

## DEPARTMENT OF REGULATORY AGENCIES

### Office of Occupational Therapy Licensure

## OCCUPATIONAL THERAPY RULES AND REGULATIONS

### 3 CCR 715-1

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

---

#### 1.1 AUTHORITY

These regulations are adopted pursuant to the authority in sections 12-20-204 and 12-270-116, C.R.S., and are intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 *et seq.* (the "APA"), C.R.S., and the Occupational Therapy Practice Act, sections 12-270-101 *et seq.* (the "Practice Act"), C.R.S.

#### 1.2 SCOPE AND PURPOSE

This regulation shall govern the process to become a licensed occupational therapist or a licensed occupational therapy assistant and the practice of occupational therapy in Colorado.

#### 1.3 APPLICABILITY

The provisions of this section shall be applicable to the practice of occupational therapy in Colorado.

#### 1.4 OCCUPATIONAL THERAPIST LICENSURE BY EXAMINATION

This Rule is promulgated pursuant to sections 12-20-204, 12-270-107, and 12-270-116, C.R.S.

##### A. Criteria for application.

1. An applicant must submit to the Director a completed application for licensure, all fees, and all supporting documentation required by the Director in order for the Director to review the application for licensure.
2. An applicant for licensure must pass the required examination, meet the requirements and become licensed within one year of the application receipt date. If the applicant fails to become licensed within this time period, the applicant must submit a new application and fee and meet the requirements in effect at the time of the new application. Licensure applicants have a continuing obligation to update their own application with information of changes from the original application at any time prior to licensure.

##### B. Education requirements.

1. An applicant for licensure must meet the educational requirements outlined in section 12-270-107(1), C.R.S.
2. An applicant for licensure must have successfully completed an educational program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE®) [all references to ACOTE in these Rules include its predecessor] or education approved by the World Federation of Occupational Therapists (WFOT), or other educational program as approved by the Director.

3. An applicant for licensure must have successfully completed supervised fieldwork required by the education program where the applicant met the educational requirements outlined in this Rule. The minimum period of supervised fieldwork that met generally recognized past accreditation standards in effect at the time of the applicant's graduation.
  4. An applicant who has been certified as an Occupational Therapist by the National Board for Certification in Occupational Therapy (NBCOT) [all references to NBCOT in these Rules include its predecessors], shall be deemed to have met the educational and experiential requirements for licensure set forth in Rule 1.4(B)(2) and (3), above.
- C. Examination
1. The examination developed by NBCOT is approved. An applicant must achieve at least the passing score as determined by NBCOT in order to be eligible for licensure.
- D. Licensure.
1. An applicant who has complied with the requirements in this Rule and who achieved a passing score on the NBCOT examination within two years immediately preceding submission of an application for licensure is eligible licensure by examination.
  2. An applicant who achieved a passing score on the NBCOT examination *more than* two years preceding submission of an application for licensure is not eligible for licensure by examination. Such applicant must apply for licensure by:
    - a. Endorsement of licensure or registration in another jurisdiction in accordance with Rule 1.5; or,
    - b. Retaking and achieving a passing score on the NBCOT examination within two years immediately preceding submission of an application for licensure. For purposes of this Rule, the applicant may take the examination as a Licensure Only candidate through NBCOT. The applicant must comply with Rule 1.4 and otherwise meet the requirements for licensure.
    - c. Upon a showing of good cause by the applicant, the Director may waive the time limitation in paragraph (D)(1) of this Rule. Any such waiver shall be based upon the circumstances relating to the particular individual's application. It is anticipated that such waivers would be rare. The decision to grant or deny such a waiver shall be within the sole discretion of the Director and is not subject to appeal.

## **1.5 OCCUPATIONAL THERAPIST OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM**

This Rule is promulgated pursuant to sections 12-20-202(3), 12-20-204, 12-270-107(5), and 12-270-116, C.R.S.

- A. An applicant who holds a current, valid license or registration as an occupational therapist in a jurisdiction whose qualifications are substantially equivalent to those set forth in section 12-270-107(1), C.R.S., shall apply for licensure by endorsement. An applicant for licensure by endorsement must provide the application materials and fee set forth in Rule 1.4, above. For purposes of this Rule, a jurisdiction that requires or accepts passage of the NBCOT examination shall be deemed to have qualifications substantially equivalent to those required in Colorado.
- B. In addition to meeting the requirements set forth in Rule 1.4:

1. An applicant shall submit, on forms provided by the Director, verification that the applicant has actively practiced occupational therapy for at least 400 hours over or in a twelve month period during the two years immediately preceding the application or has otherwise maintained competency as an occupational therapist, as determined by the Director.  
  
Or
2. For purposes of this Rule, an applicant may demonstrate that the applicant has otherwise maintained competency as an occupational therapist by completing twenty-four hours of continuing education related to the practice of occupational therapy during the two years immediately preceding the application. The continuing education must meet the approval of and shall be attested to in a manner prescribed by the Director.  
  
Or
3. For purposes of this Rule, an applicant who successfully completed an educational program and supervised fieldwork in accordance with Rule 1.4, above, within two years prior to submitting an application for licensure by endorsement shall be deemed to have maintained competency as an occupational therapist.

#### **1.6 REINSTATEMENT OF EXPIRED LICENSE FOR OCCUPATIONAL THERAPISTS**

This Rule is promulgated pursuant to sections 12-20-105, 12-20-202(2), 12-20-204, 12-270-107(6), 12-270-112, and 12-270-116, C.R.S.

- A. An applicant seeking reinstatement of an expired license shall complete a reinstatement application and pay a reinstatement fee.
- B. An applicant seeking reinstatement of a license that has been expired for less than two years from the date of receipt of the reinstatement application must provide documentation of twenty-four Professional Development Activities (PDA) as defined in Rule 1.11.
- C. If the license has been expired for two or more years, but less than five years, of the date of receipt of the reinstatement application, an applicant must demonstrate "competency to practice" under section 12-20-202(2)(c)(II), C.R.S., as follows:
  1. Verification of licensure or registration as an occupational therapist in good standing from another state, along with proof of active occupational therapy practice in that state for a minimum of 400 hours per year for the two years immediately preceding the date of receipt of the application for reinstatement. The work experience shall be attested to in a manner prescribed by the Director.  
  
Or
  2. Providing documentation of compliance with the requirements as outlined in Rule 1.11, specifically completion of twenty-four hours of PDA for the time the license was active prior to expiration. In addition the applicant must provide documentation of completion of twelve hours of PDA per each year the license has been expired.
    - a. The Director shall require one hour of PDA per month the license has been expired.
- D. If the license has been expired for more than five years, an applicant must demonstrate "competency to practice" under section 12-20-202(2)(c)(II), C.R.S., as follows:

1. Retake and achieve a passing score on the NBCOT examination within two years immediately preceding submission of an application for reinstatement. For purposes of this Rule, the applicant may choose to take the examination as a *Licensure Only* candidate through NBCOT.  
  
Or
2. Supervised practice for a period of no less than six months, subject to terms established by the Director.  
  
Or
3. Provide verification of active practice as an occupational therapist for at least 400 hours over or in a twelve month period during the two years immediately preceding the date of application for reinstatement. The work experience shall be attested to in a manner prescribed by the Director.  
  
Or
4. By any other means approved by the Director.

An applicant for reinstatement who has actively practiced in Colorado with an expired license in violation of section 12-270-107(6), C.R.S., is subject to denial of application, disciplinary action, and/or other penalties as authorized in the Occupational Therapy Practice Act at section 12-270-101 *et seq.*, C.R.S., and in accordance with section 12-20-202 *et seq.*, C.R.S.

#### **1.7 THE AUTHORIZED PRACTICE OF OCCUPATIONAL THERAPY BY A PERSON NOT LICENSED IN COLORADO**

This Rule is promulgated pursuant to sections 12-20-204, 12-270-110(1)(e), and 12-270-116, C.R.S.

- A. A legally qualified occupational therapist from another state or country may provide occupational therapy services, without need for licensure in Colorado, on behalf of a temporarily absent occupational therapist licensed in this state. The unlicensed practice shall not exceed a total of four weeks duration in any twelve month period.
- B. The Colorado licensed occupational therapist or other hiring authority shall ensure that the visiting, unlicensed occupational therapist possesses a current and active license or registration in good standing in another state or country.
- C. The Colorado licensed occupational therapist or other hiring authority shall provide the visiting, unlicensed occupational therapist with the Colorado Occupational Therapy Practice Act, section 12-270-101 *et seq.*, C.R.S., and the rules and Director's policies governing the regulation of occupational therapists in Colorado.

#### **1.8 SUPERVISION OF LICENSED OCCUPATIONAL THERAPY ASSISTANTS AND AIDES**

This Rule is promulgated pursuant to sections 12-20-204, 12-270-104(2), (11), and (12), 12-270-109, and 12-270-116, C.R.S.

- A. The occupational therapist is legally responsible for the performance of the licensed occupational therapy assistant(s) and aide(s) operating under the occupational therapist's direction and supervision as authorized by section 12-270-104(12), C.R.S. That responsibility in turn requires the occupational therapist to provide supervision adequate to ensure the safety and welfare of clients.

- B. Adequate supervision of licensed occupational therapy assistants and aides requires, at a minimum, that a supervising occupational therapist perform the following:
1. Provide client evaluation and appropriate reassessment;
  2. Interpret available information concerning the individual under care;
  3. Develop a plan of care, including long and short term goals;
  4. Identify and document precautions, special problems, contraindications, anticipated progress, and/or plans for reevaluation;
  5. Select and delegate appropriate tasks in the plan of care;
  6. Designate or establish channels of written and oral communication;
  7. Assess competence of personnel to perform assigned tasks;
  8. Direct and supervise personnel in delegated tasks; and
  9. When necessary, re-evaluate, adjust plan of care, perform final evaluation, and/or establish follow-up plan.
- C. An occupational therapist must exercise professional judgment when determining the number of personnel the occupational therapist can safely and effectively supervise to ensure that quality client care is provided at all times.
- D. An occupational therapist must provide adequate staff-to-client ratio at all times to ensure the provision of safe, quality care.
- E. Supervision of licensed occupational therapy assistants shall be accomplished to ensure that:
1. Licensed occupational therapy assistants do not initiate or alter a treatment program without prior evaluation by and approval of the supervising occupational therapist.
  2. Licensed occupational therapy assistants obtain prior approval of the supervising occupational therapist before making adjustments to a specific treatment procedure.
  3. Licensed occupational therapy assistants do not interpret data beyond the scope of their occupational therapy assistant education and training.
  4. Licensed occupational therapy assistants respond to inquiries regarding client status to appropriate parties within the protocol established by the supervising occupational therapist.
  5. Licensed occupational therapy assistants refer inquiries regarding client prognosis to a supervising occupational therapist.
- F. Supervision of aides shall be accomplished to ensure that aides perform only specific tasks that are neither evaluative, task selective, nor recommending in nature, and only after ensuring that the aide has been appropriately trained for, and has demonstrated competence to the occupational therapist or occupational therapy assistant as authorized by section 12-270-104(2), C.R.S., in the performance of the tasks.
1. Such tasks may include, but are not limited to:

- a. Routine department maintenance or housekeeping activities.
  - b. Transportation of clients.
  - c. Preparing or setting up a work area or equipment.
  - d. Taking care of clients' personal needs during treatments.
  - e. Clerical, secretarial, or administrative activities.
2. The following may not be delegated to an aide:
- a. Performance of any occupational therapy evaluative procedures.
  - b. Initiation, planning, adjustment, modification, or performance of occupational therapy treatment procedures.
  - c. Making occupational therapy entries directly in clients' official records.
  - d. Acting on behalf of the occupational therapist and/or occupational therapy assistant in any matter related to occupational therapy treatment which requires judgment and/or decision making.

## **1.9 DECLARATORY ORDERS**

This Rule is promulgated pursuant to sections 12-20-204, 12-270-116, and 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 the Director's discretion and without notice to petitioner, whether to rule upon such petition. If the Director determines that the Director will not rule upon such a petition, the Director shall promptly notify the petitioner of the Director's 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 270.
  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 the Director 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, the Director shall promptly notify the petitioner of her decision.
  3. The Director may, at the Director's 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.

#### **1.10 PROFESSIONAL LIABILITY INSURANCE**

This Rule is promulgated pursuant to sections 12-20-204, 12-270-116, and 12-270-119, C.R.S.

- A. A licensee who provides occupational therapy services to clients shall maintain or be covered by professional liability insurance:
  - 1. With an insurance company authorized to do business in Colorado; and
  - 2. In an amount no less than one million dollars per claim and three million dollars per annum in the aggregate.
- B. A licensee who is not practicing is exempt from maintaining and being covered by professional liability insurance.
- C. An applicant or licensee shall submit proof of coverage to the Director upon request.

#### **1.11 CONTINUING PROFESSIONAL COMPETENCY**

This Rule is promulgated pursuant to sections 12-20-204, 12-270-112, and 12-270-116, C.R.S.

- A. Definitions
  - 1. Continuing Professional Development (CPD): The Director's program through which a licensee can satisfy the continuing professional competency requirements in order to renew, reinstate, or reactivate a license.
  - 2. Deemed Status: A licensee who satisfies the continuing professional competency requirements of an accrediting body or entity approved by the Director pursuant to section 12-270-112(2), C.R.S., may qualify for deemed status.
  - 3. Learning Plan: The Director-approved form through which a licensee documents their goals and plans of learning that were developed from the licensee's Reflective Self-Assessment (RSAT), which is defined below. A licensee shall execute their learning plan by completing professional development activities (PDA) as required before a license is renewed.



4. Military Exemption: As set forth in section 12-20-302, C.R.S., a licensee who has been called to federally funded active duty for more than 120 days for the purpose of serving in a war, emergency or contingency may request an exemption from the continuing professional competency requirements for the renewal, reinstatement, or reactivation of their license for the renewal period that falls within the period of service or within six months following the completion of service.
  5. Professional Development Activities (PDA): Learning activities undertaken to increase a licensee's knowledge and skill or hone existing knowledge and skill for the purpose of continuing professional competency. Professional development activities are equivalent to clock hours; one PDA is equal to one clock hour (sixty minutes).
  6. Program Manual: An instructional guide to assist a licensee in understanding the continuing professional competency requirements and the CPD program.
  7. Reflective Self-Assessment (RSAT): A reflective practice tool in which a licensee can reflect upon their knowledge and skills pertaining to the foundational areas of occupational therapy taking into account a licensee's current level and area of practice.
- B. Continuing Professional Competency Requirements
1. The licensee shall demonstrate CPC in order to renew by:
    - a. Participation in the CPD program;
    - b. Participation in a program of CPC through an accrediting body or an entity approved by the director as set forth in section 12-270-112(2), C.R.S. This status is hereafter known as "Deemed Status" as defined herein; or
    - c. Receiving an exemption for military service as defined in section 12-20-302, C.R.S. Military exemptions must be approved by the Director of the Division of Professions and Occupations. A licensee seeking a military exemption shall submit a request in writing with evidence that their military service meets the criteria established in section 12-20-302, C.R.S., and Section (E) of this Rule.
  2. A licensee shall attest at the time of the renewal of a license to compliance with CPC requirements.
- C. Continuing Professional Development Program
1. The CPD Program entails the following:
    - a. The licensee shall complete the RSAT once per renewal period. A licensee shall use the form approved by the Director.
    - b. The execution of a Learning Plan once per renewal period that is based upon the licensee's RSAT. The licensee shall use the form approved by the Director.
    - c. Accrual of twenty-four PDA during each renewal period.

2. Professional Development Activities
  - a. PDA must be relevant to the licensee's practice of occupational therapy and pertinent to the licensee's learning plan. The Director will not pre-approve specific courses or providers. The licensee shall determine which activities and topics will meet the licensee's Learning Plan and select appropriate courses and providers.
  - b. PDA are organized into the following eight categories. One PDA is granted per one clock hour of qualifying activity with the exception of the category "presentations" in which two PDA are credited for every one hour of presentation delivered. This two:one ratio acknowledges the preparation of the presentation. PDAs are credited only once per presentation.
    - (1) Volunteer service
    - (2) Fieldwork supervision
    - (3) Mentoring
    - (4) Presentations
    - (5) Publishing
    - (6) Coursework
    - (7) Independent learning
    - (8) Group study
  - c. PDA must be earned through a minimum of two categories with no more than twelve hours in any one category.
  - d. PDA will be accepted if the activity is included in the current program manual. The manual will be available to all licensees through the program and will set forth accepted PDA within each category. The Director has sole discretion to accept or reject PDA that are not identified in the current manual.
  - e. The total required PDA must be earned within the same renewal period in which credit is requested. PDA will be credited toward only one renewal period.
3. Audit of Compliance.
  - a. The following documentation is required for an audit of compliance of a licensee's participation in the CPD program:
    - (1) A signed learning plan that contains the licensee's learning goals in the form and manner set forth in the current program manual as approved by the Director.
    - (2) Documentation of the required PDA in compliance with the current program manual and this Rule.

- (3) The Director has sole discretion to accept or reject PDA that do not meet the criteria established by the Director as defined in the current program manual and this Rule.
  - b. As set forth in section 12-270-112(4), C.R.S., records of assessments or other documentation developed or submitted in connection with the continuing professional competency program:
    - (1) Are confidential and not subject to the inspection by the public or discovery in connection with a civil action against an occupational therapist, occupational therapy assistant, or other professional regulated under this Title, and
    - (2) May be used only by the Director and only for the purpose of determining whether a licensee is maintaining CPC to engage in the profession.
  - c. The current program manual will set forth the documentation methods and standards for compliance with this Rule.
- D. Deemed Status.
  - 1. Qualification. In order to qualify for deemed status upon renewal, the licensee shall:
    - a. Attest to their deemed status and:
    - b. Attest that the requested CPC program is substantially equivalent to the CPD program administered by the Director and must include, at a minimum each renewal period, the following components:
      - (1) An assessment of knowledge and skills;
      - (2) Twenty four hours of continuing education or learning activities per renewal period; and
      - (3) Demonstration of completion of continuing competency activities.
  - 2. Administrative Approval. The Director has sole discretion to administratively approve accrediting bodies and/or entities meeting the criteria established in this section. Once an accrediting body and/or entity is approved, such approval will be publically published.
  - 3. Audit of Compliance. Licensees claiming deemed status are subject to an audit of compliance. To satisfy an audit of compliance, the licensee shall submit appropriate evidence of participation in a qualifying program through submission of:
    - a. A letter from the accrediting body or entity approved by the Director specifying that the licensee has completed the CPC program, or
    - b. Other documentation approved by the Director which reflects the licensee's completion of a program of CPC.

- E. Military Exemption.
  - 1. Military exemptions must be approved by the Director of the Division of Professions and Occupations. A licensee seeking a military exemption shall submit a request in writing with evidence that their military service meets the criteria established in section 12-20-302, C.R.S.
  - 2. After being granted a military exemption, in order to complete the renewal process, a licensee shall attest to their military exemption.
- F. Records Retention. A licensee shall retain documentation demonstrating their compliance for two complete renewal periods.
- G. Non-Compliance. Falsifying an attestation or other documentation regarding the licensee's compliance with CPC requirements constitutes the falsification of information in an application and may be ground for discipline pursuant to section 12- 270-114(2)(b), C.R.S.
- H. Reinstatement and Reactivation. A licensee seeking to reinstate or reactivate a license shall meet the CPC requirements detailed in Rule 1.6, Rule 1.12, Rule 1.13, and this Rule.

#### **1.12 DUTY TO SELF-REPORT CERTAIN MEDICAL CONDITIONS**

This Rule is promulgated pursuant to sections 12-20-204, 12-270-116, and 12-270-118, C.R.S.

- A. No later than thirty days from the date a physical or mental illness or condition affects a licensee's ability to perform occupational therapy services 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; and
  - 4. A description of the occupational therapist's or occupational therapy assistant's practice and any modifications, limitations or restrictions to that practice that have been made as a result of the illness or condition.
- B. The licensee shall notify the Director of any worsening of the illness or condition, or any significant change in the illness or condition that affects the licensee's ability to practice with reasonable skill and safety, within thirty days of the change of the illness or condition. The occupational therapist or occupational therapy assistant shall provide the Director, in writing, the following information:
  - 1. The name of the current treatment provider, documentation from the current treatment provider confirming the change of the illness or condition, the date that the illness or condition changed, the nature of the change of the illness or condition, and the current treatment plan; and
  - 2. A description of the licensee's practice, and any modifications, limitations, or restrictions to that practice that have been made as a result of the change of condition.

- C. Compliance with this Rule is a prerequisite for eligibility to enter into a Confidential Agreement with the Director pursuant to section 12-270-118, C.R.S. However, mere compliance with this Rule does not require the Director to enter into a Confidential Agreement. Rather, the Director will evaluate all facts and circumstances to determine whether a Confidential Agreement is appropriate.
- D. If the Director discovers that a licensee has a mental or physical illness or condition that affects the licensee's ability to practice with reasonable skill and safety, and the licensee has not timely notified the Director of such illness or condition, the licensee may be subject to disciplinary action pursuant to section 12-270-114(2)(d)(I), C.R.S.

### **1.13 OCCUPATIONAL THERAPY ASSISTANT LICENSURE BY EXAMINATION**

This Rule is promulgated pursuant to sections 12-20-204, 12-270-108, and 12-270-116, C.R.S.

**A. Criteria for application.**

- 1. The applicant must submit to the Director a completed application for licensure, all fees, and all supporting documentation required by the Director in order for the Director to review the application for licensure.
- 2. The applicant for licensure must pass the required examination, meet the requirements and become licensed within one year of the date of the application for licensure. If the applicant fails to become licensed within this time period, the applicant must submit a new application and fee and meet the requirements in effect at the time of the new application. Licensure applicants have a continuing obligation to update their application with information of changes from the original application at any time prior to licensure.

**B. Education requirements.**

- 1. The applicant for licensure must meet the educational requirements outlined in section 12-270-108(1), C.R.S.
- 2. The applicant for licensure must have successfully completed an educational program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE), or its predecessor.
- 3. An applicant for licensure must have successfully completed supervised fieldwork required by the educational program where the applicant met the educational requirements outlined in this Rule. The minimum period of supervised fieldwork that met generally recognized past accreditation standards in effect at the time of the applicant's graduation.
- 4. An applicant who has been certified as an occupational therapy assistant by the National Board for Certification in Occupational Therapy (NBCOT), or its predecessor, shall be deemed to have met the educational and experiential requirements for licensure set forth in Rule 1.13(B)(2) and (3), above.

**C. Examination.**

- 1. The examination developed by the National Board for Certification in Occupational Therapy (NBCOT) is approved [all references to NBCOT in these Rules includes its predecessor]. An applicant must achieve at least the passing score as determined by NBCOT in order to be eligible for licensure.

D. Licensure.

1. An applicant who has complied with Rule 1.13, and who achieved a passing score on the NBCOT examination within two years immediately preceding submission of an application for licensure, is eligible for licensure by examination.
2. An applicant who achieved a passing score on the NBCOT examination *more than two* years preceding submission of an application for registration *is not* eligible for licensure by examination. Such applicant must apply for licensure either on the basis of:
  - a. Endorsement of licensure or registration in another jurisdiction, in accordance with Rule 1.14; or,
  - b. Retaking and achieving a passing score on the NBCOT examination within two years immediately preceding submission of an application for licensure. For purposes of this Rule, the applicant may choose to take the examination as a *Licensure Only* candidate through NBCOT. The applicant must comply with Rule 1.13 and otherwise meet the requirements for licensure.
  - c. Upon a showing of good cause by the applicant, the Director may waive the time limitation in this Rule. Any such waiver shall be based upon the circumstances relating to the particular individual's application. It is anticipated that such waivers would be rare. The decision to grant or deny such a waiver shall be within the sole discretion of the Director and is not subject to appeal.

**1.14 OCCUPATIONAL THERAPY ASSISTANT OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM**

This Rule is promulgated pursuant to sections 12-20-202(3), 12-20-204, 12-270-108, and 12-270-116.

A. Criteria for application.

1. The applicant must submit to the Director a completed application for licensure by endorsement, all fees, and supporting documentation required by the Director in order for the Director to review the application for licensure.
2. The applicant for licensure must hold an active license or registration as an Occupational Therapy Assistant in a jurisdiction where the requirements are substantially equivalent to those outlined in section 12-270-108(1), C.R.S.
3. The applicant must submit verification of licensure from each jurisdiction in which applicant has ever held a license as an occupational therapy assistant.

B. Education requirements.

1. The applicant for licensure must meet the educational requirements outlined in section 12-270-108(1), C.R.S., and Rule 1.13(B).

C. Examination.

1. The examination developed by the National Board for Certification in Occupational Therapy (NBCOT) is approved [all references to NBCOT in these rules includes its predecessor]. An applicant must achieve at least the passing score as determined by NBCOT in order to be eligible for licensure.

D. Licensure.

1. An applicant who holds a current, valid registration or license as an occupational therapy assistant in a jurisdiction whose qualifications are substantially equivalent to those set forth in section 12-270-108(1), C.R.S., shall apply for licensure by endorsement. For purposes of this Rule, a jurisdiction that requires or accepts passage of the NBCOT examination shall be deemed to have qualifications substantially equivalent to those required in Colorado.
2. In addition to meeting the requirements set forth in in Rule 1.13:
  - a. An applicant shall submit verification that the applicant has actively practiced as an occupational therapy assistant for at least 400 hours over or in a twelve month period during the three years immediately preceding the application or has otherwise maintained competency as an occupational therapy assistant, as determined by the Director, or;
  - b. For purposes of this Rule, an applicant may demonstrate that the applicant has otherwise maintained competency as an occupational therapy assistant by completing forty-eight hours of continuing education related to the practice of occupational therapy during the two years immediately preceding the application. The continuing education must meet the approval of and shall be attested to in a manner prescribed by the Director, or;
  - c. For purposes of this Rule, an applicant who successfully completed an educational program and supervised fieldwork in accordance Rule 1.13(B)(3), above, within two years prior to submitting an application for licensure by endorsement shall be deemed to have maintained competency as an occupational therapy assistant.

**1.15 REINSTATEMENT OF EXPIRED LICENSE FOR OCCUPATIONAL THERAPY ASSISTANTS**

This Rule is promulgated pursuant to sections 12-20-105, 12-20-202(2) 12-20-204, 12-270-108(6), 12-270-112, and 12-270-116, C.R.S.

- A. An applicant seeking reinstatement of an expired license shall complete a reinstatement application and pay a reinstatement fee.
- B. An applicant seeking reinstatement of a license that has been expired for less than two years from the date of receipt of the reinstatement application must provide documentation of one hour of Professional Development Activity (PDA) as defined in Rule 1.11, for each month the license was expired.
- C. If the license has been expired for two years or more, but less than five years, an applicant must demonstrate "competency to practice" under section 12-20-202(2)(c)(II), C.R.S., as follows:
  1. Verification of licensure or registration as an occupational therapy assistant in good standing from another state, along with proof of active practice in that state for a minimum of 400 hours per year for the two years immediately preceding the date of application for reinstatement. The work experience shall be attested to in a manner prescribed by the Director.

Or

2. Providing documentation of completion of twelve Professional Development Activities (PDA) as defined in Rule 1.11 for each year the license was expired.
- D. If the license has been expired for five or more years, an applicant must demonstrate “competency to practice” under section 12-20-202(2)(c)(II), C.R.S., as follows:
1. Retake and achieve a passing score on the NBCOT examination within two years immediately preceding submission of an application for reinstatement. For purposes of this Rule, the applicant may choose to take the examination as a *Licensure Only* candidate through NBCOT.
- Or
2. Supervised practice for a period of no less than six months, subject to terms established by the Director.
- Or
3. Provide verification of active practice as an occupational therapist for at least 400 hours over or in a twelve month period during the two years immediately preceding the date of application for reinstatement. The work experience shall be attested to in a manner prescribed by the Director.
- Or
4. By any other means approved by the Director.

An applicant for reinstatement who has actively practiced in Colorado with an expired license in violation of section 12-270-107(6), C.R.S., is subject to denial of application, disciplinary action, and/or other penalties as authorized in the Occupational Therapy Practice Act at section 12-270-101 *et seq.*, C.R.S., and in accordance with section 12-20-202 *et seq.*, C.R.S.

#### **1.16 INACTIVE LICENSE STATUS**

This Rule is promulgated pursuant to sections 12-20-203, 12-20-204, and 12-270-116, C.R.S.

- A. A licensee may request an inactive license status in the manner prescribed by the Director.
- B. A licensee with an inactive license shall not engage in any act or conduct that constitutes the practice of occupational therapy.
- C. A licensee with an inactive license is exempt from the continuing professional competency requirements of section 12-270-112, C.R.S., and Rule 1.11.
- D. Inactive licensure status does not:
  1. Prevent the Director from investigating complaints or imposing discipline against an occupational therapist or occupational therapy assistant in accordance with Article 270 of Title 12, C.R.S.; or
  2. Limit or restrict the Director's functions, duties, or obligations, under Article 270 of Title 12, C.R.S.



- E. Except as otherwise provided by this Rule, an occupational therapist or occupational therapy assistant with an inactive license remains subject to all provisions of these Rules and all provisions of Article 270 of Title 12, C.R.S.
- F. An occupational therapist or occupational therapy assistant may reactivate an inactive license by:
  - 1. Submitting a completed application for reactivation and paying a fee established by the Director;
  - 2. Submitting proof, in a manner prescribed by the Director, that the licenses registrations or certifications held in other states or jurisdictions are in good standing;
  - 3. Attesting that the applicant will, prior to providing services to patients, maintain the professional liability insurance coverage outlined in Rule 1.10; and
  - 4. Demonstrating compliance with the Director's continuing professional competency rules with respect to license reactivation.

**1.17 CREDIT FOR MILITARY EXPERIENCE AND PATHWAYS TO LICENSURE FOR VETERANS AND MEMBERS OF THE MILITARY**

This Rule is promulgated pursuant to sections 12-20-202(4), 12-20-204, 12-270-116, and 24-4-201 *et seq.*, C.R.S.

- A. An applicant for licensure 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.
- D. Documentation of military experience to satisfy requirements in Rule 1.4, Rule 1.5, or section (E) of this Rule may include, but is not limited to, the applicant's Certificate of Release or Discharge from Active Duty (DD-214), Verification of Military Experience and Training (DD-2586), military transcript, training records, evaluation reports, or letters from commanding officers describing the applicant's practice as an occupational therapist and/or an occupational therapy assistant.
- E. Pathways to occupational therapist licensure or occupational therapy assistant licensure for veterans and members of the military may include:
  - 1. Veteran or military applicants with a current, valid license or registration as an occupational therapist or an occupational therapy assistant from another jurisdiction shall apply for licensure by endorsement, as described in Rule 1.5 for occupational therapist applicants or as described in Rule 1.14 for occupational therapy assistant applicants.

- a. If the occupational therapist applicant does not meet any of the competency requirements as specified in Rule 1.5(B), the Director will evaluate whether the applicant's military service otherwise demonstrates the applicant has maintained competency as an occupational therapist, pursuant to Rule 1.5(B)(1). For this evaluation, the Director, in her discretion, may determine that an applicant has maintained competency if the applicant has actively practiced occupational therapy in the military for at least 400 hours in the two years immediately preceding the date of application.
  - b. If the occupational therapy assistant applicant does not meet any of the competency requirements as specified in Rule 1.14(D)(2), the Director will evaluate whether the applicant's military service otherwise demonstrates the applicant has maintained competency as an occupational therapy assistant, pursuant to Rule 1.14(D)(2)(a). For this evaluation, the Director may determine that an applicant has maintained competency if the applicant actively practiced as an occupational therapy assistant in the military for at least 400 hours in the three years immediately preceding the date of application.
- 2. Veteran or military applicants who do not hold a current, valid license or registration as an occupational therapist or occupational therapy assistant from another jurisdiction shall apply for licensure by examination, as described in Rule 1.4 for occupational therapist applicants or as described in Rule 1.13 for occupational therapy assistant applicants.
  - a. If the occupational therapist applicant's passing score on the required examination was not achieved in the time frame specified in Rule 1.4(D)(1), but the occupational therapist applicant has practiced occupational therapy in the military on a regular basis since passing the examination, with no single gap in practice of more than two years, then the Director may waive the time limitation in Rule 1.4(D)(1), pursuant to the authority granted in Rule 1.4(D)(2)(c).
  - b. Occupational therapy assistant applicants must:
    - (1) Meet the education requirements of section 12-270-108(1), C.R.S., and Rule 1.13(B); and
    - (2) Pass an examination as outlined in section 12-270-108(3), C.R.S., and Rule 1.13(C). If the occupational therapy assistant applicant's passing score on the required examination was not achieved in the time frame specified in Rule 1.13(D)(2), but the occupational therapy assistant applicant has practiced as an occupational therapy assistant in the military on a regular basis since passing the examination, with no single gap in practice of more than two years, then the Director may waive the time limitation in Rule 1.13(D)(2), pursuant to authority granted in Rule 1.13(D)(3)(c).

### **1.18 DUTY TO REPORT CONVICTIONS, JUDGMENTS, AND ADVERSE ACTIONS**

This Rule is promulgated pursuant to sections 12-20-204, 12-270-114, and 12-270-116, C.R.S.

- A. A licensee shall report to the Director, in a manner established by the Director, within thirty days of:

1. A felony conviction of the licensee, or a conviction of any crime related to the practice of occupational therapy, whether under the laws of this or any other state or the United States (a guilty verdict, or a plea of guilty, nolo contendere, or no contest accepted by the court is considered a conviction);
  2. A disciplinary action imposed upon the licensee by another jurisdiction that licenses, certifies, or registers occupational therapists or occupational therapy assistants which would otherwise be a violation of section 12-20-403, C.R.S., including but not limited to a citation, sanction, probation, civil penalty, or a denial, suspension, revocation or modification of a license or certificate, whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license fee by the due date or failure to meet continuing professional education or competency requirements;
  3. Revocation or suspension by another state board, municipality, federal or state agency of any health services related license or certificate; or
  4. Any judgment, award, or settlement of a civil action or arbitration, in any jurisdiction, in which there was a final judgment or settlement against the licensee or certificate holder with respect to the practice of occupational therapy.
- B. Report contents.
1. If the event is an action by any governmental agency, the report to the Director must include the name of the agency, its jurisdiction, the case name, court docket, proceeding or case number by which the event is designated, and a copy of the consent decree, order, or decision.
  2. If the event is a felony conviction, the report to the Director must include the court, its jurisdiction, the case name, the case number, a description of the matter or a copy of the indictment or charges, and any plea or verdict entered by the court. Within thirty days of the imposition of sentence for a felony conviction, the certificate holder shall provide to the Director a copy of the imposition of sentence. Within thirty days of the completion of any terms of the sentence, the certificate holder shall provide written notice to the Director of the completion of the sentence terms.
  3. If the event concerns a civil action or arbitration proceeding, the report to the Director must include the court or arbiter, the jurisdiction, the case name, the case number, a description of the matter or a copy of the complaint, and a copy of the verdict, the court or arbitration decision, or, if settled, the settlement agreement and court's order of dismissal.
- C. In addition to any report required under this Rule, the licensee may also submit a written statement of explanation.

#### **1.19 DUTY TO REPORT CHANGE OF CONTACT INFORMATION TO THE DIRECTOR**

This Rule is promulgated pursuant to sections 12-20-204, 12-270-116, and 24-34-107, C.R.S.

A licensee shall report to the Office of Occupational Therapy Licensure any name, address, telephone, or email change within thirty days of the change. The Office of Occupational Therapy Licensure will not change a licensee's information of record without explicit written notification from the licensee. Notification in any written manner approved by the Division is acceptable.

**1.20 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, 12-270-116, 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 12-270-114(2)(m), C.R.S.

**1.18 EXPANDED SCOPE OF PRACTICE FOR OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS PURSUANT TO THE GOVERNOR'S EXECUTIVE ORDER D 2021 122**

- A. Basis. Through Executive Order D 2021 122, 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 122 issued by Governor Jared Polis pursuant to the Colorado COVID-19 Disaster Recovery Order and 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 Director of the Division of Professions and Occupations (Director) to effectuate Executive Order D 2021 122 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. Occupational therapists and occupational therapy assistants 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. Occupational therapists and occupational therapy assistants are authorized to perform delegated services upon adequate cross-training as determined necessary by the hospital or inpatient facility.
  2. Occupational therapists and occupational therapy assistants shall not accept delegation of a service for which the licensee does not possess the knowledge, skill or training to perform.
  3. Occupational therapists and occupational therapy assistants 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. Occupational therapists and occupational therapy assistants shall not prescribe or select medications, perform surgical or other invasive procedures or perform anesthesia services regardless of delegation.

**1.21 EXPANDED SCOPE OF PRACTICE FOR OCCUPATIONAL THERAPISTS AND  
OCCUPATIONAL THERAPY ASSISTANTS IN ORDER TO ADMINISTER VACCINATIONS  
PURSUANT TO THE GOVERNOR'S EXECUTIVE ORDER D 2021 122**

- A. Basis. Through Executive Order D 2021 122, 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 122 issued by Governor Jared Polis pursuant to the Colorado COVID-19 Disaster Recovery Order and 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 122 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. Occupational therapists and occupational therapy assistants 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. Occupational therapists and occupational therapy assistants are authorized to perform this delegated service upon adequate cross-training as determined necessary by the hospital, inpatient facility, or outpatient setting.

- b. Occupational therapists and occupational therapy assistants shall not accept delegation of this service if the licensee does not possess the knowledge, skill or training to perform.
- c. Occupational therapists and occupational therapy assistants 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. Occupational therapists and occupational therapy assistants shall not prescribe, order, or select the COVID-19 vaccination regardless of delegation.

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

- A. 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 provider.
- 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 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 a 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 subsection (3)(d) of this section and a guardian of the patient is unavailable to comprehend the disclosure and sign the acknowledgment;

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;
  - a. The date the final agency action was issued
  - b. The date the probation status or practice limitation ends; and
  - c.. 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 Patient Name

\_\_\_\_\_  
Patient or Responsible Party's Signature

\_\_\_\_\_  
Date

If signed by Responsible Party (parent, legal guardian, or custodian), print Responsible Party's name and relationship to patient:

\_\_\_\_\_  
Print Responsible Party Name

\_\_\_\_\_  
Print Relationship to Patient

\_\_\_\_\_  
Provider Signature

\_\_\_\_\_  
Date

---

## **Editor's Notes**

### **History**

Entire rule eff. 01/01/2009.

Entire rule emer. rule eff. 04/09/2014.

Entire rule eff. 07/30/2014.

Rule 8 emer. rule eff. 01/30/2015.

Entire rule eff. 03/17/2015.

Rule 14 eff. 07/30/2019.

Rule 1.17, Appendix A emer. rules eff. 01/01/2020; expired 04/29/2020.

Rule 1.17, Appendix A eff. 04/30/2020.

Rule 1.18 emer. rule eff. 05/01/2020; expired 08/29/2020.

Rule 1.19 emer. rule eff. 05/11/2020; expired 09/08/2020.

Rule 1.18 emer. rule eff. 08/30/2020.

Rule 1.20 emer. rule eff. 08/31/2020.

Rules 1.18, 1.20 emer. rules eff. 12/28/2020; expired 04/27/2021.

Rule 1.21 emer. rule eff. 01/11/2021.

Rules 1.18, 1.19 emer. rules eff. 04/27/2021.

Rule 1.21 emer. rule eff. 05/11/2021.

Rule 1.18, 1.21 emer. rules eff. 07/12/2021.

Rules 1.1-1.21, Appendix B eff. 07/15/2021.