forth in section 12-20-202(3), C.R.S.

An applicant who currently possesses an unrestricted license or registration, in good standing in another state or United States territory to practice massage therapy under the laws of another state may apply for licensure by endorsement, provided that:

- A. The applicant provides all application requirements as follows:
  - 1. A completed application for licensure on forms provided by the Director;
  - 2. All fees established by the Director pursuant to section 12-235-108(1)(d), C.R.S.;
  - 3. Proof that the applicant is at least eighteen years old in the form and manner required by the Director;
  - 4. An attestation that the applicant will maintain professional liability insurance as required by section 12-235-116, C.R.S., while practicing massage therapy in Colorado;
  - 5. A fingerprint-based criminal history record check as required by section 12-235-108(2), C.R.S., and in accordance with procedures set forth by the Director;
  - 6. Additional information as may be requested by the Director to fully and fairly evaluate the applicant's qualifications for licensure and to protect the public health, safety, and welfare;
- B. The applicant holds substantially equivalent experience and credentials for massage therapy licensure or registration, as determined by the Director. The Director deems the experience and credentials to be substantially equivalent to those required by Colorado if:
  - 1. The applicant has completed a massage therapy program consisting of a minimum of 500 hours of course work and clinical work at an approved school as defined in Rule 1.2(C).

- a. In the event the applicant did not attend an approved massage therapy program that consisted of at least 500 hours of course work and clinical work, the Director may grant fifty hours of education and training for each year of 400 hours of documented practice as a licensed or registered massage therapist in another state or United States territory.
  - b. An applicant who has completed a massage therapy program at an NCBTMB assigned school that is in good standing with NCBTMB at the time the applicant completed the program is deemed to have satisfied Rule 1.4(C)(1). Programs that have been suspended and/or revoked by NCBTMB after the applicant graduated will be reviewed by the Director on a case-by-case basis.
- 2. The applicant has taken and passed the Board Certification Exam for Therapeutic Massage and Bodywork ("BCETMB") offered by the NCBTMB, the National Certification Examination for Therapeutic Massage & Bodywork ("NCETMB"), the Massage and Bodywork Licensing Examination ("MBLEX") offered by the FSMTB, or an exam approved by the Director.
- C. The applicant discloses any disciplinary actions taken against them in any other jurisdiction. The Director will review any disciplinary actions taken against the applicant pursuant to section 12-235-108(4)(d), C.R.S. Failure to report disciplinary actions may result in disciplinary proceedings pursuant to section 12-235-112, C.R.S., including but not limited to revocation, suspension, or denial of an application to practice massage therapy in Colorado.

### **1.5 Reinstatement of Expired License**

The purpose of this Rule is to establish the qualifications and procedures for reinstatement of an expired license pursuant to sections 12-235-109, 12-20-202(2), and 12-20-105, C.R.S.

- A. An applicant seeking reinstatement of an expired license shall complete a reinstatement application and pay a reinstatement fee.
- B. If the license has been expired for more than two years, but less than five years, an applicant must demonstrate competency to practice as follows:
  - 1. Verification of licensure or registration as a massage therapist in good standing from another state, along with proof of active massage therapy practice in that state for a minimum of 400 hours over a 12-month period during the two years immediately preceding the date of application for reinstatement. The work experience shall meet the approval of and be attested to in a manner prescribed by the Director; or
  - 2. Proof of completion of twenty-four hours of continuing education related to the practice of massage therapy during the two years immediately preceding the date of application for licensure in Colorado. The continuing education must be accredited by an organization approved by the Director.
- C. If the license has been expired for more than five years, an applicant must demonstrate competency to practice as follows:
  - 1. Pass an examination approved under Rule 1.3 within two years immediately preceding submission of an application for reinstatement;

2. Verification of licensure or registration as a massage therapist in good standing from another state, along with proof of active massage therapy practice in that state for a minimum of 400 hours over a twelve month period during the two years immediately preceding the date of application for reinstatement. The work experience shall meet the approval of and be attested to in a manner prescribed by the Director; or
  3. By any other means approved by the Director.
- D. An applicant for reinstatement who has actively practiced in Colorado with an expired license in violation of section 12-235-109, C.R.S., is subject to denial of the application, disciplinary action, and/or other penalties as authorized in the MTPA, and in accordance with section 12-20-202, C.R.S.

### **1.6 Supervision of Student Massage Therapists**

The purpose of this Rule is to clarify the supervision requirements for students enrolled in a massage therapy program at an approved massage therapy school and providing massage therapy as a part of that program of study to complete the 500 hour requirement, as authorized by sections 12-235-108(1)(a), 12-235-110(1)(a), and 12-235-104(2), C.R.S.

A massage therapy student may provide massage therapy services to clients in order to complete the 500 hour training requirement for licensure provided that the student is:

- A. Currently enrolled in a massage therapy program at an approved school as defined in Rule 1.2;
- B. Providing massage therapy services to clients as a part of that program of study;
- C. Identified as a “student massage therapist” and not holding himself or herself out as a licensed massage therapist; and
- D. Practicing massage therapy under the immediate supervision of a licensed massage therapist.
  1. For purposes of this Rule, “immediate supervision” means the supervising massage therapist is present on the premises where the services are being performed and is available for immediate consultation to assist the person being supervised.
  2. For the purposes of this Rule, “premises” means within the same building, massage therapy facility, or massage therapy training area and within close enough proximity to respond in a timely manner to an emergency or the need for assistance.
- E. Faculty members teaching nonclinical aspects of massage therapy are not required to be licensed massage therapists.

### **1.7 The Process Regarding Obtaining an Extension of Time for Participation in an Educational Program**

The purpose of this Rule is to outline how a student or instructor participating in an educational program can obtain an extension under section 12-235-110(1)(c)(IV), C.R.S.

A resident of another state who does not hold a massage therapy license in Colorado may engage in massage therapy for a limited period of time in this state if:

- A. The person is participating as a student or instructor of an educational program that does not exceed sixteen days in duration during any twelve month period; or

- B. If the program exceeds sixteen days in duration, the person must obtain a grant of an extension from the Director five working days prior to the seventeenth day in accordance with procedures prescribed by the Director.

### **1.8 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 that she will not rule upon such a petition, the Director shall 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 Colorado Rules of Civil Procedure 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 shall set forth the following:
  - 1. The name and address of the petitioner and whether the petitioner is licensed pursuant to Title 12, Article 235.
  - 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 shall 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.
2. If the Director rules upon the petition without a hearing, she shall promptly notify the petitioner of her decision.
  3. 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 shall 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 shall have 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 shall be 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 shall 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 shall constitute agency action subject to judicial review pursuant to the Colorado Administrative Procedure Act at section 24-4-106, C.R.S.

### **1.9 Reporting Convictions, Judgments and Administrative Proceedings**

The purpose of this Rule is to clarify the procedures for reporting convictions, judgments and administrative proceedings pursuant to sections 12-235-111(1)(i), (j), (m), and (n), C.R.S.

A licensee as defined in section 12-20-102(10), C.R.S., shall inform the Director in writing, or in a manner set forth by the Director, within ninety days of any of the following events:

- A. The conviction of the licensee of any offense under the laws of any state or of the United States, which would be a violation of section 12-235-111(1), C.R.S. A guilty verdict, a plea of guilty or a plea of nolo contendere (no contest) accepted by the court is considered a conviction;
- B. A disciplinary action imposed upon the licensee by another jurisdiction that registers or licenses massage therapists, which would be a violation of section 12-235-111 (1), 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 registration whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license or registration fee by the due date or failure to meet continuing professional education requirements;
- C. Revocation or suspension by another state board, municipality, federal or state agency of any health services related license or registration, other than a license or registration for massage therapy as described in section 12-235-111, C.R.S.; and or
- D. Any judgment, award or settlement of a civil action or arbitration in which there was a final judgment or settlement against the licensee for malpractice of massage therapy.
- E. The notice to the Director shall include the following information;
  - 1. If the event is an action by a governmental agency (as described above), the name of the agency, its jurisdiction, the case name, and the 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 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. The licensee shall also provide to the Director a copy of the imposition of sentence related to the felony conviction and the completion of all terms of the sentence with ninety days of such action; and or
  - 3. If the event concerns a civil action or arbitration proceeding, 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;
- F. The licensee notifying the Director may submit a written statement with the notice to be included with the licensee records.
- G. Failure to report any convictions, judgments or administrative actions to the Directory within ninety days of such action may result in disciplinary proceedings pursuant to section 12-235-112, C.R.S., including but not limited to revocation, suspension, or denial of an application to practice massage in Colorado.

#### **1.10 Licensure 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 licensure as a massage therapist 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 licensure, 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 licensure.

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

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

Any applicant or licensed massage therapist shall report to the Office of Massage Therapy Licensure any name, address, telephone, or email change within thirty days of the change. Office of Massage Therapy Licensure will not change licensed massage therapist's information of record without explicit written notification from the licensed massage therapist. Notification in any written manner approved by the Division is acceptable. Failure to report a change in contact information to the Director's office within thirty days of the change may result in disciplinary proceedings pursuant to section 12-235-112, C.R.S., including but not limited to revocation, suspension, or denial of an application to practice massage in Colorado.

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

A licensed massage therapist is only subject to disciplinary action for a physical or mental illness if the licensed massage therapist fails to: comply with the limitations of a Confidential Agreement entered into pursuant to section 12-235-117, C.R.S.; fails to act within the limitations created by the physical or mental illness or condition; or fails to notify the Director of a physical or mental illness or condition that impacts a licensed massage therapist's ability to practice massage with reasonable skill and safety to clients.

- A. Notice to Director. No later than thirty days from the date a physical or mental illness or condition impacts a licensee's ability to perform massage therapy with reasonable skill and safety, the licensee 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;
  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 Director'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 Director of any significant change in the illness or condition ("change of condition") that impacts the licensee's ability to perform massage therapy with reasonable skill and safety. The licensee must notify the Director 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 Director, 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; Director Discretion. Compliance with this Rule is a prerequisite for eligibility to enter into a Confidential Agreement with the Director pursuant to section 12-235-117, C.R.S. However, mere compliance with this Rule does not require the Director to negotiate regarding, or enter into, a Confidential Agreement. Rather, the Director will evaluate all facts and circumstances to determine if a Confidential Agreement is appropriate.
- D. Failure to Notify. If the Director discovers that a licensee has a mental or physical illness or condition that impacts the licensee's ability to perform a Professional Service with reasonable skill and safety and the licensee has not timely notified the Director of such illness or condition as required under these Rules, the licensee shall not be eligible for a Confidential Agreement and may be subject to disciplinary action for failure to notify under section 12-235-117(1), C.R.S., and other related violations contemplated under section 12-235-111(1)(g), C.R.S.

**1.13 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, 12-235-118, 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. If a consumer has incurred a claim for emergency or nonemergency health care services from an out-of-network provider, the health care provider shall provide the disclosures contained in Appendix. The health care provider shall provide the disclosure contained in Appendix A at all of the following occasions:
1. 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;
  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 12-235-111, C.R.S.

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

- A. On or after March 1, 2021, a provider shall disclose to a patient, as defined in section 12-30-115(1)(a), C.R.S., instances of sexual misconduct, including a conviction or guilty plea as set forth in section 12-30-115 (2)(a), C.R.S., or final agency action resulting in probation or limitation of the provider'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 B to these rules. The patient must, through his or her signature on the disclosure form, acknowledge the receipt of the disclosure and agree to treatment with the registrant
- C. Timing of Disclosure: This disclosure shall be provided to a patient the same day the patient schedules a professional services appointment with the provider. If an appointment is scheduled the same day that services will be provided or if an appointment is not necessary, the disclosure must be provided in advance of the treatment.
1. The written disclosure and agreement to treatment must be completed prior to each treatment appointment with a patient unless the treatment will occur in a series over multiple appointments or a patient/patient schedules follow-up treatment appointments.
  2. For treatment series or follow-up treatment appointments, one disclosure prior to the first appointment is sufficient, unless the information the provider is required to disclose pursuant to Section 12-30-115, C.R.S., has changed since the most recent disclosure, in which case an updated disclosure must be provided to a patient and signed before treatment may continue.
- D. As set forth in section 12-30-115(3)(e), C.R.S., the requirement to disclose the conviction, guilty plea, or agency action ends when the provider 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 provider's profession.
- E. A provider need not make the disclosure required by this section before providing professional services to the patient if any of the following applies as set forth in section 12-30-115(4), C.R.S.:
1. The patient is unconscious or otherwise unable to comprehend the disclosure and sign an acknowledgment of receipt of the disclosure pursuant to section 12-30-115(3)(d), C.R.S., and a guardian of the patient is unavailable to comprehend the disclosure and sign the acknowledgement;
  2. The visit occurs in an emergency room or freestanding emergency department or the visit is unscheduled, including consultations in inpatient facilities; or
  3. The provider who will be treating the patient during the visit is not known to the patient until immediately prior to the start of the visit.
- F. A provider who does not have a direct treatment relationship or have direct contact with the patient is not required to make the disclosure required by this section.

## APPENDIX A

### Surprise Billing – Know Your Rights

Beginning January 1, 2020, Colorado state law protects you from “surprise billing,” also known as balance billing.

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

You are responsible for the cost-sharing amounts required by your health plan, including copayments, deductibles, and/or coinsurance. If you are seen by a provider or use services in a facility or agency that are **not** in your health plan’s network, you may have to pay additional costs associated with that care. These providers or services at facilities or agencies are sometimes referred to as “out-of-network.”

Out-of-network facilities or agencies often bill you 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

Not every service provided in an emergency department is an emergency service. If you are receiving emergency services, in most circumstances, the most you can be billed for is your plan’s in-network cost-sharing amounts. You cannot be balance-billed for any other amount. This includes both the emergency facility 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 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 (copayments, deductibles, and/or coinsurance). These providers cannot balance bill you.

#### Additional Protections

- Your insurer will pay out-of-network providers and facilities directly. Again, you are only responsible for paying your in-network cost-sharing for covered services.
- 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 or facility must refund any amount you overpay within sixty days of being notified.
- A provider, hospital, or outpatient surgical facility cannot 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 non-emergency services from an out-of-network provider or facility, you may also be balance billed.***

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).

## **APPENDIX B**

### **MODEL SEXUAL MISCONDUCT DISCLOSURE STATEMENT**

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

- A. Provider 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 provider 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 provider's ability to practice if the final agency action is based in whole or in part on:
  - 1. a conviction for or a guilty plea to a sex offense, as defined in section 16-11.7-102(3), C.R.S., or a finding by the professional regulatory board or Director that the provider committed a sex offense, as defined in as defined in section 16-11.7-102(3), C.R.S.; OR
  - 2. a finding by a professional regulatory board or agency that the provider engaged in unprofessional conduct or other conduct that is grounds for discipline under the part or article of Title 12 of the Colorado Revised Statutes that regulates the provider's profession, where the failure or conduct is related to, includes, or involves sexual misconduct that results in harm to a patient or presents a significant risk of public harm to patients..
- E. For each such final agency action by a professional regulatory board or agency the provider shall provide, at a minimum:

1. The type, scope, and duration of the agency action imposed, including whether:
  - a. the regulator and provider entered into a stipulation;
  - b. the agency action resulted from an adjudicated decision;
  - c. the provider 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 provider'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 provider, 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].

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Print Client Name

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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:

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Print Responsible Party Name

Print Relationship to Client

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Provider Signature

Date

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**Editor's Notes**

**History**

Entire rule eff. 01/01/2009.

Rule 10 emer. rule eff. 04/01/2009; expired eff. 06/23/2009.

Entire rule eff. 07/01/2014.

Rules 4.A, 4.C.1, 5.C.1, 7, 9 eff. 01/30/2015.

Rules 1-3, 5, 6 eff. 01/30/2017.

Rules 4, 5 eff. 10/30/2017.

Rule 1.13, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.

Rule 1.13, Appendix A eff. 04/30/2020.

Rules 1.4, 1.14, Appendix B eff. 12/15/2020.

Rules 1.4, 1.14 E-F eff. 05/30/2021.

**Annotations**

Rules 1.4, 1.14 E.4 (adopted 10/21/2020) were not extended by Senate Bill 21-152 and therefore expired 05/15/2021.