

DEPARTMENT OF REGULATORY AGENCIES

Office of Surgical Assistant and Surgical Technologist Registration

SURGICAL ASSISTANT AND SURGICAL TECHNOLOGIST RULES AND REGULATIONS

4 CCR 745-1

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

Authority

The authority for the development and adoption of these Rules is found in sections 12-310-103(4) and 24-4-103, C.R.S..

Scope and Purpose

These Rules affect individuals who apply and are registered as Surgical Assistants and Surgical Technologists, as defined in section 12-310-102, C.R.S.

1.1 Clarification of who is required to register for the Surgical Assistant and Surgical Technologist Registration Program pursuant to section 12-310-102, C.R.S.

- A. Anyone who regularly performs the majority of the duties of a surgical assistant or a surgical technologist who is employed, contracted, or credentialed by a healthcare facility needs to register.
- B. A person who is performing surgical assistant or surgical technologist functions within the scope of another license, certification or registration does not need to register for the surgical assistant or Surgical Technologist program.
- C. Definitions:
 - 1. "Healthcare facility" is defined as a hospital, ambulatory surgical center, freestanding surgical outpatient facility, or similar facility.

1.2 Declaratory Orders, pursuant to section 24-4-105(11), C.R.S.

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

- A. Any person or entity may petition the Director of the Division of Professions and Occupations (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 registered pursuant to Title 12, Article 310.
 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 Procedures 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.
 4. 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 Procedures Act at section 24-4-106, C.R.S.

1.3 Reporting Criminal Convictions, Judgments, and Administrative Proceedings

This Rule establishes the reporting procedures for the information referenced in section 12-310-103(3)(b), C.R.S.

A registrant shall inform the Director, in a manner set forth by the Director, within thirty days of any of the following events:

- A. The conviction of the registrant of a misdemeanor related to drugs and alcohol or any felony under the laws of any state or of the United States, or a crime related to the registrant's practice as a surgical assistant or surgical technologist. A guilty verdict, a guilty plea, or a nolo contendere plea accepted by the court is considered a conviction for the purposes of this Rule;
- B. A disciplinary action imposed upon the registrant by another jurisdiction that registers or licenses surgical assistants or surgical technologists, which would be a violation of section 12-310-106(2)(f) or (i), 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 surgical assistants or surgical technologists as described in section 12-310-106, C.R.S.;
- D. Any judgment, award, or settlement of a civil action or arbitration in which there was a final judgment or settlement against the registrant for malpractice as a surgical assistant or surgical technologist.

- 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 or a misdemeanor conviction for drugs or alcohol, 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 registrant shall also provide to the Director a copy of the imposition of sentence related to the conviction and the completion of all terms of the sentence within ninety days of such action;
 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 registrant notifying the Director may submit a written statement with the notice to be included with the registrant records.

1.4 Regarding the continuing duty to report information to the Director's office.

Each registrant shall provide notice to the Office within thirty days of any change of address or change in name in a manner established by the Director.

1.5 Armed Services Experience [Repealed eff. 11/30/2012.]

1.6 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, 12-310-103(4), 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 12-310-106(2)(e), C.R.S.

1.7 EXPANDED SCOPE OF PRACTICE FOR SURGICAL TECHNOLOGISTS PURSUANT TO THE GOVERNOR'S EXECUTIVE ORDER D 2021 080

- A. Basis. Through Executive Order D 2021 080, Governor Jared Polis directed the Executive Director of DORA, through the Director of the Division of Professions and Occupations (Division Director), to promulgate and issue temporary emergency rules consistent with the Executive Order. The basis for these emergency rules is Executive Order D 2021 080 issued by Governor Jared Polis pursuant to the State of Emergency Declaration found in Executive Orders D 2020 003, D 2020 018, D 2020 032, D 2020 058, D 2020 076, D 2020 109, D 2020 125, D 2020 152, D 2020 176, D 2020 205, D 2020 234, D 2020 258, D 2020 264, D 2020 268, D 2020 284, D 2020 290, D 2020 296, D 2021 009, D 2021 022, D 2021 028, D 2021 045, D 2021 061, D 2021 068, and D 2021 087, Article IV, Section 2 of the Colorado Constitution, and the Colorado Disaster Emergency Act, sections 24-33.5-701, *et. seq.*, C.R.S.
- B. These Emergency Rules are adopted by the Director of the Division of Professions and Occupations (Director) to effectuate Executive Order D 2021 080 directing the immediate expansion of the workforce of trained medical personnel available to provide healthcare services within inpatient facilities due to the coronavirus disease 2019 (COVID-19) pandemic in Colorado.
- C. Expanded Scope of Practice. Surgical Assistants and Surgical Technologists may perform services while working in a hospital or inpatient facility as delegated by physicians, physician assistants, advanced practice registered nurses, certified registered nurse anesthetists, professional nurses and respiratory therapists.
1. Surgical Assistants and Surgical Technologists are authorized to perform delegated services upon adequate cross-training as determined necessary by the hospital or inpatient facility.
 2. Surgical Assistants and Surgical Technologists shall not accept delegation of a service for which the licensee does not possess the knowledge, skill or training to perform.
 3. Surgical Assistants and Surgical Technologists shall not perform a delegated service for which the licensee does not possess the knowledge, skill or training to perform.
 4. Delegated services shall not be re-delegated to another person or licensee by the delegatee.
 5. Surgical Assistants and Surgical Technologists shall not prescribe or select medications, perform surgical or other invasive procedures or perform anesthesia services outside of their statutory scope of practice regardless of delegation.

1.8 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 is not required to provide the written disclosure before providing professional services to the patient in the following instances as set forth in section 12-30-115(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 acknowledgment;
 - 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 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. The 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.

1.9 EXPANDED SCOPE OF PRACTICE FOR SURGICAL ASSISTANTS AND SURGICAL TECHNOLOGISTS IN ORDER TO ADMINISTER VACCINATIONS PURSUANT TO THE GOVERNOR'S EXECUTIVE ORDER D 2021 096

- A. Basis. Through Executive Order D 2021 096, Governor Jared Polis directed the Executive Director of DORA, through the Director of the Division of Professions and Occupations (Division Director), to promulgate and issue temporary emergency rules consistent with the Executive Order. The basis for these emergency rules is Executive Order D 2021 096 issued by Governor Jared Polis pursuant to the State of Emergency Declaration found in Executive Orders D 2020 003, D 2020 018, D 2020 032, D 2020 058, D 2020 076, D 2020 109, D 2020 125, D 2020 152, D 2020 176, D 2020 205, D 2020 234, D 2020 258, D 2020 264, D 2020 268, D 2020 284, D 2020 290, D 2020 296, D 2021 009, D 2021 022, D 2021 028, D 2021 045, D 2021 061, D 2021 068, and D 2021 087, Article IV, Section 2 of the Colorado Constitution, and the Colorado Disaster Emergency Act, sections 24-33.5-701, *et. seq.*, C.R.S.
- B. Purpose. These Emergency Rules are adopted by the Executive Director of DORA, through the Division Director, to effectuate Executive Order D 2021 096 directing the immediate expansion of the workforce of trained medical personnel available to administer the coronavirus disease 2019 (COVID-19) vaccinations within inpatient facilities and outpatient settings due to the coronavirus disease 2019 (COVID-19) pandemic in Colorado.
- C. Expanded Scope of Practice In Order to Administer the COVID-19 Vaccination.
1. Surgical assistants and surgical technologists may administer the COVID-19 vaccination while working in a hospital, inpatient facility or outpatient setting as delegated by physicians, physician assistants, advanced practice registered nurses, certified registered nurse anesthetists, or professional nurses.
 - a. Surgical assistants and surgical technologists are authorized to perform this delegated service upon adequate cross-training as determined necessary by the hospital, inpatient facility, or outpatient setting.
 - b. Surgical assistants and surgical technologists shall not accept delegation of this service if the licensee does not possess the knowledge, skill or training to perform.
 - c. Surgical assistants and surgical technologists shall not perform this delegated service if the licensee does not possess the knowledge, skill or training to perform.
 - d. This delegated service shall not be re-delegated to another person or licensee by the delegatee.
 - e. Surgical assistants and surgical technologists shall not prescribe, order, or select the COVID-19 vaccination regardless of delegation.

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.

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].

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

Provider Signature

Date

Editor's Notes

History

Entire rule emer. rule eff. 02/18/2011.

Entire rule eff. 04/14/2011.

Rules 3, 4, 5 eff. 03/30/2012.

Rule 5 repealed eff. 11/30/2012.

Rule 1.6, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.

Rule 1.6, Appendix A eff. 04/30/2020.

Rule 1.7 emer. rule eff. 05/11/2020; expired 09/08/2020.

Rule 1.7 emer. rule eff. 09/09/2020.

Rules 1.8, Appendix B eff. 12/15/2020.

Rule 1.7 emer. rule eff. 12/28/2020.

Rule 1.9 emer. rule eff. 01/11/2021.

Rule 1.7 emer. rule eff. 04/27/2021.

Rule 1.9 emer. rule eff. 05/11/2021.

Rules 1.8 E-F eff. 05/30/2021.

Annotations

Rule 1.8 E.4 (adopted 10/21/2020) was not extended by Senate Bill 21-152 and therefore expired 05/15/2021.