

Colorado Register



39 CR 20

Volume 39 , No. 20

October 25, 2016

Introduction

The *Colorado Register* is published pursuant to C.R.S. 24-4-103(11) and is the sole official publication for state agency notices of rule-making, proposed rules, attorney general's opinions relating to such rules, and adopted rules. The register may also include other public notices including annual departmental regulatory agendas submitted by principal departments to the secretary of state.

"Rule" means the whole or any part of every agency statement of general applicability and future effect implementing, interpreting, or declaring law or policy or setting forth the procedure or practice requirements of any agency. "Rule" includes "regulation". C.R.S. 24-4-102(15). Adopted rules are effective twenty days after the publication date of this issue unless otherwise specified.

The *Colorado Register* is published by the office of the Colorado Secretary of State twice monthly on the tenth and the twenty-fifth. Notices of rule-making and adopted rules that are filed from the first through the fifteenth are published on the twenty-fifth of the same month, and those that are filed from the sixteenth through the last day of the month are published on the tenth of the following month. All filings are submitted through the secretary of state's electronic filing system.

For questions regarding the content and application of a particular rule, please contact the state agency responsible for promulgating the rule. For questions about this publication, please contact the Administrative Rules Program at rules@sos.state.co.us.

Notice of Proposed Rulemaking

Tracking number

2016-00532

Department

700 - Department of Regulatory Agencies

Agency

726 - Division of Professions and Occupations - State Board of Social Work Examiners

CCR number

4 CCR 726-1

Rule title

COLORADO STATE BOARD OF SOCIAL WORK EXAMINERS RULES

Rulemaking Hearing**Date**

11/18/2016

Time

09:00 AM

Location

1560 Broadway, Conference Room 110D

Subjects and issues involved

These rule amendments to Rule 12 - Licensure by Endorsement, clarify post-degree experience requirements for Licensed Clinical Social Worker endorsement applicants.

Statutory authority

C.R.S. § 12-43-206 and §12-43-203(3)(a)

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RULE 12 -- LICENSURE BY ENDORSEMENT (C.R.S. § 12-43-206)

(a) General. To be considered for licensure by endorsement under C.R.S. § 12-43-206, an applicant must submit a completed application form, all supporting documentation, and the appropriate fee.

(b) Complaints/inquiries, investigations, disciplinary actions. The Board may decline to issue a license to an applicant for licensure by endorsement against whom disciplinary action has been taken or is pending, against whom an investigation is being conducted in connection with her/his practice, or who is the subject of an unresolved complaint.

(c) Criteria. The Board has established the following criteria for determining whether an applicant possesses credentials and qualifications that are substantially equivalent to C.R.S. § 12-43-404. An applicant who possesses a current and unrestricted license, in good standing, to practice social work under the laws of another state, territory or foreign country can apply for licensure by endorsement.

All of the following factors must be certified at the time of application for Colorado licensure by endorsement in order for the applicant to establish that her/his credentials and qualifications are substantially equivalent to the requirements of C.R.S. § 12-43-404:

(1) Applicant is at least 21 years of age;

(2) Applicant must attest that they:

(A) Have reported to the Board any injunction entered against her/him and any injunctive action pending against her/him on any license.

(B) Have reported any malpractice judgment, settlement, or claim, and any pending action or claim.

(C) Have reported any pending complaint, investigation, or disciplinary proceeding before the licensing, grievance, or disciplinary Board of any jurisdiction in which a license, registration or certification to practice social work is held and where the complaint, investigation, or proceeding concerns the practice of social work.

(D) Have reported any applicable misdemeanor or felony conviction(s).

(E) Have reported to the Board any prior disciplinary action by another jurisdiction.

(3) Submit verification of licensure from each jurisdiction(s) in which applicant has ever been licensed, registered, listed or certified. The verification can be retrieved by the applicant from the jurisdiction's web site as long as the following information is included and can be verified if necessary:

(A) Date license was originally issued.

(B) Date of license expiration.

(C) Disciplinary history, if applicable.

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

(4) Applicant holds a master's or a doctoral degree in social work from an accredited Council on Social Work Education (CSWE) program;

(5) At the time of application for a Colorado license by endorsement:

(A) The applicant attests to having passed an examination, which covers the general areas of knowledge in social work, and is administered under contract as approved by the Board. Social work endorsement applicants must have taken and passed the appropriate examination required for the level of licensure sought; OR

(B) The applicant attests that one (or more) of the jurisdictions in which s/he has been licensed, registered, or certified required a written examination, the content of which tested competence to practice independent social work (including the areas outlined in Rule 12(c)(5)(A) and the applicant demonstrates that s/he has engaged in the active practice of social work as defined in Rule 12(c)(6)(A) for at least two years. The applicant may rely on an examination given and passed in a jurisdiction other than the jurisdiction from which s/he seeks licensure by endorsement; OR

(C) If a written examination was not required by the jurisdiction at the time the applicant was originally licensed, the Board will accept as substantially equivalent to this qualification proof via attestation that the applicant has a record of actively practicing social work as defined in Rule 12(c)(6)(A) at the independent level for at least five (5) out of the last ten (10) years without discipline.

(6) FOR LICENSED CLINICAL SOCIAL WORKER APPLICANTS, THE APPLICANT ATTESTS THAT S/HE HAD PRACTICED SOCIAL WORK FOR AT LEAST TWO YEARS UNDER THE SUPERVISION OF A LICENSED CLINICAL SOCIAL WORKER PRIOR TO LICENSURE, CERTIFICATION, LISTING OR REGISTRATION IN THE JURISDICTION THROUGH WHICH THE APPLICANT SEEKS LICENSURE IN COLORADO; OR THE APPLICANT ATTESTS TO THE BOARD HER/HIS ACTIVE PRACTICE OF CLINICAL SOCIAL WORK FOR TWO (2) YEARS AS DEFINED BELOW:

(A) "Active practice of social work" means the applicant engaged in the practice of social work at least twenty (20) hours per week, averaged over the entire time s/he has been in practice.

(7)(B) Applicant attests that post-degree experience hours obtained for licensure in another jurisdiction had similar requirements to what is outlined in Board Rule 14 Licensure by Examination. The number of hours need not be exact.

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(d) Licenses, certifications, or registrations from outside the United States. Applicants who are licensed, certified, listed or registered social workers in a jurisdiction outside the United States must submit their educational credentials for evaluation and satisfy the requirements of this Rule.

(e) Jurisprudence Examination. Each applicant shall pass a Board-developed jurisprudence examination.

Notice of Proposed Rulemaking

Tracking number

2016-00534

Department

700 - Department of Regulatory Agencies

Agency

4 CCR 751-1 - Division of Professions and Occupations - Office of Fantasy Contest Operator Licensing and Registration

CCR number

4 CCR 751-1

Rule title

Office of Fantasy Contest Operator Licensing and Registration

Rulemaking Hearing

Date

11/14/2016

Time

02:30 PM

Location

1560 Broadway, Suite 1250-A, Denver Colorado

Subjects and issues involved

The Board will consider the revision and adoption of the following rules and regulations:

Section 1 Authority
Section 2 Scope and Purpose
Section 3 Definitions
Section 4 Application for Registration
Section 5 Application for Licensure
Section 6 Renewal and Reinstatement of Registration or Licensure
Section 7 Rules of Conduct
Section 8 Disclosures and Reporting Requirements

Statutory authority

12-15.5-103(1), C.R.S.

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**DEPARTMENT OF REGULATORY AGENCIES
Division of Professions and Occupations**

Office of Fantasy Contest Operator Licensing and Registration

Rules of the Office of Fantasy Contest Operator Licensing and Registration

Effective Date: July 1, 2017

1. Authority

The licensing and regulation of fantasy contest operators is found in Title 12, Article 15.5 (“Fantasy Contests”) of the Colorado Revised Statutes. These rules are promulgated pursuant to section 12-15.5-103(1), C.R.S.

2. Scope and Purpose

These rules are promulgated in order to carry out the powers and duties of the Director of the Division of Professions and Occupations, Department of Regulatory Agencies (“Director”) pursuant to Article 15.5 of Title 12, C.R.S., for the purpose of licensure or registration of fantasy contest operators. These rules shall be binding on every person authorized to operate as a fantasy contest operator or a small fantasy contest operator in Colorado. All persons licensed or registered under Article 15.5 of Title 12, C.R.S. are charged with having knowledge of the existence of these rules and shall be deemed to be familiar with their provisions and to understand the rules.

These rules are severable. If one rule or portion of a rule is found to be invalid, all other rules or portions of rules that can be enforced without the invalid rules shall be enforced and shall remain valid.

These rules are not intended, and shall not be construed, to affect or limit in way the jurisdiction or regulation of any individual or entity by any federal, state, or local government or subdivision thereof, including but not limited to the Colorado Department of Revenue and its Divisions.

3. Definitions

All terms defined in section 12-15.5-102, C.R.S. shall have the same meaning in these rules. In addition, as used in Article 15.5 of Title 12, C.R.S. and these rules:

- A. “Applicant” means any individual or entity that applies for an initial license or registration or a renewal license or registration to operate in Colorado as a fantasy contest operator or a small fantasy contest operator. The Applicant shall be the individual or entity that is responsible for the financial and contractual obligations of the fantasy contest operator.
- B. “Beginner player,” as used in section 12-15.5-106(1)(h), C.R.S., means any fantasy contest player who has entered fewer than 51 contests offered by a single fantasy contest operator and who does not meet the definition of highly experienced player by virtue of having won three fantasy contest prizes of \$1,000 (one thousand dollars) or more.
- C. “Division” means the Division of Professions and Occupations in the Department of Regulatory Agencies.
- D. “Highly experienced player,” as used in section 12-15.5-106(1)(h), C.R.S., means any fantasy contest player who has: (a) entered more than 1,000 (one thousand) contests offered by a single fantasy contest operator; or (b) has won more than three fantasy contest prizes valued at \$1,000 (one thousand dollars) or more. Once a fantasy contest player is classified as Highly-experienced Player, a player will remain classified as such.
- E. “Prize,” as used in Article 15.5 of Title 12, C.R.S., means anything of monetary value, including but not limited to, money, contest credits, merchandise, or admission to another contest in which a prize may be awarded.
- F. “Script,” as used in section 12-15.5-106(1)(i), C.R.S., means commands that a fantasy contest-related computer program can execute that are created by fantasy contest players (or by third parties for the use of fantasy contest players) to automate processes in a fantasy contest.

4. Application for Registration

A. Registrant Name

- 1. Registrants shall not operate as a small fantasy contest operator using a name that has not been provided to the Director.

2. If a registrant operates as a small fantasy contest operator under a trade name, such trade name must be filed with the Colorado Secretary of State pursuant to section 7-71-101, C.R.S.
 3. All names under which a registrant operates as a small fantasy contest operator (including business, assumed, or trade names) shall be provided to the Director.
- B. A small fantasy contest operator must apply for registration with the Division. An applicant for registration must:
1. Submit a completed application for registration on a form and in a manner approved by the Division.
 2. Submit with the application all fees established by the Director.
 3. Submit documentation validating the number of fantasy contest players in Colorado with active individual accounts who participate in fantasy contests with an entry fee. The number of said players shall not exceed seven thousand five hundred, pursuant to section 12-15.5-102(7), C.R.S. The documentation shall comprise customer base data from the ninety (90) days preceding the date of application submission. An account shall be considered “active” if (i) the player has an email address on file with the small fantasy contest operator and (ii) has paid an entry fee for a fantasy contest, agreed to pay an entry fee for a fantasy contest, or has made a monetary deposit to a player account.
 4. Submit additional information as may be requested by the Division to evaluate the applicant’s qualification for registration. An application submitted without the required fees and documentation will be considered incomplete.
- C. If a registered small fantasy contest operator at any time exceeds the count of seven thousand five hundred (7500) fantasy contest players, the fantasy contest operator must apply for licensure. The applicant must notify the Division within twenty (20) days of exceeding the count of seven thousand five hundred (7500) contest players, and shall have forty five (45) days from notifying the Division to submit an application for licensure. If, after licensure, the fantasy contest operator drops below the number of seven thousand five hundred (7500) fantasy contest players, the applicant may submit an application for registration instead of renewing licensure.

5. Application for Licensure

A. Licensee Name

1. Licensees shall not operate as a fantasy contest operator using a name that has not been provided to the Director.
2. If a licensee operates as a fantasy contest operator under a trade name, such trade name must be filed with the Colorado Secretary of State pursuant to section 7-71-101, C.R.S.
3. All names under which a licensee operates as a fantasy contest operator (including business, assumed, or trade names) shall be provided to the Director.

B. A fantasy contest operator that is not a small fantasy contest operator, *i.e.*, a fantasy contest operator that has more than seven thousand five hundred (7500) fantasy contest players in Colorado with active accounts, must apply for licensure with the Division. An account shall be considered “active” if the player (i) has an email address on file with the fantasy contest operator and (ii) has paid an entry fee for a fantasy contest, agreed to pay an entry fee for a fantasy contest, or has made a monetary deposit to a player account. An applicant for licensure must:

1. Submit a completed application for licensure on a form and in a manner approved by the Director;
2. Submit with the application all fees established by the Director;
3. Attest to the validity of the information listed on the application;
4. Submit a written oath or affirmation on the form and in the manner prescribed by the Director;
5. Submit the information required by section 12-15.5-105(2)(c), C.R.S., including, but not limited to, detailed information about the nature and type of fantasy contests to be conducted by the applicant, and the manner in which statistics are utilized, with examples of all information and materials to be provided to contestants.
6. Submit additional information as may be requested by the Director to evaluate the applicant’s qualification for licensure. An application submitted without the required fees and documentation will be considered incomplete.

C. If a fantasy contest operator drops below the number of seven thousand five hundred (7500) active fantasy contest players in Colorado, the applicant may submit

an application for registration as a small fantasy contest operator instead of renewing licensure.

6. Renewal and Reinstatement of Registration or Licensure

- A. If a registrant or licensee fails to renew its license or registration pursuant to the schedule established by the Director, the license or registration shall expire.
- B. In order to reinstate an expired registration or license, an applicant must:
 - 1. Submit a completed application for license reinstatement on a form and in a manner approved by the Director; and
 - 2. Submit with the application all fees established by the Director.

7. Rules of Conduct

- A. A registrant or licensee shall be responsible for the acts of all employees and contracted personnel when those persons are acting within the scope of their employment, contract, agreement, at the registrant's or licensee's direction, or under the registrant's or licensee's supervision.
- B. A registrant or licensee shall not make any false statements or fail to disclose any facts requested in connection with an application or any communication with the Director.
- C. Registrants or licensees having knowledge of, or involvement in, any alleged violation of any provision of Article 15.5 of Title 12, C.R.S.; these rules; or any alleged conduct for which disciplinary action would be warranted under section 12-15.5-109, C.R.S. shall cooperate with any investigation initiated by the Director and furnish such information, assistance, and documentation as may be requested.

8. Disclosures and Reporting Requirements

- A. Reporting Name Changes
 - 1. Address and Name Changes
 - a. Registrants and licensees shall inform the Director of any name, address, telephone, or email change within thirty days of the change. The Director

will not change the registration or license information without explicit notification in a manner approved by the Director.

2. Trade Name and Doing Business As (DBA) Changes

- a. Registrants and licensees shall report any change of a trade name or DBA to the Director within thirty days of the changing the name with the Secretary of State. Registrants and licensees shall verify the change by submitting copies of the documents filed with the Secretary of State.

B. Reporting Responsible Party Changes

1. Any change to a responsible party of a licensee requires the submittal of a document and in a manner approved by the Director.
2. Licensees shall report changes of the responsible party to the Director within ten (10) working days.

C. Reporting Felony Convictions

1. Registrants and licensees shall notify the Director within ten (10) days of the conviction of a felony under the laws of any state or of the United States, which would be grounds for discipline under section 12-15.5-109(1), C.R.S., against the registrant, the licensee, or any of the licensee's officers, directors, or general partners. A guilty verdict, a plea of guilty, or a plea of nolo contendere (no contest) accepted by the court is considered a conviction.
2. The notice to the Director required by this rule shall include identification of 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 or licensee shall also provide to the Director a copy of the imposition of sentence related to the felony conviction and the completion of all terms of the sentence with forty-five (45) days of such action.

9. Consumer protection

- A. Under section 12-15.5-106(1), C.R.S., each fantasy contest operator and small fantasy contest operator is required to implement commercially reasonable procedures for fantasy contests with an entry fee. Such procedures must be detailed and maintained by licensees and registrants in a format that can be made available to the Director upon request for inspection.

- B. Each fantasy contest operator shall maintain a set of procedures for a player with an account to report complaints to the fantasy contest operator.
- C. When a fantasy contest operator has not been able to verify that a fantasy contest player is eighteen (18) years of age or older, as required by section 12-15.5-105(1)(c), C.R.S., and has determined the account is held by a minor, the fantasy contest operator shall refund any entry fees and deposits made to the minor player's account to the original payment method within ten (10) days. In the event a minor has winnings from a fantasy contest, all such winnings shall be rescinded and redistributed to other fantasy contest players participating in the contest.
- D. Each fantasy contest operator shall submit audit results to the Director, pursuant to section 12-15.5-106(2), C.R.S.
 - 1. The results of such audit must be sufficiently detailed to enable the Director to evaluate compliance with Article 15.5 of Title 12, C.R.S., including, but not limited to, the protections detailed in section 12-15.5-106(1), C.R.S.
 - 2. Licensees shall submit the results of all audit reports to the Director according to the schedule established by the Director.
 - 3. Licensees shall submit any additional documentation related to the audit, as requested by the Director.

10. Fantasy contests conducted at a Licensed Racing or Gaming Establishment or by Gaming Retailers and Racing Facilities

- A. Any fantasy contest operator conducting fantasy contests at a licensed gaming establishment, as that term is defined in section 12-47.1-103(15), C.R.S., must notify the Division of Gaming that fantasy contests are offered, and otherwise comply with all requirements of a licensed gaming establishment, as required by the Colorado Limited Gaming Control Commission and the Division of Gaming.
- B. Any gaming retailer, as that term is defined in section 12-47.1-103(24), C.R.S., offering fantasy contests as a fantasy contest operator must notify the Division of Gaming that fantasy contests are offered, and otherwise comply with all requirements of a gaming retailer, as required by the Colorado Limited Gaming Control Commission and the Division of Gaming.
- C. Any fantasy contest operator conducting fantasy contests at a licensed facility at which pari-mutuel wagering, as defined in section 12-60-102(20.5), C.R.S., may

occur must notify the Division of Racing Events that fantasy contests are offered, and otherwise comply with all requirements of a licensed racing facility, as required by the Colorado Racing Commission and the Division of Racing Events.

- D. Any operator of a Class B track, as defined in section 12-60-102(4), C.R.S., offering fantasy contests as a fantasy contest operator must notify the Division of Racing Events that fantasy contests are offered, and otherwise comply with all requirements of a licensed racing facility, as required by the Colorado Racing Commission and the Division of Racing Event.

11. Enforcement

- A. The Director may investigate the activities of a fantasy contest operator based upon the Director's own initiative, a complaint, or a suspected violation pursuant to sections 12-15.5-103(2), and 12-15.5-104(2)(b)(II), C.R.S.

12. Advertising

- A. All fantasy contest operators must comply, without limitation, with the applicable sections of the Colorado Consumer Protection Act, Article 1 of Title 6, C.R.S.

13. Petitions for Declaratory Order

- A. Any person may petition the Director for a declaratory order to terminate controversies or to remove uncertainties as to the applicability to the petitioner of any provision of Article 15.5 of Title 12, C.R.S., or of any rule or order of the Director.
- B. The Director will determine, in his or her discretion and without notice to petitioner, whether to rule upon any such petition. The Director shall promptly notify the petitioner of his or her action and state the reasons for such action.
- 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.

2. Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Director or a court involving one or more of the petitioners.
 3. Whether the petition involves any subject, question or issue which 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 Rule 57, Colorado Rules of Civil Procedure, 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 section 12-15.5-105, C.R.S.
 2. The statute, rule, or order to which the petition relates.
 3. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner.
- E. If the Director determines that he or she will rule on the petition, the following procedure 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 State Administrative Procedure Act and may utilize available experience, technical competence and specialized knowledge in the disposition of the petition.
 - g. If the Director rules upon the petition without a hearing, the Director shall promptly notify the petitioner of the decision.
2. The Director may, in his or her sole 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 notice to the petitioner setting such hearing shall set forth, to the extent known, the factual or other matters into which 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 of 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 required by Rule 13.D. 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 final agency action subject to judicial review pursuant to section 24-4-106, C.R.S.

Notice of Proposed Rulemaking

Tracking number

2016-00529

Department

1502 - Public Employees' Retirement Board

Agency

1502 - Public Employees' Retirement Association

CCR number

8 CCR 1502-1

Rule title

COLORADO PERA RULES

Rulemaking Hearing**Date**

11/18/2016

Time

01:00 PM

Location

Colorado PERA Office - 1301 Pennsylvania Street, Denver CO 80203

Subjects and issues involved

Amendment to the Colorado PERA Rules

Statutory authority

C.R.S. 24-51-204(5)

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PUBLIC EMPLOYEES' RETIREMENT BOARD

Public Employees' Retirement Association

COLORADO PERA RULES

8 CCR 1502-1

Authority

The statutory authority for rulemaking by the Public Employees' Retirement Association is section 24-51-204(5), Colorado Revised Statutes, as amended.

Scope and Purpose

The purpose of this rulemaking is to amend Colorado PERA Rule 1.20 to clarify the definition of "salary" consistent with statute and long-standing PERA policy and interpretation. Salary includes annual lump sum payments of accrued leave, but not when payment is at the election of the member. Salary will include accrued leave payouts made pursuant to employer policies or employment contracts when the policy or contract combines sick leave with any other type of leave. Pursuant to C.R.S. § 24-51-101(42)(b), salary does not include compensation for unused sick leave converted to cash payments.

1.20 Terms Used in Rules

Terms used in the Rules shall have the meaning specified:

F. Salary

(1) Accrued Leave Payments

- (a)** Payments by an employer in satisfaction of amounts owned for accrued but unused leave, other than sick leave shall be treated as PERA salary pursuant to 24-51-101(42), C.R.S., if the following criteria are met:
 - The payment by the employer of the accrued leave is made in a lump sum at the termination of the member's employment or in periodic payments after severing employment not at the election of the member. Periodic payments must be made over consecutive pay periods and for a period not to exceed the amount of service credit awarded in association with the payment. In the event that periodic payments are made, a single benefit adjustment will be made at the end of the payment period;
 - The accrued leave payments are paid at a rate not to exceed the member's most recent rate of pay; and

- The payment is for accrued leave earned by the member pursuant to an established employer policy or employment contract and not as a result of a retroactive grant or an award by the employer.

- (b) If each of the above criteria are met, consistent with longstanding PERA practice, the accrued leave payment will be treated as salary in calculating service credit and Highest Average Salary for retirement by applying the payment over the number of months as determined by the member's most recent monthly rate of pay. Additional service credit for these months will be included in the retirement benefit calculation. These months may also be used in the highest average salary calculation.
- (c) Salary includes an annual lump sum payment of accrued leave, not at the election of the member, other than sick, paid because the individual has accrued in excess of the maximum accumulation allowed by the employer's established leave policy.
- (d) If an accrued leave payment pursuant to an established employer policy or employment contract includes unused leave for any type of leave in addition to sick leave, the payment shall be treated as PERA salary pursuant to 24-51-101(42), C.R.S., provided each of the criteria in (1)(a) above are met.

Permanent Rules Adopted

Department

Department of Revenue

Agency

Lottery Commission

CCR number

1 CCR 206-1

Rule title

1 CCR 206-1 LOTTERY RULES AND REGULATIONS 1 - eff 05/01/2017

Effective date

05/01/2017

DEPARTMENT OF REVENUE

Lottery Commission

1 CCR 206-1 RULES AND REGULATIONS

AMENDED RULE 14.A COLORADO LOTTERY MULTI-STATE JACKPOT GAME, "POWERBALL®"

BASIS AND PURPOSE FOR AMENDED RULE 14.A

The purpose of Amended Rule 14.A is to provide specific game details and requirements for the Colorado Lottery Multi-State Jackpot Game "POWERBALL®" such as type of play, prizes, method of selecting winning numbers, drawings, and the allocation of revenues. The statutory basis for Rule 14.A is found in C.R.S. 24-35-201, 24-35-208 (1) (a) and (2), and 24-35-212 and 24-35-212.5.

14.A.1 General Provisions

Amended Rule 14.A

- A. A Colorado Lottery multi-state Jackpot game to be known as "POWERBALL®" is authorized to be conducted by the Director under the following Rules and Regulations and under such further instructions and directives as the Director may issue in furtherance thereof. If a conflict arises between Rule 14 and this Rule 14.A, Rule 14.A shall apply.
- B. All MUSL (Multi-State Lottery Association) guidelines and MUSL Board decisions must be approved by the Colorado Lottery (hereafter referred to as Lottery) and the Lottery Commission, prior to implementation.
- C. The Director will be a voting member of the MUSL Board during the timeframe in which the Lottery shall be a member of MUSL. The Director will also be a voting member of any MUSL Specific Product Group the Lottery joins.
- D. At any time the Lottery Director determines that any provisions of MUSL or of MUSL's Specific Game Playing Rules do not sufficiently provide for the security and integrity necessary to protect the Colorado Lottery, he/she shall recommend to the Lottery Commission that the Lottery end its membership with MUSL or with the specific Product Group. Upon concurrence by the Lottery Commission, membership can end at any time.

14.A.2 Definitions

In addition to the definitions provided in Paragraph 1.2 of Rule 1 and Rule 14, and unless the context in this Rule 14.A otherwise requires:

- A. "Advance Play" means the ability to purchase tickets for more than one drawing.
- B. "Breakage" means the results of rounding prize amounts down to the nearest whole dollar.

- C. "Drawing" means the event that occurs wherein the official "POWERBALL®" numbers are drawn.
- D. "Game Board(s)" or "Board(s)" means that area of the play slip that contains a set of two (2) grids. The first grid containing sixty-nine (69) squares numbered one (1) through sixty-nine (69) and the second grid containing twenty-six (26) squares, numbered one (1) through twenty-six (26).
- E. "Grand Prize" means a pari-mutuel prize that is advertised to be paid with per-winner annuities or as a lump sum cash payment, unless otherwise specified by the Lottery.
- F. "Grid" means the area of a play slip that contains a set of numbered squares to be marked by the player.
- G. "Matching Combinations" means the numbers on a play that coincide with the numbers randomly selected at a drawing for which that play was purchased.
- H. "MUSL" means the Multi-State Lottery Association, a government-benefit association wholly owned and operated by the Party Lotteries.
- I. "MUSL Board" means the governing body of MUSL, which is comprised of the chief executive officer of each Party Lottery.
- J. "Number" means any play integer from one (1) through sixty-nine (69) inclusive.
- K. "Play" means the six (6) numbers selected on each Board and printed on the ticket.
- L. "Play slip" means a mark-sense game card used by players of "POWERBALL®" to select plays. A play slip has no pecuniary value and shall not constitute evidence of ticket purchase or of numbers selected.
- M. "Prize Amount" means the pari-mutuel and/or set prize values established for a game.
- N. "Prize Category" means and refers to a specific prize within the prize pool.
- O. "Prize Pool" means a defined percentage of sales as specified in this rule.
- P. "PATP Terminal" or "Play at the Pump Terminal" means a gasoline pump having the capability to sell PATP Tickets.
- Q. "PATP Ticket" means a Quick Pick Ticket issued electronically by a Jackpot Game Licensee to a player via a Play at the Pump Terminal which item(s) or group of number(s) are electronically associated with the debit card used by the player to purchase the ticket. The receipt for the purchase of the PATP Ticket is only a receipt for the Player's records. The receipt does not constitute a Jackpot Game Ticket and shall not be used to redeem any prize.
- R. "PATP Ticket Validation " means the process of determining whether a Player's debit card has a winning Jackpot Ticket associated with it.
- S. "Quick Pick" or "Partial Quick Pick" means a number or numbers that are randomly generated by the computer when all or a portion of the player's selections have been left blank.
- T. "Roll-over" means the amount from the direct prize category contribution from previous drawing(s) in the Grand Prize category, that is not won, that is carried forward to the Grand Prize category for the next drawing.

- U. "Set Prize" means all other prizes except the Grand Prize that are advertised to be paid by a single cash payment and, except in instances outlined in these rules, will be equal to the prize amount established within the Specific Game Playing Rules.
- V. "Set Prize Pool" means an account held by MUSL that holds the temporary balances, transferred to MUSL from party lotteries, which results from having fewer-than-expected winners in the set prize categories. This money is paid out to party lotteries in subsequent drawings that have more winners than are statistically expected in the set prize categories.
- W. "Share(s)" means the total number of matching combinations within each prize category as determined for each drawing.
- X. "Winning Numbers" means the six (6) numbers, the first five (5) from a field of sixty-nine (69) numbers and the last one (1) from a separate field of twenty-six (26) numbers, randomly selected at each drawing, which shall be used to determine winning plays contained on a multi-state Jackpot Game ticket.

14.A.3 Price of "POWERBALL®" Play/Board

The price of each "POWERBALL®" play/board shall be \$2.00.

14.A.4 Ticket Purchases

- A. "POWERBALL®" tickets may be purchased only from a Lottery licensee authorized by the Director to sell multi-state Jackpot Game tickets.
- B. "POWERBALL®" tickets shall show, at a minimum, the player's selection of numbers, the boards played, drawing date and validation and reference numbers. The Lottery shall not directly and knowingly sell a combination of tickets to any person or entity that would guarantee such purchaser a winning ticket.
- C. Plays may be entered manually using the Jackpot Game terminal by a ticket generation option or by means of a play slip provided by the Lottery. Facsimiles of play slips, copies of play slips, or other materials which are inserted into the terminal's play slip reader and which are not printed or approved by the Lottery shall not be used to enter a play. No device shall be connected to a Jackpot Game terminal to enter plays, except as may be approved by the Lottery. Unapproved play slips or other devices may be seized by the Lottery.
- D. All plays made in the game shall be marked on the play slip by hand. No machine-printed play slips shall be used to enter plays. Machine-printed play slips may be seized by the Lottery. Nothing in this regulation shall be deemed to prevent a person with a physical handicap who would otherwise be unable to mark a play slip manually from using any device intended to permit such person to make such a mark (for his/her sole personal use or benefit).

14.A.5 Play for "POWERBALL®"

- A. A "POWERBALL®" player must select six numbers in each play, five (5) numbers out of sixty-nine (69) plus one (1) out of twenty-six (26). A winning play is achieved only when the following combinations of numbers selected by the player match, in any order, the five plus one winning numbers drawn by the Lottery. Those combinations are 5+1, 5+0, 4+1, 4+0, 3+1, 3+0, 2+1, 1+1 and 0+1.
- B. The player will use play slips, as provided in Paragraph 14.A.4 of this Rule 14.A, to make number selections. The Jackpot Game terminal will read the play slip and issue a ticket with corresponding play(s). If a play slip is not available, the Jackpot Game licensee may enter the selected numbers via the keyboard. If offered by the Lottery, a player may leave all or a portion of his/her play selections to a random number generator operated by the computer, commonly referred to as "QUICK PICK" or "PARTIAL QUICK PICK."

14.A.6 Prizes For "POWERBALL®"

- A. Odds of winning a prize are displayed in the table below:

MATCHING COMBINATIONS	PRIZECATEGORY	ODDS OF WINNING (ONE PLAY)
All five (5) of first set plus one (1) of second set	Grand Prize	1:292,201,338.0000
All five (5) of first set plus none of second set	Second Prize	1:11,668,053.5200
Any four (4) of first set, but not five, plus one (1) of second set	Third Prize	1:913,129.1813
Any four (4) of first set, but not five, plus none of second set	Fourth Prize	1:36,525.1673
Any three (3) of first set, but not four or five, plus one (1) of second set	Fifth Prize	1:14,494.1140
Any three (3) of first set, but not four or five, plus none of second set	Sixth Prize	1:579.7646
Any two (2) of first set, but not three, four or five, plus one (1) of second set	Seventh Prize	1:701.3281
Any one (1) of first set, but not two, three, four or five, plus one (1) of second set	Eighth Prize	1:91.9775

None of first set plus one (1) of second set	Ninth Prize	1:38.2339
Overall odds of winning any prize		1:24.8671

- B. The prize pool contribution for all prize categories shall consist of fifty percent (50%) of each drawing period's sales unless, as described in Paragraph 14.A.7.D of this Rule 14.A, the prize reserve and pool accounts are not funded at the balances set by the "POWERBALL®" Product Group. All prize payouts are made with the following expected prize payout percentages, although the prize payout percentage per draw may vary.

PRIZE POOL

Prize Category	Prize Amounts	Allocation of Prize Pool	Prize Pool Percentage of Sales
Grand Prize	Announced Jackpot	68.0131%	34.0066%
Second Prize	\$1,000,000	8.5558%	4.2279%
Third Prize	\$50,000	5.4756%	2.7378%
Fourth Prize	\$100	0.2738%	0.1369%
Fifth Prize	\$100	0.6900%	0.3450%
Sixth Prize	\$7	1.2074%	0.6037%
Seventh Prize	\$7	0.9982%	0.4991%
Eighth Prize	\$4	4.3488%	2.1744%
Ninth Prize	\$4	10.4374%	5.2187%
TOTAL		100.00%	50.00%

- C. Prize Categories - The Grand Prize shall be determined on a pari-mutuel basis. The prize money allocated to the Grand Prize category shall be divided equally by the number of game boards matching all five (5) of the first set plus one (1) of the second set. Except as provided in 14.A.7.E.4. below, all other prizes awarded shall be paid as set prizes with the foregoing expected prize payout percentages.

14.A.7 Prize Reserve and Prize Pool Accounts

- A. The MUSL Board manages two (2) prize reserve accounts associated with the "POWERBALL® product group. The MUSL Board holds the reserves in trust on behalf of the Lottery, and interest is earned by the Lottery. When a lottery becomes a member of the POWERBALL® product group, the MUSL Board determines an initial contribution to be made by the lottery to the reserves. In accordance with the payment plan established between the lottery and MUSL, the lottery must deposit with the MUSL board the specified amounts. All deposits are reported on Lottery records as "Cash Held by MUSL" or "Pre-Paid Prize Expense with MUSL".
1. Prize Reserve Account (PRA) is used to guarantee payment of valid, but unanticipated, grand prize claims that may result from a system error or for any other reason the normal contributions from sales are not adequate.
 2. Set Prize Reserve Account (SPRA) is used to fund deficiencies in the payment of the set cash prizes.
- B. The MUSL Board manages multiple prize pool accounts associated with the "POWERBALL® product group. The Powerball Product Group sets the contribution rates for the following prize pool accounts.
1. Grand Prize Pool is used to fund the current Grand Prize.
 2. Set Prize Pool is used to fund the Set Prizes and holds the temporary balances that may result from having fewer than expected winners in the Set Prize (aka low-tier prize) categories.
 3. Set-Aside Pool is used to fund the payment of the awarded minimum starting annuity Grand Prizes and minimum annuity Grand Prize increase, if necessary as may be set by the Powerball Product Group.
 4. Grand Prize Carry Forward Pool is used to fully fund the starting minimum annuity Grand Prize, as may be set by the Product Group, if such funds are available.
- C. The above prize reserve accounts and the Set-Aside Pool shall have maximum balance amounts that are set by the Product Group, which are subject to review by the MUSL Board Finance and Audit Committee.
- D. The maximum contribution rate to the Grand Prize Pool shall be 68.0131% of the prize pool (34.0066% of sales). An amount up to five percent (5%) of a Party Lottery's sales may be deducted from a Party Lottery's Grand Prize Pool contribution and placed in trust in one or more prize pool accounts and prize reserve accounts held by the Product Group (hereinafter the "prize pool and reserve deduction") at any time that the prize pool accounts and Party Lottery's share of the prize reserve accounts(s) is below the amounts designated by the Product Group. An additional amount up to twenty percent (20%) of a Party Lottery's sales may be deducted from a Party Lottery's Grand Prize Pool contribution and placed in trust in the Grand Prize Carry Forward Pool (CFP) to be held by the Product Group at a time as determined by the Product Group.
- E. The set prize pool shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the set prizes awarded in the current draw. If the total of all party lotteries' set prizes (as multiplied by the respective Power Play multiplier if applicable) awarded in a drawing exceeds the percentage of the prize pool allocated to the set prizes, then the amount needed to fund the set prizes awarded shall be drawn from the following sources, in the following order:
1. the amount allocated to the Powerball Set Prizes and carried forward from previous draws, if any;

2. if the set prize pool is not sufficient to pay the set prizes awarded, an amount from the set prize reserve account is used, if available, not to exceed an amount established by MUSL;
 3. other amounts as agreed to by the Product Group in their sole discretion;
 4. If after these sources are depleted, sufficient funds do not exist to pay the set prizes awarded, then the highest set prize shall become a pari-mutuel prize. If the amount of the highest set prize, when paid on a pari-mutuel basis, drops to or below the next highest set prize and there are still not sufficient funds to pay the remaining set prizes awarded, then the next highest set prize shall become a pari-mutuel prize. This procedure shall continue down through all set prize levels, if necessary, until all set prize levels become pari-mutuel prize levels.
- F. The Product Group may determine to expend all or a portion of the funds in the Powerball prize pool accounts (except the Grand Prize pool account and the Grand Prize Carry Forward Pool) and the prize reserve accounts, (1) for the purpose of indemnifying the Party Lotteries and Licensee Lotteries in the payment of prizes to be made by the Selling Lotteries; and (2) for the payment of prizes or special prizes in the game, limited to prize pool and prize reserve contributions from lotteries participating in the special prize promotion, subject to the approval of the Board's Finance & Audit Committee. The Grand Prize Carry Forward Pool may only be expended to pay Powerball prizes.
- G. Any amount remaining in the prize pool accounts or prize reserve accounts at the end of this game shall be returned to the lotteries participating in the accounts after the end of all claim periods of all Selling Lotteries, carried forward to a replacement game, or otherwise expended in a manner at the election of the individual Members of the Product Group in accordance with jurisdiction statute.

14.A.8 Prize Payment

- A. The Grand Prize is paid by the Lottery upon receipt of funds from MUSL no earlier than fifteen (15) calendar days of validation of the Grand Prize ticket; and when the player makes their final selection of cash or annuity no later than sixty (60) days after validation of the Grand Prize ticket.
1. Grand Prizes shall be paid, at the election of the ticket bearer by a single cash payment or in a series of annuity payments. The ticket bearer becomes entitled to the prize at the time the prize is validated as a winner. The election to take the cash payment or annuity payments may be made at the time the prize is validated or within 60 days after the ticket bearer becomes entitled to the prize. An election made after the ticket bearer becomes entitled to the prize is final and cannot be revoked, withdrawn or otherwise changed. If the ticket bearer does not make the election at the time the prize is validated and requests the 60-day election period, the Lottery will cancel the prize warrant that was generated during validation. The validation record will be kept secured and on file at the Lottery office until the ticket bearer makes an election. If the ticket bearer does not make the payment election within 60 days after validation, then the prize shall be paid as an annuity prize.
 2. Shares of the Grand Prize shall be determined by dividing the cash available in the Grand Prize pool equally among all boards matching all five (5) of the first set plus one (1) of the second set of drawn numbers. Winner(s) who elect a cash payment shall be paid their share(s) in a single cash payment. The annuitized option prize shall be determined by multiplying a winner's share of the Grand Prize pool by the MUSL annuity

factor. Neither MUSL nor the party lotteries shall be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount purchased after the prize payment method is actually known to MUSL. In certain instances announced by the Product Group, the Grand Prize shall be a guaranteed amount and shall be determined pursuant to Paragraph 14.A.8.E. of this Rule 14.A. If individual shares of the cash held to fund an annuity are less than \$250,000, the Product Group, in its sole discretion, may elect to pay the winners their share of the cash held in the Grand Prize pool.

3. All annuitized prizes shall be paid annually in thirty (30) graduated payments with the initial payment being made in cash, to be followed by twenty-nine (29) payments funded by the annuity.
 4. Funds for the initial payment of an annuitized prize or the lump sum cash prize shall be made available by MUSL for payment by the Lottery no earlier than the fifteenth calendar day (or the next banking day if the fifteenth day is a holiday) following the drawing. If necessary, when the due date for the payment of a prize occurs before the receipt of funds in the prize pool trust sufficient to pay the prize, the transfer of funds for the payment of the full lump sum cash amount may be delayed pending receipt of funds from the party lotteries. The Lottery may elect to make the initial payment from its own funds after validation, with notice to MUSL.
 5. The Grand Prize amount held by MUSL for subsequent payment to an annuity winner shall be transferred to the Lottery and the Lottery shall have payment to the annuity winner on the anniversary date, or if such date falls on a non-business day the first day following the anniversary date, of the selection of the jackpot winning numbers.
 6. In the event of the death of a lottery winner during the annuity payment period, the "POWERBALL®" Product Group, in its sole discretion, upon the petition of the estate of the lottery winner (the "Estate") to the Lottery, and subject to federal, state, or district applicable laws, may accelerate the payment of all of the remaining lottery proceeds to the Estate. If the Product Group makes such a determination, then securities and/or cash held to fund the deceased lottery winner's annuitized prize may be distributed to the Estate. The identification of the securities to fund the annuitized prize shall be at the sole discretion of the Product Group.
- B. The Director's decision with respect to the validation and payment of set prizes, whether during a "POWERBALL®" game or any drawing related thereto, shall be final and binding upon all participants in the Lottery.
- C. All set prizes (all prizes except the Grand Prize) shall be paid by the Lottery. The Lottery may begin paying set prizes after receiving authorization to pay from the MUSL central office.
- D. Annuitized payments of the Grand Prize or a share of the Grand Prize may be rounded to facilitate the purchase of an appropriate funding mechanism. Breakage on an annuitized Grand Prize win shall be added to the first cash payment to the winner or winners.
- E. Set Prizes, which, under these rules, may become pari-mutuel prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.
- F. If the Grand Prize is not won in a drawing, the prize money allocated for the Grand Prize shall rollover and be added to the Grand Prize pool for the following drawing.

- G. The "POWERBALL®" Product Group may offer guaranteed minimum Grand Prize amounts or minimum increases in the Grand Prize amount between drawings or make other changes in the allocation of prize money where the "POWERBALL®" Product Group finds that it would be in the best interest of the game. If a minimum Grand Prize amount or a minimum increase in the Grand Prize amount between drawings is offered by the "POWERBALL®" Product Group, then the Grand Prize shares shall be determined as follows:
1. If there are multiple Grand Prize winners during a single drawing, each selecting the annuitized option prize, then a winner's share of the guaranteed annuitized Grand Prize shall be determined by dividing the guaranteed annuitized Grand Prize by the number of winners.
 2. If there are multiple Grand Prize winners during a single drawing and at least one of the Grand Prize winners has elected the annuitized option prize, then the best bid submitted by MUSL's pre-approved qualified brokers shall determine the cash pool needed to fund the guaranteed annuitized Grand Prize.
 3. If no winner of the Grand Prize during a single drawing has elected the annuitized option prize, then the amount of cash in the Grand Prize pool shall be an amount equal to the guaranteed annuitized amount divided by the average annuity factor of the most recent three best quotes provided by MUSL's pre-approved qualified brokers submitting quotes.
 4. In no case shall quotes be used which are more than two weeks old and if less than three quotes are submitted, then MUSL shall use the average of all quotes submitted. Changes in the allocation of prize money shall be designed to retain approximately the same prize allocation percentages, over a year's time, set out in these rules.

14.A.9 Prize Accounts

- A. The Lottery shall transfer to the MUSL in trust an amount as determined to be its total proportionate share of the prize account less actual set prize liability. If this results in a negative amount, the MUSL central office shall transfer funds to the Lottery.
- B. Grand Prize amounts held by MUSL shall be transferred to the Lottery immediately after the Lottery validates the Grand Prize claim and after MUSL has collected the prize pool shares from all member lotteries.
- C. All funds to pay a grand prize that go unclaimed shall be returned to the Lottery by MUSL in proportion to sales by the Lottery for the grand prize in question after the claiming period set by the Lottery selling the winning ticket expires.

14.A.10 Funds Transfer

- A. Funds shall be collected by MUSL from each Party Lottery weekly by wire transfer or other means acceptable to the "POWERBALL®" Product Group. The "POWERBALL®" Product Group shall determine collection days. The amount to be transferred shall be calculated in accordance with game rules. The draw reports determine whether the member lotteries owe funds to MUSL or MUSL needs to transfer money to the member lotteries. Each Party Lottery shall transfer to MUSL an amount as determined by MUSL and the Product Group to be its total proportionate share of the prize account less actual set prize liability. If this results in a negative amount, the MUSL central office shall transfer funds to the Party Lottery.
- B. The Grand Prize amount held by MUSL shall be transferred to the Lottery after the Lottery validates the Grand Prize claim and after MUSL has collected the prize pool shares from all member lotteries.

- C. The Grand Prize amount held by MUSL for subsequent payment to annuity winners shall be transferred to the Lottery within seven days preceding the anniversary date of the selection of the jackpot winning numbers. The Lottery will then make payment to the annuity winner.

14.A.11 Drawings

- A. The "POWERBALL®" drawings shall be held twice each week on Wednesday and Saturday evenings, except that the drawing schedule may be changed by the MUSL Board. In the event of an act of Force Majeure the drawing shall be rescheduled at the discretion of the MUSL Board.
- B. Each drawing shall determine, at random, six winning numbers in accordance with drawing guidelines. The Lottery Commission shall review and approve drawing guidelines. Any numbers drawn are not declared winning numbers until the drawing is certified by MUSL in accordance with the "POWERBALL®" drawing guidelines. The winning numbers shall be used in determining all "POWERBALL®" winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.
- C. Each drawing shall be witnessed by an auditor as required in C.R.S. 24-35-208 (2)(d). All drawing equipment used shall be examined by the auditor immediately prior to, but no sooner than thirty (30) minutes before, a drawing and immediately after, but no later than thirty (30) minutes following the drawing. All drawings, inspections and tests shall be recorded on videotape.
- D. The drawing shall not be invalidated due to the numbers drawn creating an excessive prize liability for the Lottery.
- E. The drawing procedures shall provide that a minimum of fifty-nine (59) minutes elapse between the close of the game ticket sales and the time of the drawing for those tickets sold. All drawings shall be open to the public.

14.A.12 Advance Play

Advance play provides the opportunity to purchase "POWERBALL®" tickets for more than one drawing. Advance play tickets shall be available for purchase in variable increments. The Advance Play feature shall be available at the discretion of the Lottery Director.

14.A.13 MUSL Accounting and Finance

- A. At the time a Lottery joins the "POWERBALL®" Product Group, MUSL revises the existing budget and assesses the Lottery for the additional costs. Each July, thereafter, MUSL sets the budget for the impending year and assesses each Lottery their proportionate share. The Lottery receives a copy of these costs and an election form.
- B. Each September and March, MUSL re-evaluates the amounts that each Lottery must contribute to any Prize Reserves. Any additional contributions to the Prize Reserves are funded by reducing the contribution from sales to the Grand Prize as referred to in 14.A.7.
- C. The draw reports determine whether the Lottery owes and needs to transfer funds to MUSL, or MUSL owes and needs to transfer funds to the Lottery. (The procedures and corresponding time lines documenting the timely and effective transfer of funds between the Lottery and MUSL can be found in the Lottery's financial procedures.) Three different transfers are made on a continual basis:
 - 1. Draw receivables transferred from the Lottery to MUSL,

2. Set prize payments and initial Grand Prize payments transferred from MUSL to the Lottery, and
3. Subsequent Grand Prize annuity payments from MUSL to the Lottery.

14.A.14 Jackpot Game Licensee Commission, Cashing Bonus, Selling Bonus, and Marketing Performance Bonus

- A. In addition to the Six Percent (6%) Commission or three percent (3%) Commission for PATP Terminals set forth in Rule 14.19, retailers can earn a Cashing Bonus, Selling Bonus and Marketing Performance Bonus.
 1. Each retailer will receive a cashing bonus of one percent (1%) of each prize paid by the licensee up to and including \$599. A cashing bonus for a validated winning PATP Ticket shall be paid to the vendor administering the sale of the winning PATP Ticket and not the licensee.
 2. In order to receive a Selling Bonus, the following criteria must be met:
 - a. A licensee must have sold a grand-prize or second-prize winning multi-state Jackpot game ticket for a drawing for which the announced jackpot prize is at least forty million dollars (\$40,000,000) or more;
 - b. Payment of the jackpot-selling bonus will occur once Lottery security has confirmed the selling licensee.
 - c. A licensee must be selling multi-state Jackpot Game tickets up to and including the day that the ticket is validated by the Lottery and must be the same licensed licensee who sold the winning ticket.
 - d. The Director or designee shall determine the amount of the jackpot-selling bonus for each qualified-prize-winning ticket sold.
 - e. A Selling Bonus determined by the sale of a PATP winning Ticket shall be divided equally between the licensee and the vendor administering the sale of the winning PATP Ticket.
 3. In order to receive a five-tenths of one percent (.5%) Marketing Performance Bonus the following criteria must be met:
 - a. A licensee must be licensed on the date the marketing performance bonus is declared;
 - b. A licensee must sell Lottery products up to and including on the final sales day in which the marketing performance bonus is declared;
 - c. A licensee must meet or exceed the requirements of the marketing performance bonus plan for the period for which the marketing performance bonus is declared.
- B. In the event there is a residual resulting from the accrual of the one percent (1%) cashing bonus (14.A.14.A.1) and/or the five-tenths of one percent (.5%) marketing bonus (14.A.14.A.3) have been expensed, the Lottery Director may provide additional compensation to licensees as described in 14.A.14.A.2 or may revert the excess amount thereby decreasing the bonus expense.

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Tracking number: 2016-00372

Opinion of the Attorney General rendered in connection with the rules adopted by the

Lottery Commission

on 09/14/2016

1 CCR 206-1

LOTTERY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/15/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

September 23, 2016 13:44:14

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Revenue

Agency

Lottery Commission

CCR number

1 CCR 206-1

Rule title

1 CCR 206-1 LOTTERY RULES AND REGULATIONS 1 - eff 05/01/2017

Effective date

05/01/2017

DEPARTMENT OF REVENUE

Lottery Commission

1 CCR 206-1 RULES AND REGULATIONS

AMENDED RULE 10.A - COLORADO LOTTERY JACKPOT GAME "LOTTO"

BASIS AND PURPOSE FOR AMENDED RULE 10.A

The purpose of Amended Rule 10.A is to provide specific game details and requirements for the Colorado Lottery Jackpot Game "LOTTO" such as type of play, prizes, method of selecting winning numbers, drawings, and the allocation of revenues. The statutory basis for Rule 10.A is found in C.R.S. 24-35-208 (1) (a) and (2), 24-35-212 and 24-35-212.5.

10.A.1

A Colorado Lottery Jackpot game to be known as "Lotto" is authorized to be conducted by the Director under the following Rules and Regulations and under such further instructions and directives as the Director may issue in furtherance thereof. If a conflict arises between Rule 10 and this Amended Rule 10.A, Amended Rule 10.A shall apply.

10.A.2 Definitions

In addition to the definitions provided in Paragraph 1.2 of Rule 1 and Rule 10, and unless the context in this Amended Rule 10.A otherwise requires:

- A. "Base contribution" means an amount contributed to the Jackpot prize category in order to fund the initial drawing.
- B. "Board" means a field of the 42 numbers found on the play slip.
- C. "Direct Prize Category Contribution" means a percentage of net sales allocated to the prize categories as described in Paragraph 10.A.5.c.
- D. "Indirect Prize Category Contribution" means a discretionary contribution authorized by the Director allocated to the prize categories as described in Paragraph 10.A.5.c. However, the total discretionary indirect prize category contributions shall not allow the game to pay out more than an additional 5.0% of sales in prizes in any single fiscal year. Unclaimed prizes will not be considered in this calculation.
- E. "Jackpot Prize" means a pari-mutuel prize that is advertised to be paid with per-winner annuities or as a lump sum cash payment, unless otherwise specified by the Lottery.
- F. "Jackpot Game Shares" means the total number of matching combinations within each prize category as determined for each drawing.
- G. "Number" means any play integer from 1 through 42 inclusive.
- H. "Play" means the six numbers selected on each Board and printed on the ticket.
- I. "Play slip" means a mark-sense game card used by players of Lotto to select plays. There shall be ten game grids, or boards, on each play slip identified as A, B, C, D, E, F, G, H, I, and J. A

play slip has no pecuniary value and shall not constitute evidence of ticket purchase or of numbers selected.

- J. "PATP Terminal" or Play at the Pump Terminal" means a gasoline pump having the capability to sell PATP Tickets.
- K. "PATP Ticket" means a Quick Pick Jackpot Game Ticket issued electronically by a Jackpot Game Licensee to a player via a Play at the Pump Terminal, which item(s) or group of number(s) are electronically associated to the debit card used by the Player to purchase the ticket. The receipt for the purchase of the PATP Ticket is only a receipt for the Player's records. The receipt does not constitute a Jackpot Game Ticket and shall not be used to redeem any prize.
- L. "PATP Validation" means the process of determining whether a Player's debit card has a winning Jackpot Game Ticket associated with it.
- M. "Roll-over" means the amount from the direct prize category contribution from previous drawing(s) in the first prize (Jackpot) category that is carried forward to the first prize category (Jackpot) for the next drawing.

10.A.3 Price of Lotto Ticket

The price of each Lotto play shall be \$1.00 but may be adjusted at the Director, or designee's, discretion.

10.A.4 Play for Lotto

A. Type of play:

A Lotto player must select six numbers in each play. A winning play is achieved only when 3, 4, 5, or 6 of the numbers selected by the player match, in any order, the six winning numbers drawn by the Lottery.

B. Method of play:

1. Manual – The Jackpot Game retailer may enter the player's selected numbers via the keyboard on the Jackpot Game terminal.
2. Play Slip - The player may use an original play slip provided by the Lottery to make number selections. The Jackpot Game terminal will read the play slip and issue a ticket with corresponding plays.
 - a. Facsimiles of play slips, copies of play slips, or other materials that have not been printed or approved by the Lottery shall not be used to enter a play.
 - b. No device shall be connected to a Jackpot Game terminal to enter plays, except as may be approved by the Lottery.
 - c. Unapproved play slips or other devices may be seized by the Lottery.
 - d. The play slip must be marked by hand. Machine-printed play slips used to enter plays must be approved by the Director. Unapproved machine-printed play slips may be seized by the Lottery.
 - e. Nothing in this regulation shall be deemed to prevent a person with a physical disability who would otherwise be unable to mark a play slip manually from using

any device intended to permit such person to make such a mark (for his/her sole personal use or benefit).

3. Quick Pick – The Jackpot Game retailer can create ticket(s) using the Jackpot Game terminal where the play has been created using a random number generator operated by the Jackpot Game terminal.
4. Partial Quick Pick - A player may leave a portion of his/her play selections to a random number generator operated by the Jackpot Game terminal. The partial quick pick option can be used with a play slip or manual entry by the retailer.

10.A.5 Prizes For Lotto

- A. The prize amounts for each drawing paid to each Lotto player who selects a matching combination of numbers will vary due to a pari-mutuel calculation. The prize amounts are based on the total amount in the prize category for that Lotto drawing distributed equally over the number of matching combinations in each prize category.

MATCHING COMBINATIONS	PRIZE CATEGORY	ODDS OF WINNING (ONE PLAY)
All six matching numbers in one play	First Prize (Jackpot)	1: 5,245,785
Any five but not six matching numbers in one play	Second Prize	1: 24,286
Any four but not five or six matching numbers in one play	Third Prize	1:555
Any three but not four, five, or six matching numbers in one play	Fourth Prize	1: 36

- B. The projected aggregate prizes as a percentage of sales for Lotto is Fifty-two and Seven-tenths Percent (52.7%). This projection does not include unclaimed prizes.
- C. Prize Categories
1. First Prize (Jackpot) – The Jackpot will start each time at an annuitized future value of at least \$1 million for the first drawing after it is won. The total prize category contribution for a drawing may include the following:
 - a. A direct prize category contribution of twenty-five percent (25%) of net sales for the drawing, which may be adjusted as authorized by the director.
 - b. A base contribution of \$500,000. The Lotto base contribution may be adjusted as authorized by the Director if increased sales warrant a higher starting jackpot.
 - c. A roll-over contribution as defined in Paragraph 10.A.2.j of this Rule 10.A.

- d. An indirect prize category contribution authorized by the Director.
- 2. Second Prize – The second prize category may include the following:
 - a. A direct prize category contribution of two percent (2%) of the net sales for the drawing.
 - b. An indirect prize category contribution as authorized by the Director.

A prize amount shall be calculated by dividing the prize category contribution by the number of shares for the prize category. A share is the matching combination, in one play, of any five of the six numbers drawn (in any sequence).

- 3. Third Prize – The third prize category may include the following:
 - a. A direct prize category contribution of seven and one-half percent (7.5%) of the net sales for the drawing.
 - b. An indirect prize category contribution as authorized by the Director.

A prize amount shall be calculated by dividing the prize category contributions by the number of shares for the prize category. A share is the matching combination, in one play, of any four of the six numbers drawn (in any sequence).

- 4. Fourth Prize – The fourth prize category may include the following:
 - a. A direct prize category contribution of ten percent (10%) of the net sales for the drawing.
 - b. An indirect prize category contribution as authorized by the Director.

A prize amount shall be calculated by dividing the prize category contributions by the number of shares for the prize category. A share is the matching combination, in one play, of any three of the six numbers drawn (in any sequence).

- 5. Additional Lottery Prizes may be awarded as authorized by the Director from the Indirect Prize Category contribution.
- 6. All prize amounts will be rounded down to the nearest dollar except that no prize amount shall be less than one dollar (\$1).

10.A.6 Payment of Prizes

- A. The holder of a winning ticket may win only one prize per play in connection with the winning numbers drawn and shall be entitled only to the highest prize category won by those numbers.
- B. Players will be given the option of receiving their share of the first prize (Jackpot) over a period of 25 years through a fixed progressive 25-year annuity with the initial payment made by the Lottery on the date of claim and 24 additional payments made yearly on the anniversary of the first payment, or a one-time lump sum payment equal to fifty percent (50%) of their share of the annuitized jackpot amount.
- C. The annuitized future value of the first (Jackpot) prize category shall be twice the cash value of the total Jackpot prize category contribution as defined in Paragraph 10.A.5.c.1.

- D. To determine the annuitized future value of each jackpot share (prize amount), the annuitized future value of the prize category is divided by the shares. A share is the matching combination, in one play, of all six numbers drawn (in any sequence).
- E. If the annuitized future value of each jackpot share (prize amount) results in an initial or first payment of ten thousand dollars (\$10,000) or more and the annuity option has been selected, the prize amount shall be a fixed progressive 25-year annuity. The initial annuity payment shall be paid by the Lottery at the time of claim and be 2.5% of the future value of the annuity. Each subsequent annual payment (#2 through #25) shall increase by 3.7% of the previous annual payment.
- F. Players who select the annuitized payment shall have the ability to change their prize payment selection from annuitized payment to lump sum payment for up to ninety days (90) from the original date of claim. This period may be extended at the discretion of the Director or the Director's designee. If a player chooses the lump sum payment after the initial annuitized payment is made to the player by the Lottery, the player will receive the remaining amount of the original cash value prize, less taxes, in a single second payment.
- G. If the annuitized future value of each jackpot share (prize amount) results in an initial or first payment of less than ten thousand dollars (\$10,000) the annuity option will not be allowed and the prize amount will be paid in one payment.

10.A.7 Ticket Purchases

- A. Lotto tickets may be purchased only from a Lottery retailer authorized by the Director to sell Jackpot Game tickets.
- B. Lotto tickets shall show, at a minimum, the numbers selected, the boards played, drawing date and validation and reference numbers.
- C. The Lottery shall not directly and knowingly sell a combination of tickets to any person or entity that would guarantee such purchaser a win.
- D. A player may cancel a ticket and receive a refund of the purchase price for any draw provided the following criteria are met:
 - 1. The legible ticket is returned to the Jackpot Game retailer from whom the player purchased;
 - 2. It is returned within one (1) hour of purchase;
 - 3. The retailer is open;
 - 4. The Jackpot Game system is available for wagering; and
 - 5. The Jackpot Game system has not converted to the next drawing period.
 - 6. PATP transaction cannot be cancelled after purchase.

10.A.8 Drawings

- A. The Lotto drawings shall be held as scheduled by the Director and as indicated in the Drawing Guidelines. In the event of an act of Force Majeure the drawing shall be rescheduled at the Director's, or the Director's designee, discretion.

- B. The drawings will be conducted by Lottery officials and comply with Colorado Revised Statutes.
- C. Each drawing shall determine, at random, six winning numbers in accordance with Drawing Guidelines. Any numbers drawn are not declared winning numbers until the drawing is certified by the Lottery in accordance with paragraph 10.A.8d. The winning numbers shall be used in determining all Lotto winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.
- D. The drawing shall not be invalidated based on the liability of the Lottery.

10.A.9 Advance Play

Advance play provides the opportunity to purchase Lotto tickets for more than one drawing. Advance play tickets shall be available for purchase in variable increments. The Advance Play feature shall be available at the discretion of the Lottery Director.

10.A.10 Licensee Commission

- A. In addition to the six percent (6%) Commission or three percent (3%) commission for PATP Terminals, set forth in Paragraph 10.13 of Rule 10, the Director may provide such additional compensation to the licensees as is deemed appropriate by the Director to further the sale of Lotto tickets, so long as such additional compensation is made equally available to all licensees and does not exceed a total of seven-tenths of one percent (0.7%) of the total amount received by the Division from all Lotto tickets sold or disbursed as of the date the Director determines to provide such additional compensation. The seven-tenths of one percent (0.7%) described above shall consist of the following:
 - 1. Two-tenths of one percent (0.2%) of sales from Lotto tickets lawfully sold or disbursed by a Jackpot Game retailer shall be accrued to pay Jackpot Game retailers a one percent (1%) cashing bonus for each Lotto prize redeemed by retailers up to and including \$599.99. A cashing bonus for an automatically validated winning PATP Ticket shall be paid to the vendor administering the sale of the winning PATP Ticket and not the licensee.
 - 2. Up to one-half of one percent (0.5%) of sales from Lotto tickets lawfully sold or disbursed by a Jackpot Game retailer shall be accrued to pay Jackpot Game retailers a marketing performance bonus.
- B. In order to receive the marketing performance bonus, each Jackpot Game retailer must meet the following criteria:
 - 1. A retailer must be a licensed retailer on the date the marketing performance bonus is declared;
 - 2. A retailer must meet or exceed the requirements of the Marketing Performance Bonus Plan for the period for which the marketing performance bonus is declared; and
 - 3. The requirements of the Marketing Performance Bonus Plan to be met by Jackpot Game retailers shall be established by the Lottery Director or his/her designee.
- C. In the event there is a residual resulting from the accrual of the seven-tenths of one percent (0.7%) of sales after the bonuses described in 10.A.10.a.1 and 2 have been expensed, the Director may provide additional compensation to licensees as described in 10.A.10.a or may revert the excess amount thereby decreasing the bonus expense.

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Tracking number: 2016-00374

Opinion of the Attorney General rendered in connection with the rules adopted by the

Lottery Commission

on 09/14/2016

1 CCR 206-1

LOTTERY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/22/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

September 30, 2016 15:30:08

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Revenue

Agency

Lottery Commission

CCR number

1 CCR 206-1

Rule title

1 CCR 206-1 LOTTERY RULES AND REGULATIONS 1 - eff 05/01/2017

Effective date

05/01/2017

DEPARTMENT OF REVENUE

Lottery Commission

1 CCR 206-1 RULES AND REGULATIONS

AMENDED RULE 10 - IN-STATE JACKPOT LOTTERY GAMES

Amended Rule 10 General Rules and regulations

BASIS AND PURPOSE OF AMENDED AND RESTATED RULE 10

The purpose for Amended Rule 10 is to provide details and requirements for all Colorado Lottery In-State Jackpot games such as the sale of tickets, payment of prizes, method for selecting and validating winning tickets, as well as to establish the amount of commission for the licensee. The statutory basis for Amended Rule 10 is found in C.R.S. 24-35-201(5), 24-35-208(1)(a) and (2), and 24-35-212.

10.1 Commission to Adopt Specific Rules and Regulations for In-State Jackpot Lottery Games.

In-State Jackpot Lottery games are authorized to be conducted under the following Rules and Regulations and such further instructions and directives as the Director may issue in furtherance thereof. For the purposes of this Amended Rule 10 "Jackpot Game" shall mean "In-State Jackpot Lottery Games".

To the extent not inconsistent with such specific Rules and Regulations as may be adopted, the following general provisions under this Amended Rule 10 shall apply to each Lottery Jackpot game conducted.

10.2 Definitions

In addition to the definitions provided in Paragraph 1.2 of Rule 1, and unless the context in these Rules and Regulations otherwise requires:

- a. "Additional Lottery Prizes" may include cash, merchandise, and/or services as determined by the Director.
- b. "Advance Play" means the ability to purchase tickets for more than one consecutive draw with the first draw in the purchase being the current open draw.
- c. "Aggregate Limit" means the maximum prize liability established for each drawing for a specified matching combination.
- d. "Aggregate Prize Fund" means the maximum percentage of sales for each Jackpot Lottery game approved by the Lottery Commission that may be used to pay prizes in the game.
- e. "Automated Draw Machine" (ADM) means the computer operating the certified random number generator software used to select the Jackpot game winning combination.
- f. "Certified Drawing" means a drawing which complies with all requirements of C.R.S. 24-35-208(2)(d).
- g. "Draw Break" means the period of time sales activity is suppressed and during which no Jackpot Game Tickets may be sold, purchased or validated for the suppressed game(s).

- h. "Drawing" means the procedure by which a random selection process of a winning combination of, but not limited to, digits, numbers or symbols, is conducted in accordance with the rules of the game as set forth in Specific Game Playing Rules.
- i. "Drawing Guidelines" means the document that outlines the procedure and eligibility requirements for game or promotional drawing.
- j. "Drawing Sales Period" means the period of time between ticket sales activation (during which Jackpot Game Tickets may be sold, purchased or validated) and the draw break.
- k. "Duplicate Ticket" means a ticket produced by any unauthorized method.
- l. "Force Majeure" means an unexpected event (i.e. a natural disaster) that prevents the scheduled completion of an activity.
- m. "Indirect Prize Category Contribution" means the difference between the "Aggregate Prize Fund" and actual prize expense that the Director, at his discretion, may authorize to be used to increase prizes or pay additional prizes.
- n. "Jackpot Game" means an individual Lottery game as described in specific game playing rules that utilizes a computer system to administer plays and in which a player or the computer system selects a combination of digits, numbers, or symbols. The Lottery will conduct periodic drawings to determine the winning combination(s) in accordance with the Specific Game Playing Rules for each Jackpot game.
- o. "Jackpot Game Licensee" means a Lottery Licensee authorized by the Lottery to sell Jackpot Game Tickets. Jackpot Game Licensees shall sell all Lottery games including, but not limited to, instant game tickets offered by the Lottery.
- p. "Jackpot Game System" means the computer system(s) consisting of Retailer terminals, central processing equipment, and a communication network utilized to conduct Jackpot games.
- q. "Net Sales" means gross sales less cancellations.
- r. "Retailer Terminal" means the computer hardware through which Jackpot Game Tickets are generated.
- s. "Jackpot Game Ticket" means a computer-generated ticket issued by a Jackpot Game Licensee to a player as a receipt for the combination of digits, numbers, or symbols selected. That ticket shall be the only acceptable evidence of the combination of digits, numbers, or symbols selected. Jackpot Game Tickets may be purchased only from Jackpot Game Licensees.
- t. "Player-Selected Item" means a number or item or group of numbers or items selected by a player in connection with a Jackpot game. The number or group of numbers can be selected by a player using a Play Slip or on the behalf of the player by the Licensee manually using the Jackpot Game terminal.
- u. "Prize Amounts" means the amount of money payable in each prize category to each share or the annuitized future value of each share in a prize category for each drawing.
- v. "Prize Category" means the matching combinations as described in Specific Game Playing Rules.
- w. "Prize Expense" means the accrued portion of net sales from all Lottery products that has been paid or obligated for the payment of prizes.

- x. "Prize Expense Minimum" refers to C.R.S. 24-35-210 (9) and means the total amount of prize expense must be a minimum of fifty percent (50%) of the annual aggregate net Lottery ticket sales from all games, including instant, Jackpot Game and multi-state games.
- y. "Quick Pick" means a number or item or group of numbers or items randomly selected by the Jackpot Game vendor system in connection with a Jackpot game.
- z. "Shares" means the total number of matching combinations within each prize category as determined for each draw.
- aa. "Specific Game Playing Rules" means the rules that are promulgated to govern separate Jackpot games and shall include, as though set forth verbatim, the term "Specific Game Playing Rules that are incorporated by reference as though fully set forth herein."
- bb. "Ticket Bearer" means the person who has signed the Jackpot Game Ticket or who has possession of an unsigned ticket.
- cc. "Validation" means the process of determining whether a Jackpot Game Ticket presented for payment is a winning ticket.
- dd. "Validation Number" means the number printed on the front of each Jackpot Game Ticket that is used for validation.
- ee. "Winning Combination" means one or more digits, numbers, or symbols randomly selected by the Lottery in a drawing that has been certified.
- ff. "PATP Terminal" or "Play at the Pump Terminal" means a gasoline pump having the capability to sell PATP Tickets.
- gg. "PATP Ticket" means a Quick Pick Jackpot Game Ticket issued electronically by a Jackpot Game Licensee to a player via a Play at the Pump Terminal, which item or item or group of number or items are electronically associated with the debit card used by the Player to purchase the ticket. The receipt for the purchase of the PATP Ticket is only a receipt for the Player's records. The receipt does not constitute a Jackpot Game Ticket and shall not be used to redeem any prize.
- hh. "PATP Validation" means the process of determining whether a Player's debit card has a winning Jackpot Game Ticket associated with it.

10.3 Sale of Tickets

- a. Licensees shall make Lottery Jackpot Game Tickets available for sale to the public between the hours of 4:30 a.m. and 11:59 p.m. Monday through Saturday and 8:00 a.m. and 11:59 p.m. Sunday if those hours are included in the licensee's normal business hours and if the Jackpot Game system is available.
- b. A licensee shall sell Lottery Jackpot Game Tickets only at the premises specified in the license.
- c. All retail Jackpot Game Ticket sales are final and the return of a Lottery Jackpot Game Ticket after sale shall not be accepted by the licensee, unless otherwise directed by the Director or as set forth in Paragraph 10.9 and Paragraph 10.17.d. or as may be set forth in Specific Game Playing Rules.
- d. The Division itself may sell Lottery Jackpot Game Tickets.

- e. Notwithstanding any provision contained in these Rules and Regulations to the contrary, a licensee may be permitted, upon prior approval of the Director or his/her designee, to make gifts of Lottery tickets as a means of promoting the sale of goods and services to the public.

10.4 Payment of Prizes

- a. The holder of a winning Jackpot Game Ticket in the amount of \$150.00 or less may take the ticket to any licensee location during the licensee's normal business hours for validation and payment. The holder of a winning Jackpot Game Ticket in the amount of \$151.00 to \$599.00 may take the ticket to any licensee location during the licensee's normal business hours where licensees have the option of validating the ticket. All prizes shall be paid by the licensee upon presentation and validation of the ticket pursuant to instructions on the back of the Jackpot Game Ticket and/or pursuant to instructions specified in the Game Guideline.
 - 1. Winning PATP Tickets in the amount of \$1.00 to \$599.00 shall be automatically paid via a deposit to the account associated with the debit card used by the Player to purchase the ticket. Winning PATP Tickets in the amount of \$1.00 to \$599.00 shall not be redeemed in any other manner.
- b. Any winning Jackpot Game Ticket in any amount may be mailed or presented to a Lottery claims center for payment, except winning PATP Tickets may not be redeemed by mail. The prizes shall be paid by the Lottery upon presentation and Validation of the ticket or PATP Validation pursuant to instructions on the back of the Jackpot Game Ticket and/or pursuant to instructions specified in the game Guideline.
- c. The holder of a prize-winning ticket of \$600.00 or more shall complete all of the information detailed on the Colorado Lottery claim form and submit the completed form and ticket by mail or in person to the Lottery. A Player having a debit card with a winning PATP Ticket associated with it shall present said debit card to the Colorado Lottery for PATP Validation. The Colorado Lottery shall pay the prize to the owner of the ticket upon validation.
 - 1. A prizewinner, or a prizewinner's legally authorized representative, shall sign the winning Jackpot Game Ticket and complete a claim form that is available from any licensee, Lottery Claim Center or the Colorado Lottery website. The claim form shall incorporate the following information:
 - i. Verification that the prizewinner is not a person disqualified by law or by these Rules and Regulations to claim or otherwise accept a prize from the Lottery;
 - ii. Notification that the prizewinner's name, city of residence and prize amount are public information. This same notification is given to one signing on behalf of a Jackpot Game Ticket owner under a disability that prevents the prizewinner from signing in his/her own behalf;
 - iii. The Lottery is not liable for any loss caused by a misrepresentation by the Jackpot Game Ticket owner or the person claiming the prize on the winner's behalf.
 - 2. The claim form may contain any other provision that the Lottery Director may deem necessary and proper to promote the public interest and trust or security and efficient operation of the Lottery.
 - 3. Payment for a winning ticket will not occur unless all of the requirements on the claim form and winning ticket have been met or an acknowledgement that the information is unknown or unavailable. There is no obligation or duty of the Lottery, its employees or

licensees, to make any inquiry of the truthfulness of information that appears on the claim form before payment to the claimant.

- d. Payment of prizes shall be made to the claimant in person or by mail to the address provided by the claimant.
- e. All prizes shall be paid within a reasonable time after they are awarded and after the claims are validated by the Lottery. Any prize requiring annuitized or installment payments shall be paid as specified in the Game Guideline.
- f. The Lottery Director may delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim, or any other matter that may have come to their attention. All delayed payments will be paid to date immediately upon the Lottery Director's confirmation that the payee is entitled to such payment; any remaining payments shall be paid per the Game Guideline.
- g. The Lottery Director's decision shall be final and binding upon all participants in the game with respect to the payment of all prizes.
- h. The Lottery Director reserves the right to require a claimant to disclose the location or person from whom the claimant purchased the ticket.
- i. Payment of any prize shall be made to the owner of the Jackpot Game Ticket or their designee. All liability of the State, its officers and employees, and the Commission shall terminate upon payment.
- j. In the event that a claim is filed on behalf of a legal entity other than the owner of the ticket for a prize payable for life, the legal entity shall designate an officer or director of that legal entity as the person on whose life such prize is to be paid and shall execute an agreement evidencing such designation. The specific requirements for payment will be detailed in the Game Guideline and/or Specific Drawing Guidelines.
- k. In the event that the intercept program reveals an outstanding obligation for a winner of a prize, the prize will not be awarded until the intercept obligation is paid as set forth in 24-35-212(5) and 24-35-212.5.
- l. A prize must be claimed no later than one hundred eighty (180) days after the drawing for which the in-state Jackpot Game Ticket was purchased. Any person who fails to claim a prize which is held by the Lottery or its designee during the one hundred eighty (180) day claim period shall forfeit all rights to the prize and the amount of the prize shall remain in the Lottery Fund. Prizes claimed by mail must be documented as received at Lottery Headquarters by the 180th day after the announced end of game date.

10.5 Redemption of Bar-Coded Coupons

The Director, at his discretion, may from time to time deem it proper to authorize the use of bar-coded coupons to promote Lottery products. In the event such use is authorized by the Director, Licensees shall comply with all requirements and restrictions specified on the coupon and shall redeem and exchange bar-coded coupons for Lottery tickets only and not for cash.

10.6 Use of Coupons, Lottery Bucks, and Free Tickets

- a. Coupons, Lottery Bucks and free tickets (hereafter referred to as "coupons") are marketing tools used by the Lottery for promotions.

- b. All coupons, when used for promotions, must be given to the consumer or public. In the event the Lottery uses a promotional partner to distribute coupons, the promotional partner must ensure all coupons are issued to the consumer or public and any unused coupons are returned to the Lottery.
- c. At no time may coupons be sold, used to purchase goods or services, pay off Lottery debts or reimburse a Licensee(s) for any loss.
- d. At no time may a co-promoter, who has received a cash payment from the Lottery or a Lottery contractor as part of a promotional agreement, use the cash payment to purchase Lottery tickets for the promotion that the payment funded.

10.7 Payment of Prizes Upon the Death of the Prize Winner

Under no circumstances will the payment of a prize requiring annuitized or installment payments be accelerated before its normal date of payments because of the death of the prize winner. All prizes, or any portion thereof, that shall remain payable at the time of death of the prize winner shall be paid to the estate of such deceased prize winner (in accordance with the last will and testament of the deceased prize winner), unless the Director is directed otherwise pursuant to an appropriate judicial order. If the deceased prize winner died intestate, the payment will be made in accordance with the laws of descent and distribution of intestate property of the jurisdiction of domicile of the deceased prize winner, unless the Director is directed otherwise pursuant to an appropriate judicial order. Upon payment as provided by this Rule, the Division shall be discharged of any further liability.

10.8 Ownership of Tickets

- a. Until such time as the Jackpot Game Ticket is signed in the area designated, a Lottery Jackpot Game Ticket shall be a bearer instrument, owned by the physical possessor of such ticket.
- b. The Director shall only recognize as the true owner of a winning Lottery Jackpot Game Ticket the person whose signature appears upon the ticket in the area designated for said purpose.
- c. Jackpot Game Tickets are bearer instruments; therefore, ownership of the ticket is established once a signature is placed on the back of the ticket where indicated. If ownership is questioned, the Division may make payment based upon information submitted to it on an affidavit proving ownership.
- d. In the event there is an inconsistency in the information submitted on a claim form and as shown on the winning Jackpot Game Ticket, the Director shall make an investigation and withhold all winnings awarded to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.
- e. The Director shall only recognize as the true owner of a winning PATP Ticket the person whose bank account is associated with the debit card used to purchase the ticket. In the event there is an inconsistency in the information submitted on a claim form and as revealed in the PATP Validation, the Director shall make an investigation and withhold all winnings awarded to the debit card holder until such time as the Director is satisfied that the proper person is being paid.
- e. The Director shall recognize only one (1) person as claimant on an Jackpot Game Ticket. A claim may be made in the name of an organization only if the organization possesses a Federal Employer Identification Number (FEIN) issued by the Internal Revenue Service and such number is shown on the claim form. Groups, family units, clubs, or organizations without an FEIN shall designate one individual in whose name the claim is to be filed. If a claim is erroneously entered with multiple claimants, the claimants shall designate one of them as the individual recipient of the prize, or, if they fail to designate an individual recipient, the Director may designate any one of

the claimants as the sole recipient. In either case, the claim shall then be considered as if it were originally entered in the name of the designated individual and payment of any prizes won shall be made to that single individual. Once a Jackpot Game Ticket is validated, it will not be returned to the winner, but remains the property of the Lottery.

10.9 Mutilated or Erroneous Tickets

Unless the Director is satisfied that a mutilated Lottery Jackpot Game Ticket is genuine, no credit will be issued to the holder of said ticket. If the Jackpot Game Ticket is mutilated at the time of purchase, it must be returned to the licensee by the ticket holder within one (1) hour of purchase provided that the licensee is open, the Jackpot Game system is available for wagering and the Jackpot Game system has not converted to the next drawing period. In the event that the ticket cannot be cancelled at the terminal, the ticket must be submitted to the Lottery for investigation to determine if credit should be issued. A ticket submitted to the Lottery by the licensee for credit becomes the property of the Lottery, is invalid and ineligible for a prize. All credits for tickets must be approved by the Lottery Director or designee.

10.10 Lost or Stolen Tickets or Lost or Stolen Debit Cards

The Director reserves the right to hold any prize, pending the findings of an investigation, when the Jackpot Game Ticket presented for validation has been reported stolen or lost. At the Director's discretion, Jackpot Game Tickets that are determined to be stolen will not be paid.

10.11 Purchaser's Obligations

In purchasing an Jackpot Game Ticket, the purchaser agrees to comply with all provisions of the §24-35-201, C.R.S., et seq, these Rules and Regulations, all final decisions of the Director, and all instructions and directives established by the Director for the conduct of Jackpot games.

10.12 Persons Ineligible to Purchase Tickets

- a. No person under the age of eighteen (18) may purchase Lottery Jackpot Game Tickets.
- b. No Jackpot Game Ticket shall be purchased by and no prize shall be paid to any of the following:
 1. Any member of the Commission;
 2. Any employee of the Division, except when authorized by the Director for investigative purposes. But, in no event shall such employee be entitled to payment of any prize;
 3. Any officer, director, or employee of any supplier of Colorado Lottery Jackpot Game Ticket materials or equipment, or the subcontractors thereof that have participated, in any manner, in the supplying of Colorado Lottery Jackpot Game Ticket materials or equipment, except when authorized by the Director for investigative purposes. But, in no event shall any of such persons be entitled to payment of any prize;
 4. Any vendor precluded by its contract with the Lottery;
 5. Any member of the immediate family of 1., 2., 3. and 4. above.
- c. No person who operates drawing equipment during a drawing or officially witnesses a drawing, and no member of the person's immediate family, shall purchase a ticket or receive a prize for the drawing in which said person operates drawing equipment or witnesses a drawing.

- d. For the purposes of this Rule, “immediate family” shall include any spouse, child, brother, sister, and/or parent residing in the same household of any of the persons specified in Paragraph 10.12.b.

10.13 Licensee Commission, Cashing Bonus and Marketing Performance Bonus

- a. Each licensee shall be entitled to receive a commission of six percent (6%) of sales from Jackpot Game Tickets lawfully sold or disbursed by said licensee. Each Licensee having PATP Terminals shall share half of its sales commission with a vendor that administers PATP Ticket sales through the PATP Terminals. Vendor that administers the PATP Ticket sales will receive a commission of six percent (6%) of sales from Jackpot Game Tickets lawfully sold or disbursed through PATP Terminals. Vendor will pay licensee a commission of three percent (3%) of sales from Jackpot Game Tickets lawfully sold or disbursed through PATP Terminals.
- b. Each licensee shall be entitled to receive a cashing bonus of one percent (1%) of each prize paid by the licensee up to and including \$599. A cashing bonus for an automatically validated winning PATP ticket shall be paid to the vendor administering the sale of the winning PATP Ticket and not the licensee.
- c. A Marketing Performance Bonus up to five-tenths of one percent (0.5%) may be earned by licensees that meet the criteria set forth by the Lottery Director or their designee.
- d. The requirements of the marketing performance bonus plan to be met by licensees shall be established by the Lottery Director or his/her designee on an annual basis.
- e. In order to receive a marketing performance bonus, each licensee must meet the following criteria:
 - 1. A licensee must be licensed on the date the marketing performance bonus is declared;
 - 2. A licensee must sell Jackpot Game Tickets up to and including the final sales day in which the marketing performance bonus is declared;
 - 3. A licensee must meet or exceed the requirements of the marketing performance bonus plan for the period for which the marketing performance bonus is declared.
- f. In the event there is a residual resulting from the accrual of the one percent (1%) cashing bonus (10.13.b) and/or the five-tenths of one percent (.5%) marketing bonus (10.13.c) have been expensed, the Lottery Director may provide additional compensation to licensees as described in 10.13.c or may revert the excess amount thereby decreasing the bonus expense.

10.14 Price of Tickets and Prizes

- a. The purchase price of each ticket for Colorado Lottery Jackpot Games shall be set per the Game Guideline. The licensee may be permitted to make gifts of Jackpot Game Tickets as a means of promoting the sale of goods or services to the public upon receipt of prior approval by the Lottery Director.
- b. The prize amounts or total amount of prize money allocated to the prize categories for Jackpot games shall be set forth in Specific Game Playing Rules.

In the event the prize expense is less than the Lottery Commission approved “Aggregate Prize Fund” for a specific game, the Director, in his discretion, may authorize the difference to be used to increase Lottery prize amounts or pay additional prizes for that game.

- c. A vendor administering the sale of PATP Tickets may charge a transaction fee not to exceed \$1.00 per sales transaction. Such transaction fee shall not constitute a change in the purchase price of the ticket.

10.15 Drawings and End of Sales Prior To Drawings

- a. Drawings shall be conducted at a location and on days and at times indicated in the individual game drawing guidelines. Drawing results are not official until verified.
- b. The Director shall determine for each type of Jackpot game the draw break or time for the end of sales prior to the drawings. Jackpot Game Terminals will not process orders for Jackpot Game Tickets for that drawing after the time established by the Director.
- c. The Director shall designate the type of equipment to be used and shall establish procedures to randomly select the winning combination for each type of Jackpot game.

10.16 Number and Size of Prizes

The number and sizes of Jackpot Game cash and non-cash-winning prizes shall be as set forth in the specific game rule and/or specific game drawing guidelines.

10.17 Validation Requirements

- a. To be a valid winning Jackpot Game Ticket, all of the following conditions must be met:
 - 1. All printing on the ticket shall be present in its entirety, be legible, and correspond, using the computer validation file, to the combination and date printed on the ticket.
 - 2. The ticket shall be intact.
 - 3. The ticket shall not be mutilated, altered, or tampered with in any manner.
 - 4. The ticket shall not be counterfeit or an exact duplicate of another winning ticket.
 - 5. The ticket must have been issued by an authorized Jackpot Game Licensee in an authorized manner.
 - 6. The ticket must not have been stolen.
 - 7. The ticket must not have been canceled or previously paid.
 - 8. The ticket shall pass all other confidential security checks of the Lottery.
 - 9. In the case of a PATP Ticket, the debit card used to purchase the ticket must be presented.. In the event of a lost or stolen debit card, written bank verification that the card was lost or stolen must be presented.
- b. Any ticket failing any validation requirement listed in subsection 10.17.a is invalid and ineligible for a prize. If a court of competent jurisdiction determines that a claim based on a ticket that has failed to validate solely because of subsection 10.17.a. 7. of this section is valid, the claim shall be paid as a prize pursuant to Section 10.4 and Specific Game Playing Rules. The Licensee that canceled or paid such ticket shall indemnify the Lottery for payment of the prize and shall also indemnify the Lottery from any other claim, suit, or action based on that ticket.

- c. The Director may require the payment of the prize for a ticket that is partially mutilated or is not intact if the Jackpot Game Ticket can still be validated by other validation methods and requirements.
- d. In the event a defective Jackpot Game Ticket is purchased, the only responsibility or liability of the Lottery or the Jackpot Game Licensee shall be the replacement of the defective Jackpot Game Ticket with another Jackpot Game Ticket (or a ticket of equivalent sales price from any other current Lottery game).

10.18 Assignment of Prizes

- a. The winner of an annuitized or installment payment prize in any Jackpot game being paid in annuitized or installment payments who desires to assign the right to unpaid future annuitized or installment payments must comply with C.R.S. 24-35-212(1)(b) and (1.5). Pursuant to C.R.S. 24-35-212 (1.5)(f), reasonable fees to defray administrative expenses shall be reviewed and approved by the Colorado Lottery Director on an annual basis.
- b. Payment of a prize upon death of a prize winner will not be accelerated before its normal date of payments due to the death of the prizewinner. The remaining portion of the prize shall be paid to the estate in accordance with the last will and testament of the deceased prizewinner, unless overruled by a court of law. If the prizewinner dies without a will, the payment will be made in accordance with the applicable state laws of the deceased prizewinner, unless overruled by a court of law. Once payment is made in accordance with this rule the Lottery will hold no further liability.

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Tracking number: 2016-00371

Opinion of the Attorney General rendered in connection with the rules adopted by the

Lottery Commission

on 09/14/2016

1 CCR 206-1

LOTTERY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/21/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

September 30, 2016 15:30:41

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Revenue

Agency

Lottery Commission

CCR number

1 CCR 206-1

Rule title

1 CCR 206-1 LOTTERY RULES AND REGULATIONS 1 - eff 05/01/2017

Effective date

05/01/2017

DEPARTMENT OF REVENUE

Lottery Commission

1 CCR 206-1 RULES AND REGULATIONS

AMENDED RULE 14.C COLORADO LOTTERY MULTI-STATE JACKPOT GAME, "MEGA MILLIONS GAME®"

BASIS AND PURPOSE FOR AMENDED RULE 14.C

The purpose of Amended Rule 14.C is to provide specific game details and requirements for the Colorado Lottery Multi-State Jackpot Game "MEGA MILLIONS GAME®" such as type of play, prizes, method of selecting winning numbers, drawings, and the allocation of revenues. The statutory basis for Amended Rule 14.C is found in C.R.S. 24-35-201, 24-35-208 (1) (a) and (2), and 24-35-212 and 24-35-212.5.

14.C.1 General Provisions

A Colorado Lottery multi-state Jackpot game to be known as "MEGA MILLIONS GAME®" is authorized to be conducted by the Colorado Lottery Director (Director) under the following Rules and Regulations and under such further instructions and directives as the Director may issue in furtherance thereof. If a conflict arises between Rule 14 and this Rule 14.C, Rule 14.C shall apply.

The MEGA MILLIONS GROUP consists of 12 party lotteries and the Multi-State Lottery Association (MUSL) as representation for participating MUSL party lotteries.

At any time the Director determines that any provisions of MEGA MILLIONS GROUP or MUSL MEGA MILLIONS PRODUCT GROUP's Specific Game Playing Rules do not sufficiently provide for the security and integrity necessary to protect the Colorado Lottery, the Director shall recommend to the Lottery Commission that the Lottery end its association with MEGA MILLIONS GROUP and with the MUSL MEGA MILLIONS PRODUCT GROUP. Upon concurrence by the Lottery Commission, association with the MEGA MILLIONS GROUP will be terminated upon six (6) months prior written notice to the MUSL MEGA MILLION PRODUCT GROUP.

14.C.2 Definitions

In addition to the definitions provided in Paragraph 1.2 of Rule 1 and Rule 14, and unless the context in this Rule 14.C otherwise requires:

- A. "Advance Play" means the ability to purchase tickets for more than one drawing beginning with the current open draw.
- B. "Breakage" means the results of rounding prize amounts down to the nearest whole dollar.
- C. "Drawing" means formal process of selecting winning numbers which determine the number of winners for each prize level of the game
- D. "Game Board(s)" or "Board(s)" means that area of the play slip, also known as a "panel", which contains two sets of numbered squares to be marked by the player, the first set containing seventy-five (75) squares, number one (1) through seventy-five (75) and the second set containing fifteen (15) squares , number one (1) through fifteen (15).

- E. "Grand Prize" or "Jackpot" means the top prize of the MEGA MILLIONS GAME®. The annuity Grand Prize is an amount that would be paid in twenty-six (26) annual installments.
- F. "Grid" means the area of a play slip that contains a set of numbered squares to be marked by the player.
- G. "Matching Combinations" means the numbers on a play that coincide with the numbers randomly selected at a drawing for which that play was purchased.
- H. "MEGA MILLIONS GROUP" means those lotteries which have joined under the MEGA MILLIONS Lottery Agreement; the group of lotteries that has reached a Cross-Selling Agreement with the MUSL for the selling of the MEGA MILLIONS GAME®.
- I. "MUSL MEGA MILLIONS PRODUCT GROUP" or "PRODUCT GROUP" means the Party Lotteries participating in the MEGA MILLIONS GAME®
- J. "MUSL MEGA MILLIONS GROUP BOARD" means the governing body of the MUSL MEGA MILLIONS PRODUCT GROUP, which is comprised of the chief executive officer of each Party Lottery.
- K. "Number" means any play integer from one (1) through seventy-five (75) inclusive.
- L. "Party Lottery" means a state lottery or lottery of a political subdivision or entity which has joined the and, in the context of the specific PRODUCT GROUP Rules, has joined in selling the game offered by the MUSL MEGA MILLIONS PRODUCT GROUP.
- M. "Play" means the six (6) numbers selected on each Board and printed on the ticket.
- N. "Play slip" means a mark-sense game card used by players of "MEGA MILLIONS GAME®" to select plays. A play slip has no pecuniary value and shall not constitute evidence of ticket purchase or of numbers
- O. "Prize Pool" means a defined percentage of sales as specified in this rule.
- P. "PATP Terminal" or "Play at the Pump Terminal" means a gasoline pump having the capability to sell PATP Tickets.
- Q. "PATP Ticket" means a Quick Pick Ticket issued electronically by a Jackpot Game Licensee to a player via a Play at the Pump Terminal which item(s) or group of number(s) are electronically associated with the debit card used by the player to purchase the ticket. The receipt for the purchase of the PATP Ticket is only a receipt for the Player's records. The receipt does not constitute a Jackpot Game Ticket and shall not be used to redeem any prize.
- R. "PATP Ticket Validation" means the process of determining whether a Player's debit card has a winning Jackpot associated with it.
- S. "Quick Pick" or "Partial Quick Pick" means the random selection of numbers by the computer system, which appears on a ticket and are played by a player in a the game.
- T. "Roll-over" means the amount from the direct prize category contribution from previous drawing(s) in the Grand Prize category, that is not won, that is carried forward to the Grand Prize category for the next drawing.

- U. "Set Prize" means all other prizes except the Grand Prize that are advertised to be paid by a single cash payment and, except in instances outlined in these rules, will be equal to the prize amount established within the Specific Game Playing Rules.
- V. "Set Prize Payout Variance" means an account held by the MUSL that holds the temporary balances, transferred to the MUSL from party lotteries, which results from having fewer-than-expected winners in the set prize categories. This money is paid out to party lotteries in subsequent drawings that have more winners than are statistically expected in the set prize categories.
- W. "Share(s)" means the total number of matching combinations within each prize category as determined for each drawing.
- X. "Winning Numbers" means the six (6) numbers, the first five (5) from a field of seventy-five (75) numbers and the last one (1) from a separate field of fifteen (15) numbers, randomly selected at each drawing, which shall be used to determine winning plays contained on a multi-state Jackpot Game ticket.

14.C.3 Price of "MEGA MILLIONS GAME®" Play/Board

The price of each "MEGA MILLIONS GAME®" play/board shall be set by the MEGA MILLIONS GROUP. A Jackpot Game licensee may be permitted to make gifts of "MEGA MILLIONS GAME®" tickets as a means of promoting the sale of goods or services to the public upon receipt of prior approval by the Party Lottery Director and notice to the PRODUCT GROUP members.

14.C.4 Ticket Purchases

- A. "MEGA MILLIONS GAME®" tickets may be purchased only from a Party Lottery licensee authorized by the Director to sell multi-state Jackpot Game tickets.
- B. "MEGA MILLIONS GAME®" tickets shall show, at a minimum, the player's selection of numbers, the boards played, drawing date and validation and reference numbers.
- C. The Party Lottery shall not directly and knowingly sell a combination of tickets to any person or entity that would guarantee such purchaser a winning ticket.
- D. Plays may be entered manually using the Jackpot Game terminal keypad or by means of a play slip provided by the Colorado Lottery. Facsimiles of play slips, copies of play slips, or other materials which are inserted into the terminal's play slip reader and which are not printed or approved by the Lottery shall not be used to enter a play. No device shall be connected to a Jackpot Game terminal to enter plays, except as may be approved by the Colorado Lottery. Unapproved play slips or other devices may be seized by the Colorado Lottery.
- E. All plays made in the game shall be marked on the play slip by hand. No machine-printed play slips shall be used to enter plays. Machine-printed play slips may be seized by the Party Lottery. Nothing in this regulation shall be deemed to prevent a person with a physical handicap who would otherwise be unable to mark a play slip manually from using any device intended to permit such person to make such a mark (for his/her sole personal use or benefit).

14.C.5 Play for "MEGA MILLIONS GAME®"

- A. Type of play:

A "MEGA MILLIONS GAME®" player must select six numbers in each play, five (5) numbers out of seventy-five (75) plus one (1) out of fifteen (15). A winning play is achieved only when the

following combinations of numbers selected by the player match, in any order, the five plus one winning numbers drawn by the MEGA MILLIONS GROUP. Those combinations are 5+1, 5+0, 4+1, 4+0, 3+1, 3+0, 2+1, 1+1 and 0+1.

B. Method of play:

1. Manual Plays include player use of play slips, as provided in Paragraph 14.C.4 of this Rule 14.C, to make number selections. The Jackpot Game terminal will read the play slip and issue a ticket with corresponding play(s). The Jackpot Game licensee may also enter the selected numbers via the keyboard.
2. Computer Generated Plays include Quick Pick and Partial Quick Pick. Quick Picks and Partial Quick Pick can be generated using a play slip or by the Jackpot Game licensee. The Jackpot Game licensee may select Quick Pick via the keyboard at the beginning of the transaction for full Quick Pick or the Jackpot Game licensee may enter the player selected numbers via the keyboard then select the Quick Pick function to complete the number selection.

14.C.6 Prizes For "MEGA MILLIONS GAME®"

A. Odds of winning

MATCHING COMBINATIONS	PRIZE CATEGORY	ODDS OF WINNING (ONE PLAY)
All five (5) of first set plus one (1) of second set	Grand Prize	1:258,890,850
All five (5) of first set plus none of second set	Second Prize	1:18,492,204
Any four (4) of first set, but not five, plus one (1) of second set	Third Prize	1:739,688
Any four (4) of first set, but not five, plus none of second set	Fourth Prize	1:52,835
Any three (3) of first set, but not four or five, plus one (1) of second set	Fifth Prize	1:10,720
Any three (3) of first set, but not four or five, plus none of second set	Sixth Prize	1:766
Any two (2) of first set, but not three, four or five, plus one (1) of second set	Seventh Prize	1:473

Any one (1) of first set, but not two, three, four or five, plus one (1) of second set	Eighth Prize	1:56
None of first set plus one (1) of second set	Ninth Prize	1:21
Overall odds of winning any prize		1:14.7

- B. The prize pool contribution for all prize categories shall consist of up to fifty-five percent (55%) of each drawing period's sales. An amount up to five percent (5%) of sales may be held from the Grand Prize category, as described in Paragraph 14.C.7 of this Rule 14.C if the prize reserve accounts are not funded at the balances set by the PRODUCT GROUP. Any amount remaining in the prize pool at the end of this game shall be carried forward to a replacement game or expended in a manner as directed by the PRODUCT GROUP in accordance with state law.

PRIZE POOL

Prize Category	Prize Amounts	Allocation of Prize Pool	Prize Pool Percentage of Sales
Grand Prize	Announced Jackpot	63.60%	32.577%
Second Prize	\$1,000,000	12.80%	5.408%
Third Prize	\$5,000	2.90%	0.676%
Fourth Prize	\$500	1.96%	0.946%
Fifth Prize	\$50	2.18%	0.466%
Sixth Prize	\$5	4.58%	0.653%
Seventh Prize	\$5	2.38%	1.057%
Eighth Prize	\$2	4.26%	3.542%
Ninth Prize	\$1	5.34%	4.675%
TOTAL		100.00%	50.00%

- C. Prize Categories - The Grand Prize shall be determined on a pari-mutuel basis. All other prizes awarded shall be paid as set prizes with the foregoing expected prize payout percentages:
1. The prize money allocated to the Grand Prize category shall be divided equally by the number of game boards matching all five (5) of the first set plus one (1) of the second set.

2. A liability cap of three hundred percent (300%) of draw sales or fifty percent (50%) of draw sales plus fifty million dollars (\$50,000,000), whichever is less, shall apply to total prize payout of all levels. If the liability cap is met the second through fifth (2-5) prize levels will become pari-mutuel.
 - a. Prize level two (2) shall be an amount equal to 64.53% of the Liability Cap Balance divided by the number of winners in Prize level two (2),
 - b. Prize level three (3) shall be an amount equal to 14.63% of the Liability Cap Balance divided by the number of winners in Prize level three (3),
 - c. Prize level four (4) and five (5) shall be an amount equal to 20.84% of the Liability Cap Balance divided by the number of combined winners in Prize levels four (4) and five (5).

14.C.7 Prize Reserve Accounts

- A. An amount up to five percent (5%) of a Party Lottery's Mega Millions sales and an amount up to five percent (5%) of Megaplier sales may be collected by the PRODUCT GROUP and held in trust in one or more prize reserve accounts until the prize reserve accounts reach the amounts designated by the PRODUCT GROUP.
- B. At the Party Lottery Directors' or Director's designee's request, the PRODUCT GROUP may determine to expend all or a portion of the funds in the accounts for the payment of prizes or special prizes in the game.
- C. The shares of a Party Lottery may be adjusted with refunds to the Party Lottery from the prize reserve account(s) as may be needed to maintain the approved maximum balance and shares of the Party Lotteries.
- D. Any amount remaining in a prize reserve account at the end of this game shall be carried forward to a replacement prize reserve account or expended in a manner as directed by the PRODUCT GROUP on behalf of the Lottery Director, or the Director's designee, in accordance with jurisdiction law.

14.C.8 Prize Payment

- A. Grand Prizes
 1. Grand Prizes shall be paid, at the election of the ticket bearer by a single cash payment or in a series of annuity payments. The ticket bearer becomes entitled to the prize at the time the prize is validated as a winner. The election to take the cash payment or annuity payments may be made at the time the prize is validated or within 60 days after the ticket bearer becomes entitled to the prize. If no election is made within 60 days after the ticket bearer becomes entitled to the prize, the prize shall be paid as an annuity prize. The election is final and cannot be revoked, withdrawn or otherwise changed.
 2. Shares of the Grand Prize shall be determined by dividing the cash available in the Grand Prize pool equally among all boards matching all five (5) of the first set plus one (1) of the second set of drawn numbers. Winner(s) who elect a cash payment shall be paid their share(s) in a single cash payment.
 - a. The starting guaranteed annuity Grand Prize value is fifteen million dollars (\$15,000,000).

- b. The Grand Prize will grow at a minimum of five million dollars (\$5,000,000) with each successive drawing without a winning jackpot winner.
 - c. The cash option prize shall be determined by dividing the Grand Prize amount that would be paid over thirty (30) annual installments by a rate established by the Mega Millions Finance Committee prior to each drawing divided by the number of total jackpot winners.
- 3. Where there is only one (1) winning MEGA MILLIONS GAME Grand Prize ticket, no Grand Prize paid in thirty (30) annual installments shall be less than fifteen millions dollars (\$15,000,000).
- 4. All annuitized prizes shall be paid annually in thirty (30) graduated payments with the initial payment being made in cash, to be followed by twenty-nine (29) payments funded by the annuity.
- 5. Funds for the initial payment of an annuitized prize or the lump sum cash prize shall be made available to the Party Lottery within 15 calendar days following the date of the winning draw. If funds are unavailable to cover the full lump sum cash amount, payment may be delayed.
- 6. In the event of the death of a lottery winner during the annuity payment period, the MUSL Finance & Audit Committee, in its sole discretion, upon the petition of the estate of the lottery winner (the "Estate") to the Party Lottery, and subject to federal, state, or district applicable laws, may accelerate the payment of all of the remaining lottery proceeds to the Estate. If such a determination is made, then securities and/or cash held to fund the deceased lottery winner's annuitized prize may be distributed to the Estate. The identification of the securities to fund the annuitized prize shall be at the sole discretion of the Finance & Audit Committee or PRODUCT GROUP.

B. Set Prizes

- 1. The Director's decision with respect to the validation and payment of set prizes, whether during a "MEGA MILLIONS GAME®" game or any drawing related thereto, shall be final and binding upon all participants in the Party Lottery.
- 2. All set prizes (all prizes except the Grand Prize) shall be paid by the Party Lottery which sold the winning ticket. The Party Lottery may begin paying set prizes after receiving authorization to pay from the MUSL central office.

C. Prizes Rounded

- 1. Annuitized payments of the Grand Prize or a share of the Grand Prize may be rounded to facilitate the purchase of an appropriate funding mechanism. Breakage on an annuitized Grand Prize win shall be added to the first cash payment to the winner or winners.
- 2. Set Prizes, which under these rules may become pari-mutuel prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

D. Roll-over

If the Grand Prize is not won in a drawing, the prize money allocated for the Grand Prize shall rollover and be added to the Grand Prize pool for the following drawing.

E. Funding of Guaranteed Prizes

1. The PRODUCT GROUP may offer guaranteed minimum Grand Prize amounts or minimum increases in the Grand Prize amount between drawings or make other changes in the allocation of prize money where the PRODUCT GROUP finds that it would be in the best interest of the game. If a minimum Grand Prize amount, or a minimum increase in the Grand Prize amount between drawings, is offered by the PRODUCT GROUP, then the Grand Prize shares shall be determined as follows:
 - a. If there are multiple Grand Prize winners during a single drawing, each selecting the annuitized option prize, then a winner's share of the guaranteed annuitized Grand Prize shall be determined by dividing the guaranteed annuitized Grand Prize by the number of winners.
 - b. If there are multiple Grand Prize winners during a single drawing and at least one of the Grand Prize winners has elected the annuitized option prize, then the best bid submitted by MEGA MILLIONS GROUP's pre-approved qualified brokers shall determine the cash pool needed to fund the guaranteed annuitized Grand Prize.
 - c. If no winner of the Grand Prize during a single drawing has elected the annuitized option prize, then the amount of cash in the Grand Prize pool shall be an amount equal to the guaranteed annuitized amount divided by the average annuity factor of the most recent three best quotes provided by MEGA MILLIONS GROUP's pre-approved qualified brokers submitting quotes.
2. In no case shall quotes be used which are more than two weeks old and if less than three quotes are submitted, then MEGA MILLIONS GROUP shall use the average of all quotes submitted. Changes in the allocation of prize money shall be designed to retain approximately the same prize allocation percentages, over a year's time, set out in these rules. Minimum guaranteed prizes or increases may be waived if the alternate funding mechanism set out in Paragraph 14.C.6.B. of this Rule 14.C becomes necessary.

14.C.9 Grand Prize Account

- A. The draw reports determine whether the member lotteries owe funds to the MUSL or the MUSL needs to transfer money to the member lotteries. The Party Lottery shall transfer to the MUSL in trust an amount as determined to be its total proportionate share of the prize account less actual set prize liability. If this results in a negative amount, the MUSL central office shall transfer funds to the Party Lottery.
- B. All funds to pay a grand prize that go unclaimed shall be returned to the Lottery by the MUSL in proportion to sales by the Lottery for the grand prize in question after the claiming period set by the Lottery selling the winning ticket expires.

14.C.10 Funds Transfer

- A. Draw Receivables from Member Lotteries

Funds shall be collected by the MUSL from each MUSL Party Lottery weekly by wire transfer or other means acceptable to the MUSL. The MUSL shall determine collection days. The amount to be transferred shall be calculated in accordance with the "MEGA MILLIONS GAME®" rules.

- B. Initial Grand Prize Funds Transferred to Party Lottery

The Grand Prize amount held by MEGA MILLIONS GROUP shall be transferred to the MUSL within fifteen (15) calendar days of a winning draw by a Party Lottery.

- C. Subsequent Grand Prize Payments from the PRODUCT GROUP to Party Lotteries.

The Grand Prize amount held by the PRODUCT GROUP for subsequent payment to annuity winners shall be transferred to the Party Lottery seven days preceding the first working day preceding the anniversary of the awarded grand prize. The Party Lottery will then make payment to the annuity winner.

14.C.11 Drawings

- A. The "MEGA MILLIONS GAME®" drawings shall be held twice each week on Tuesday and Friday evenings, except that the drawing schedule may be changed by the MEGA MILLIONS GROUP Board. In the event of an act of Force Majeure the drawing shall be rescheduled at the discretion of the MEGA MILLIONS GROUP and the MUSL MEGA MILLIONS GROUP BOARD.
- B. Each drawing shall determine, at random, six winning numbers in accordance with drawing guidelines. The Lottery Commission shall review and approve drawing guidelines. Any numbers drawn are not declared winning numbers until the drawing is certified by MEGA MILLIONS GROUP in accordance with the "MEGA MILLIONS GAME®" drawing guidelines. The winning numbers shall be used in determining all "MEGA MILLIONS GAME®" winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.
- C. Each drawing shall be witnessed by an auditor as required in C.R.S. 24-35-208 (2)(d). All drawing equipment used shall be examined by the auditor immediately prior to, but no sooner than thirty (30) minutes before, a drawing and immediately after, but no later than thirty (30) minutes following the drawing. All drawings, inspections and tests shall be recorded on videotape.
- D. The drawing shall not be invalidated based on the liability of the Lottery.
- E. The drawing procedures shall provide that a minimum of fifty-nine (59) minutes elapse between the close of the game ticket sales and the time of the drawing for those tickets sold. All drawings shall be open to the public.

14.C.12 Advance Play

Advance play provides the opportunity to purchase "MEGA MILLIONS GAME®" tickets for more than one drawing. Advance play tickets shall be available for purchase in variable increments. The Advance Play feature shall be available at the discretion of the Director.

14.C.13 MUSL MEGA MILLIONS PRODUCT GROUP Accounting and Finance

- A. Prize Reserve and Set Prize Reserve contributions from Party Lotteries shall be one percent (1%) of sales. The PRODUCT GROUP may establish a maximum balance for the prize reserve account(s). The shares of a Party Lottery may be adjusted with refunds to the Party Lottery from the prize reserve accounts(s) as may be needed to maintain the approved maximum balance and shares of the Party Lotteries. Any amount remaining at the end of this game shall be carried forward to a replacement prize reserve account or expended in a manner as directed by the PRODUCT GROUP in accordance with jurisdictional law.
- B. Draw receivables from Party Lotteries

The draw reports determine whether the Party Lottery owes and needs to transfer funds to the MUSL, or the MUSL owes and needs to transfer funds to the Party Lottery. (The procedures and

corresponding time lines documenting the timely and effective transfer of funds between the Party Lottery and the MUSL can be found in the Party Lottery's financial procedures.) Four different transfers are made on a continual basis:

1. Draw receivables transferred from the Party Lottery to the MUSL,
2. Set prize payments transferred from the MUSL to the Party Lottery,
3. Grand Prize payments from the Party Lottery to the MUSL; and
4. Subsequent Grand Prize annuity payments from the MUSL to the Party Lottery.

14.C.14 Jackpot Game Licensee Commission, Cashing Bonus, Selling Bonus, and Marketing Performance Bonus

- A. In addition to the Six Percent (6%) Commission or three percent (3%) Commission for PATP Terminals set forth in Rule 14.19, retailers can earn a Cashing Bonus, Selling Bonus and Marketing Performance Bonus.
1. Each retailer will receive a cashing bonus of one percent (1%) of each prize paid by the licensee up to and including \$599. A cashing bonus for a validated winning PATP Ticket shall be paid to the vendor administering the sale of the winning PATP Ticket and not the licensee.
 2. In order to receive a Selling Bonus, the following criteria must be met:
 - a. A licensee must have sold a Grand Prize or a Second Prize Category winning multi-state Jackpot game ticket.
 - b. Payment of the jackpot-selling bonus will occur once Lottery security has confirmed the selling licensee.
 - c. A licensee must be selling multi-state Jackpot Game tickets up to and including the day that the ticket is validated by the Lottery and must be the same licensed licensee who sold the winning ticket.
 - d. The Director or designee shall determine the amount of the jackpot-selling bonus for each qualified-prize-winning ticket sold.
 - e. A Selling Bonus determined by the sale of a PATP winning Ticket shall be divided equally between the licensee and the vendor administering the sale of the winning PATP Ticket.
 3. In order to receive a five-tenths of one percent (.5%) Marketing Performance Bonus the following criteria must be met:
 - a. A licensee must be licensed on the date the marketing performance bonus is declared;
 - b. A licensee must sell Scratch tickets up to and including the final sales day in which the marketing performance bonus is declared;
 - c. A licensee must meet or exceed the requirements of the marketing performance bonus plan for the period for which the marketing performance bonus is declared.

- B. In the event there is a residual resulting from the accrual of the one percent (1%) cashing bonus (14.C(13)(1)1) and/or the five-tenths of one percent (.5%) marketing bonus (14.C.13(3)) have been expensed, the Director may provide additional compensation to licensees as described in 14.C.13(2)(d) or may revert the excess amount thereby decreasing the bonus expense.

CYNTHIA H. COFFMAN
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Office of the Attorney General

Tracking number: 2016-00373

Opinion of the Attorney General rendered in connection with the rules adopted by the

Lottery Commission

on 09/14/2016

1 CCR 206-1

LOTTERY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/15/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

September 23, 2016 13:45:06

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Revenue

Agency

Lottery Commission

CCR number

1 CCR 206-1

Rule title

1 CCR 206-1 LOTTERY RULES AND REGULATIONS 1 - eff 05/01/2017

Effective date

05/01/2017

DEPARTMENT OF REVENUE

Colorado Lottery

1 CCR 206 - 1 RULES AND REGULATIONS

AMENDED RULE 14 MULTISTATE JACKPOT GAME LOTTERY GAMES

BASIS AND PURPOSE OF AMENDED RULE 14

The purpose of amended RULE 14 is to provide details and requirements for all Colorado Lottery multistate Jackpot Games conducted as a member of a multistate group, such as the sale of tickets, payment of prizes, method for selecting and validating winning tickets. The statutory basis for RULE 14 is found in C.R.S. 24-35-201(5) and (6), 24-35-204(3)(a) and (i), 24-35-208 (1)(a) and (i), and (2), 24-35-212 and 24-35-212.5.

14.1 Commission to Adopt Specific Guidelines for Multistate Jackpot Lottery Games

Multistate Jackpot Lottery Games are authorized to be conducted under the following Rules and Regulations and such further instructions and directives the Director may issue in furtherance thereof.

- a. All Multistate Guidelines and Multistate Board decisions must be approved by the Colorado Lottery (hereafter referred to as Lottery) and the Lottery Commission, prior to implementation within Colorado.
- b. The Director will be a voting member of the Multistate Board during the timeframe in which the Lottery shall be a member of the multistate group.
- c. If at any time the Lottery Director determines that any provisions of the multistate governing rules or of the multistate specific game playing rules do not sufficiently provide for the security and integrity necessary to protect the Lottery, the Director shall recommend to the Lottery Commission that the Lottery end its membership with the specified multistate group or game. Upon concurrence by the Lottery Commission, membership can end at any time.
- d. To the extent not inconsistent with such specific Rules and Regulations as may be adopted, the following general provisions under this Rule 14 shall apply to each Lottery Jackpot Game conducted as a member of a multistate group.

14.2 Definitions

In addition to the definitions provided in Paragraph 1.2 of Rule 1, and unless the context in these Rules and Regulations otherwise requires:

- a. "MULTISTATE AGREEMENT" means the document made and entered into by the Party Lotteries, containing the mutual covenants agreed to by the Party Lotteries.
- b. "MULTISTATE JACKPOT GAME" means an individual lottery game as described in specific game playing rules which utilizes a computer system to administer plays and in which a player or the computer system selects a combination of digits, numbers, or symbols. The Lottery, in conjunction with all other participating multistate game members, will either conduct or oversee a drawing to determine the winning combination(s), used by all multistate game members, in accordance with the Specific Game Playing Rules for each multistate Jackpot game.

- d. "MULTISTATE JACKPOT GAME TICKET" means a computer-generated ticket issued by an Jackpot Game licensee to a player as a receipt for the combination of digits, numbers or symbols selected in a multistate Jackpot game. That ticket shall be the only acceptable evidence of the combination of digits, numbers or symbols selected. Multistate Jackpot Game tickets may be purchased only from Lottery authorized Jackpot Game licensees.
- e. "MULTISTATE BOARD" means the governing body of a specific multistate Jackpot game, which is comprised of the chief executive officer of each Party Lottery.
- f. "MULTISTATE GUIDELINES" means the statements of policy having authority over an activity in an individual multistate game.
- g. "PARTY LOTTERY" means a state lottery or lottery of a political subdivision or entity which has joined a multistate game and, in the context of the Product Group Rules, has joined in selling the specified multistate Jackpot game.
- h. "PRODUCT" means any multistate Jackpot game.
- i. "PRODUCT GROUP" means a group of lotteries which have joined together to offer a product pursuant to the terms of the Multistate Agreement and the Group's own rules.
- j. "PATP TERMINAL" or "Play at the Pump Terminal" means a gasoline pump having the capability to sell PATP Tickets.
- k. "PATP TICKET" means a Quick Pick Multistate Jackpot Game Ticket issued electronically by a licensee to a player via a Play at the Pump Terminal, which group of numbers are electronically associated with the debit card used by the Player to purchase the ticket. The receipt for the purchase of the PATP Ticket is only a receipt for the Player's records. The receipt does not constitute a Multistate Jackpot Game Ticket and shall not be used to redeem any prize.
- l. "PATP VALIDATION" means the process of determining whether a Player's debit card has a winning Multistate Jackpot Game Ticket associated with it.

14.3 Price of Tickets

The purchase price of each Multistate Jackpot Game Ticket shall be set forth in Specific Game Playing Rules. A vendor administering the sale of PATP Tickets may charge a transaction fee not to exceed \$1.00 per sales transaction. Such transaction fee shall not constitute a change in the purchase price of the ticket.

14.4 Sale of Tickets

- a. Licensees shall make Multistate Jackpot Game Tickets available for sale to the public during Lottery normal hours of operation of the Jackpot Game gaming system that are within the licensee's normal business hours.
- b. A licensee shall sell Multistate Jackpot Game Tickets only at the premises specified in the licensee.
- c. All retail Multistate Jackpot Game Ticket sales are final and the return of a Multistate Jackpot Game Ticket after sale shall not be accepted by the licensee, unless otherwise directed by the Director or as set forth in Paragraphs 14.5 of this Rule 14 or as may be set forth in Specific Game Playing Rules.
- d. The Lottery itself may sell Multistate Jackpot Game Tickets.

14.5 Cancellation of Tickets

A Multistate Jackpot Game Ticket cannot be cancelled in any way. Unless the Director is satisfied that a mutilated Multistate Jackpot Game Ticket is genuine, no credit will be issued to the holder.

- a. If the Multistate Jackpot Game Ticket is mutilated at the time of purchase, it must be returned to the licensee by the ticket holder within one (1) hour of purchase provided that the licensee is open, the Multistate Jackpot Game system is available for wagering and the Multistate Jackpot Game system has not converted to the next drawing period.
- b. Licensees must submit evidence of machine-damaged or non-printed ticket(s) to the Lottery for investigation to determine if credit should be issued. A ticket submitted to the Lottery by the licensee for credit becomes the property of the Lottery and the ticket is invalid and ineligible for a prize. Following an investigation of circumstances, the Director may issue a credit in the amount of the purchase price to the licensee should the claim be deemed genuine.

14.6 Ownership of Tickets

- a. Until such time as the Multistate Jackpot Game Ticket is signed in the area designated, a Multistate Jackpot Game Ticket shall be a bearer instrument, owned by the physical possessor of such ticket.
- b. The Director shall only recognize as the true owner of a winning Multistate Jackpot Game Ticket the person whose signature appears upon the ticket in the area designated for said purpose.
- c. Each winning Multistate Jackpot Game Ticket must have placed thereon the signature of the owner in the area designated for such purpose. The Division may make payment based upon information submitted to it on an affidavit proving ownership.
- d. In the event there is an inconsistency in the information submitted on a claim form and as shown on the winning Multistate Jackpot Game Ticket, the Director shall request an investigation and withhold all winnings awarded to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.
- e. The Director shall only recognize as the true owner of a winning PATP Ticket the person whose bank account is associated with the debit card used to purchase the ticket.
- f. The Director shall recognize only one (1) person as claimant of a Multistate Jackpot Game Ticket. A claim may be made in the name of an organization only if the organization possesses a Federal Employer Identification Number (FEIN) issued by the Internal Revenue Service and such number is shown on the claim form. Groups, family units, clubs or organizations without an FEIN shall designate one individual in whose name the claim is to be filed. If a claim is erroneously entered with multiple claimants, the claimants shall designate one of them as the individual recipient of the prize, or, if they fail to designate an individual recipient, the Director may designate any one of the claimants as the sole recipient. In either case, the claim shall then be considered as if it were originally entered in the name of the designated individual and payment of any prizes won shall be made to the single individual. Once a Multistate Jackpot Game Ticket is validated, it will not be returned to the winner, but remain the property of the Lottery.

14.7 Purchaser's Obligations

- a. In purchasing a Multistate Jackpot Game Ticket, the purchaser agrees to comply with all provisions of part 2 of article 35 of title 24, these Rules and Regulations, all final decisions of the Director, all instructions and directives established by the Director, all Multistate Guidelines, which

have been approved by the Lottery, and all Multistate Board decisions for the conduct of the Multistate Jackpot Games.

- b. It shall be the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. The placing of plays is done at the player's own risk through the licensee, who is acting on behalf of the player in entering the play or plays.

14.8 Persons Ineligible to Purchase Tickets

- a. No person under the age of eighteen (18) may purchase Multistate Jackpot Game Tickets.
- b. No Multistate Jackpot Game Ticket may be purchased by, and no prize shall be paid to, any of the following as set forth in C.R.S. 24-35-209:
 - 1. Any member of the Commission;
 - 2. Any employee of the Lottery, except when authorized by the Lottery Director for investigative purposes. In no event shall such employee be entitled to payment of any prize;
 - 3. Any officer, director or employee of any supplier of Colorado Lottery Multistate Jackpot Game Ticket materials or equipment, or the subcontractors thereof which have participated, in any manner, in the supplying of Colorado Lottery Multistate Jackpot Game Ticket materials or equipment, except when authorized by the Director for investigative purposes. But, in no event shall any such persons be entitled to payment of any prize;
 - 4. Any vendor precluded by its contract with the Lottery;
 - 5. Any person who operates drawing equipment during a Multistate Jackpot Game drawing or officially witnesses a drawing;
 - 6. Any member of the immediate family as defined in Rule 1-Definitions, of items 1., 2., 3., 4. and 5. above.

14.9 Drawings and End of Sales Prior to Drawings

- a. The manner and frequency of drawings shall be as set forth in Specific Game Playing Rules. In the event of force majeure the drawing shall be rescheduled at the Director's, or the Director's designee, discretion.
- b. Drawings shall be conducted at a location and on days and at times to be announced.
- c. The Director shall determine for each type of Multistate Jackpot Game the draw break or time for the end of sales prior to the drawings in accordance with Multistate Guidelines. Jackpot Game terminals will not process orders for Multistate Jackpot Game Tickets for that drawing after the time established by the Director.
- d. An auditor, as required in C.R.S 24-35-208 (2)(d), will observe each multistate drawing and document compliance or non-compliance to drawing procedures required by the Multistate Board and the Lottery as described in the Lottery's drawing guidelines.
- e. The auditor must submit a report after each drawing that documents compliance or non-compliance to established drawing procedures as described in the drawing guidelines. The report must include each discrepancy detected, if any, during the drawing procedure and

recommendations, if any that may strengthen the integrity of the drawings. The report will become a part of the Lottery's drawing work papers. Reports that include a discrepancy and/or a recommendation must be distributed to the Lottery Commission, the Director, the Lottery Security Director and the Lottery Controller.

- f. All drawing equipment used shall be examined by the auditor located at the multistate drawing site immediately prior to, but no sooner than thirty (30) minutes before, a drawing and immediately after, but no later than thirty (30) minutes following the drawing.

14.10 Validation Requirements

- a. To be a valid winning Multistate Jackpot Game Ticket, all of the following conditions must be met:
 - 1. All printing on the ticket shall be present in its entirety, be legible and correspond, using the computer validation file, to the combination and date printed on the ticket.
 - 2. The ticket shall be intact.
 - 3. The ticket shall not be mutilated, altered or tampered with in any manner.
 - 4. The ticket shall not be counterfeit or an exact duplicate of another winning ticket.
 - 5. The ticket must have been issued by a Colorado authorized Jackpot Game licensee in an authorized manner.
 - 6. The ticket must not have been stolen.
 - 7. The ticket must not have been previously paid.
 - 8. The ticket shall pass all other confidential security checks of the Lottery.
 - 9. In the case of a PATP Ticket, the debit card used to purchase the ticket must be presented. In the event of a lost or stolen debit card, written bank verification that the card was lost or stolen must be presented instead.
- b. Any ticket failing any validation requirement listed in Section (a) above is invalid and ineligible for a prize. If a court of competent jurisdiction determines that a claim based on a ticket which has failed to validate solely because of subsection (a) (7) of this section is valid, the claim shall be paid as a prize pursuant to Paragraphs 14.11 of this Rule 14 and Specific Game Playing Rules. The licensee that paid such ticket erroneously shall indemnify the Lottery for payment of the prize and from any other claim, suit or action based on that ticket.
- c. The Director may pay the prize for a Multistate Jackpot Game Ticket that is partially mutilated or is not intact if the Multistate Jackpot Game Ticket can still be validated by the other validation methods and requirements.
- d. In the event a defective Multistate Jackpot Game Ticket, pursuant to paragraph 14.5 of this rule 14, is purchased, the only responsibility or liability of the Lottery or the licensee shall be the replacement of the defective Multistate Jackpot Game Ticket with another Multistate Jackpot Game Ticket (or a ticket of equivalent sales price from any other current Lottery game) or refund of the purchase price.

14.11 Payment of Prizes

- a. The prize amounts or total amount of prize money allocated to the prize categories for multistate Jackpot games shall be set forth in Specific Game Playing Rules.
 1. In the event the prize expense is less than the Lottery Commission approved "Aggregate Prize Fund" for a specific game, the Director or designee may authorize the difference to be used to increase Lottery prize amounts or pay additional prizes for that game within the current fiscal year, within the Multistate Guidelines.
- b. The holder of a winning multistate Jackpot Game ticket in the amount of \$150.00 or less may take the ticket to any licensee location during the licensee's normal business hours and game operation hours for validation and payment. The holder of a winning multistate Jackpot Game ticket in the amount of \$151.00 to \$599.00 may take the ticket to any licensee location during the licensee's normal business hours and game operation hours. Licensees have the option of validating winning tickets in the amount of \$151.00 to \$599.00. All prizes shall be paid by the licensee upon presentation and validation of the ticket pursuant to instructions on the back of the multistate Jackpot Game ticket.
 1. Winning PATP Tickets in the amount of \$1.00 to \$599.00 shall be automatically paid via a deposit to the account associated with the debit card used by the Player to purchase the ticket. Winning PATP Tickets in the amount of \$1.00 to \$599.00 shall not be redeemed in any other manner.
 2. In the event of a lost or stolen debit card that is disabled before a prize is deposited, the Player must contact the vendor that administered the PATP Ticket sale to provide written verification from the Player's bank that the debit card was lost or stolen. Upon receipt of such bank verification, the vendor that administered the PATP Ticket sale shall issue a check to the Player in the amount of the prize.
- c. Any winning Multistate Jackpot Game Ticket in any amount may be mailed or presented to a Lottery claims center for payment, except winning PATP Tickets may not be redeemed by mail. The prizes shall be paid by the Lottery upon presentation and validation of the ticket or PATP Validation pursuant to instructions on the back of the Multistate Jackpot Game Ticket.
- e. The holder of a prize-winning Multistate Jackpot Game Ticket of \$600.00 or more shall complete all of the information detailed on the Colorado Lottery claim form and submit the completed form and ticket by mail or in person to the Lottery. A Player having a debit card with a winning PATP Ticket associated with it shall present said debit card to the Colorado Lottery for PATP Validation. In the event of a lost or stolen debit card, the Player shall present written verification from the Player's bank that the debit card was lost or stolen. The Colorado Lottery shall pay the prize to the owner of the ticket upon validation. In the event that the intercept program reveals an outstanding obligation for a winner of a prize, the prize will not be awarded until the intercept obligation is paid as set forth in 24-35-212.5.
 1. A prizewinner, or a prizewinner's legally authorized representative, shall sign the winning multistate ticket and complete a claim form that is available from any licensee, Lottery Claim Center or the Colorado Lottery website. The claim form shall incorporate the following information:
 - i. Verification that the prizewinner is not a person disqualified by law or by these Rules and Regulations to claim or otherwise accept a prize from the Lottery;
 - ii. Notification that the prizewinner's name, city of residence and prize amount are public information. This same notification is given to one signing on behalf of a Multistate Jackpot Game Ticket owner under a disability that prevents the prizewinner from signing in his/her own behalf;

- iii. The Lottery is not liable for any loss caused by a misrepresentation by the Multistate Jackpot Game Ticket owner or the person claiming the prize on the winner's behalf.
- 2. The claim form may contain any other provision that the Lottery Director may deem necessary and proper to promote the public interest and trust or security and efficient operation of the Lottery.
- 3. Payment for a winning ticket will not occur unless all of the requirements on the claim form and winning ticket have been met or an acknowledgement that the information is unknown or unavailable. There is no obligation or duty of the Lottery, its employees or licensees, to make any inquiry of the truthfulness of information that appears on the claim form before payment to the claimant.
- f. Payment of prizes shall be made to the claimant in person or by mail to the address provided by the claimant.
- g. All prizes shall be paid within a reasonable time after they are awarded and after the claims are validated by the Lottery.
- h. The Lottery Director may delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim, or any other matter that may have come to their attention. All delayed payments will be paid to date immediately upon the Lottery Director's confirmation that the payee is entitled to such payment.
- i. The Lottery Director's decision shall be final and binding upon all participants in the game with respect to the payment of all prizes.
- j. The Lottery Director reserves the right to require a claimant to disclose the location or person from whom the claimant purchased the ticket.
- k. A prize must be claimed no later than 180 days after the drawing for which the Multistate Jackpot Game Ticket was purchased. Any person who fails to claim a prize which is held by the Lottery or its designee during the one hundred eighty (180) day claim period shall forfeit all rights to the prize and the amount of the prize shall remain in the Lottery Fund. Prizes claimed by mail must be documented as received at Lottery Headquarters by the 180th day after the announced end of game date.
- l. Payment of any prize shall be made to the owner of the Multistate Jackpot Game Ticket or their designee. All liability of the State, its officers and employees, and the Commission shall terminate upon payment.
- m. In the event that a claim is filed on behalf of a legal entity other than the owner of the ticket for a prize payable for life, the legal entity shall designate an officer or director of that legal entity as the person on whose life such prize is to be paid and shall execute an agreement evidencing such designation. The specific requirements for payment will be detailed in the game rule and/or Specific Drawing Guidelines.
- n. In the event that the intercept program reveals an outstanding obligation for a winner of a prize, the prize will be awarded based upon C.S.R. 24-35-212(5) and 24-35-212.5.

14.12 Lost or Stolen Tickets

The Director reserves the right to hold any prize, pending the findings of an investigation, when the Multistate Jackpot Game Ticket presented for validation has been reported stolen or lost. At the Director's discretion, Multistate Jackpot Game Tickets, which are determined to be stolen, will not be paid.

14.13 Payment of Annuity Prizes upon the Death of the Prize Winner

In the event of the death of a Lottery winner during the payment period, the Multistate Board's Finance & Audit Committee, in its sole discretion, upon the petition of the estate of the Lottery winner (the 'Estate') to the Lottery, and subject to federal, state, or district applicable laws, may accelerate the payment of all of the remaining lottery proceeds to the Estate. If the Finance & Audit Committee makes such a determination, then securities and/or cash held to fund the deceased Lottery winner's annuitized prize may be distributed to the Estate. The identification of the securities to fund the annuitized prize shall be at the sole discretion of the Finance & Audit Committee.

14.14 Assignment of Prizes

The winner of an annuitized or installment payment prize in any Multistate Jackpot Game being paid in annuitized or installment payments who desires to assign the right to unpaid future annuitized or installment payments must comply with C.R.S 24-35-212 (1) (b) and (1.5).

14.15 Annuity Payments

The Multistate Board shall act as an agent for the Party Lotteries jointly operating games requiring annuitized payments and shall purchase investments for the benefit of the Party Lotteries who receive valid claims for each prize paid as an annuity. The investment purchase process shall be handled according to the Multistate Guidelines (solicitation of bids, selection of investment, premium payment, etc.). The investment so purchased shall be held in the trust account for the benefit of each Party Lottery for eventual distribution to a prizewinner.

14.16 Audit of Lottery Contributions To The Multistate Group

The Lottery is responsible for verifying all multistate group prize fund and reserve allocations, interest earnings and expenditures received or paid on behalf of the Lottery. The Lottery's fiscal department will perform analytical procedures on the multistate group's audited financial statements annually as set forth in recommendation #2 of the June 30, 2003 financial audit. If anything of concern surfaces by applying these procedures, the Lottery Director and the Lottery Controller will be notified.

14.17 Interest Earnings

- a. The Director shall request the multistate group to distribute all interest earned on the unreserved account on a quarterly basis. If the interest earned on the unreserved account is immaterial, the Director may postpone the distribution request until the end of the fiscal year.
- b. At the end of each fiscal year, the multistate group shall prepare a schedule of revenues and expenses resulting in the multistate group's net income for the fiscal year. The revenues will include all investment earnings, except the interest earned on the unreserved account. The net income will be available to be distributed to each Party Lottery in accordance with procedures as set forth by the multistate group. The Director of each Party Lottery shall request the remittance of their proportionate share of net income following the close of the fiscal year.

14.18 Use of Coupons, Lottery Bucks and Free Tickets

- a. Coupons, Lottery Bucks, and free tickets (hereafter referred to as "coupons") are marketing tools used by the Lottery for promotions.

- b. In the event the Lottery uses a promotional partner to distribute coupons, the promotional partner must ensure all coupons are issued to the consumer or public and any unused coupons are returned to the Lottery.
- c. At no time may coupons be sold, used to purchase goods or services, pay-off Lottery debts, reimburse a licensee(s) for any loss or used for licensee compensation. Coupons may be used for prizes and/or promotion gifts to consumers and retail employees to promote the Lottery as long as the expense of these are debited to the appropriate budget line.
- d. The Lottery Director may deem it proper to authorize the use of bar coded coupons to promote Lottery Products. In the event such use is authorized, licensees shall comply with all requirements and restrictions specified on the coupon and shall redeem and exchange said bar coded coupons for Lottery tickets only and not for cash.

14.19 Licensee Commission

Each licensee shall be entitled to receive a commission of Six Percent (6%) for each Multistate Jackpot Game Ticket lawfully sold or disbursed by said licensee. Licensee having PATP Terminals will share half of its sales commission with a vendor that administers PATP Ticket sales through the PATP Terminals. Vendor that administers the PAPT Ticket sales will receive a commission of six percent (6%) of sales from Jackpot Game Tickets lawfully sold or disbursed through PATP Terminals. Vendor will pay licensee a commission of three percent (3%) of sales from Jackpot Game Tickets lawfully sold or disbursed through PATP Terminals. In addition to said commission, the Director may provide such additional compensation to licensees as is set forth in Specific Game Playing Rules.

CYNTHIA H. COFFMAN
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Chief Deputy Attorney General

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Tracking number: 2016-00370

Opinion of the Attorney General rendered in connection with the rules adopted by the

Lottery Commission

on 09/14/2016

1 CCR 206-1

LOTTERY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/22/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

September 30, 2016 15:32:54

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-1

Rule title

1 CCR 301-1 RULES FOR THE ADMINISTRATION OF THE ACCREDITATION OF
SCHOOL DISTRICTS 1 - eff 11/14/2016

Effective date

11/14/2016

DEPARTMENT OF EDUCATION

Colorado State Board of Education

ADMINISTRATION OF STATEWIDE ACCOUNTABILITY MEASURES FOR THE COLORADO PUBLIC SCHOOL SYSTEM, CHARTER SCHOOL INSTITUTE, PUBLIC SCHOOL DISTRICTS AND PUBLIC SCHOOLS

1 CCR 301-1

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

- 3.05 For purposes of monitoring a District's or the Institute's substantial and good-faith compliance with the provisions of Title 22 and other statutory and regulatory requirements applicable to Districts and the Institute, each Contract shall include the following:
- 3.05(A) an assurance that the District or Institute is in compliance with budgeting, accounting, and reporting requirements set forth in § 22-44-101, C.R.S., et seq. and § 22-45-101, C.R.S., et seq.;
 - 3.05(B) an assurance that the District is in compliance with the provisions of § 22-32-109.1, C.R.S., concerning school safety, and the Gun Free Schools Act, 20 U.S.C. 7151;
 - 3.05(C) for Districts, an assurance that the District and the District's Public Schools are in substantial, good-faith compliance with all statutory and regulatory requirements that apply to Districts;
 - 3.05(D) for the Institute, an assurance that the Institute and the Institute's Charter Schools are in substantial, good-faith compliance with statutory and regulatory requirements that apply to the Institute; and
 - 3.05(E) an assurance that the District, Institute, or any other local education provider (including charter schools) shall comply with the assessment provisions set forth in § 22-7-1013 (8), C.R.S., including:
 - 3.05(E)(1) an assurance that the District, Institute, or any other local education provider, (including charter schools) will not impose negative consequences— including prohibiting school attendance, imposing an unexcused absence, or prohibiting participation in extracurricular activities—on the student or parent if the parent excuses his or her student from participating in the state assessment; and
 - 3.05(E)(2) an assurance that the District, Institute, or any other local education provider, (including charter schools) will not impose an unreasonable burden or requirement on a student that would discourage the student from taking a state assessment or encourage the student's parent to excuse the student from taking the state assessment.

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Tracking number: 2016-00289

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado State Board of Education

on 09/14/2016

1 CCR 301-1

RULES FOR THE ADMINISTRATION OF THE ACCREDITATION OF SCHOOL DISTRICTS

The above-referenced rules were submitted to this office on 09/19/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

September 30, 2016 15:25:56

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
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Permanent Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-79

Rule title

1 CCR 301-79 RULES FOR THE ADMINISTRATION OF THE HEALTHY BEVERAGES
POLICY 1 - eff 11/14/2016

Effective date

11/14/2016

COLORADO DEPARTMENT OF EDUCATION

Colorado State Board of Education

1 CCR 301-79

RULES FOR THE ADMINISTRATION OF THE HEALTHY BEVERAGES POLICY

1.0 Statement of Basis and Purpose

1.01 The statutory basis for these rules is found in Section 22-32-134.5, C.R.S. and Section 22-2-107(1)(c), C.R.S.

1.02 Pursuant to these statutes, the State Board of Education shall promulgate rules concerning public schools to achieve the following purposes, including but not limited to:

1.02.1 Describing beverages that school districts and schools may permit to be sold to students;

(a) Each beverage described shall satisfy minimum nutritional standards for beverages, which standards are science-based and established by a national organization; and

1.02.2 Describing specific events occurring outside of the regular and extended school day at which a school district or school may permit other beverages other than those described above to be sold to students.

2.0 Definitions

2.01 "Public School" means a school that derives its support, in whole or in part, from moneys raised by a general state, county, or district tax and is not limited to those schools participating in the National School Lunch Program.

2.02 "Regular School Day" means the period from midnight the night before the first class period to 30 minutes after the end of the last class period.

2.03 "Extended School Day" means any time spent by students at school after the regular school day, including but not limited to participation in extracurricular activities or childcare programs.

3.0 District Beverage Policies

3.01 On or before the 2017-2018, school year each school district board of education and the state charter school institute shall adopt and implement a policy in accordance with Section 22-32-134.5 (1), C.R.S. and the rules herein.

4.0 Establishing of Healthy Beverage Standards for Public Schools During the Regular School Day and Extended School Day

4.01 The beverage policies adopted by district boards of education and the state of charter school institute pursuant to Section 3.0 may permit the sale of beverages to students on school grounds during both the regular and extended school day if those beverages meet

the United States Department of Agriculture (USDA)'s current regulations for nutrition standards for beverages sold in schools.

5.0 Events Occurring Outside of the Regular and Extended School Day

5.01 The extended school day includes but is not limited to, before and after school activities such as clubs, year book, band, student government, drama, and childcare programs.

5.02 District boards of education and the state charter school institute may permit the sale of other beverages at school-related events where parents and other adults are invited attendees. Such activities include but are not limited to selling beverages as boosters at events such as interscholastic sporting events, school plays, and band concerts.

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Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado State Board of Education

on 09/14/2016

1 CCR 301-79

RULES FOR THE ADMINISTRATION OF THE HEALTHY BEVERAGES POLICY

The above-referenced rules were submitted to this office on 09/19/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

September 30, 2016 15:34:23

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 1 - eff 01/01/2017

Effective date

01/01/2017

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Regulation 4-2-53

NETWORK ADEQUACY STANDARDS AND REPORTING REQUIREMENTS FOR HEALTH BENEFIT PLANS

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Reporting Requirements
Section 6	Network Adequacy Standards
Section 7	Availability Standards
Section 8	Geographic Access Standards
Section 9	Essential Community Provider Standards
Section 10	Requirements for Annual Network Adequacy Reporting
Section 11	Required Attestations
Section 12	Incorporated Materials
Section 13	Severability
Section 14	Enforcement
Section 15	Effective Date
Section 16	History
Appendix A	Designating County Types
Appendix B	Designating Provider/Facility Types

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109(1), 10-16-109, and 10-16-708, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to provide carriers offering health benefit plans with standards and guidance on Colorado filing requirements for health benefit plan network adequacy filings. These standards shall serve as the measurable requirements used by the Division to evaluate the adequacy of carrier networks.

Section 3 Applicability

This regulation applies to all carriers marketing and issuing individual or group health benefit plans on or after January 1, 2017 subject to the individual, small group, and large group laws of Colorado. This regulation excludes individual short-term policies as defined in § 10-16-102(60), C.R.S.

Section 4 Definitions

- A. "Counties with Extreme Access Considerations" or "CEAC" means, for the purposes of this regulation, counties with a population density of less than ten (10) people per square mile, based on U.S. Census Bureau population and density estimates.
- B. "Community emergency center" means, for the purposes of this regulation, a community clinic that delivers emergency services. The care shall be provided 24 hours per day, 7 days per week every day of the year, unless otherwise authorized herein. A community emergency center may provide primary care services and operate inpatient beds.
- C. "Covered person" means, for the purposes of this regulation, a person entitled to receive benefits or services under a health benefit plan.
- D. "Emergency services" means, for the purposes of this regulation:
 - 1. A medical or mental health screening examination that is within the capability of the emergency department of a hospital or community emergency center, including ancillary services routinely available to the emergency department to evaluate the emergency medical or mental health condition; and
 - 2. Within the capabilities of the staff and facilities available at the hospital, further medical or mental health examination and treatment as required to stabilize the patient to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility, or with respect to an emergency medical condition.
- E. "Enrollment" means, for the purposes of this regulation, the number of covered persons enrolled in a specific health plan or network.
- F. "Essential community provider" or "ECP" means, for the purposes of this regulation, a provider that serves predominantly low-income, medically underserved individuals, including health care providers defined in part 4 of article 5 of title 25.5, C.R.S. and at 45 C.F.R. § 156.235(c).
- G. "Health benefit plan" shall, for the purposes of this regulation, have the same meaning as found in Section 10-16-102(32), C.R.S.
- H. "Home health services" shall, for the purposes of this regulation, have the same meaning as found in § 25.5-4-103(7), C.R.S., which are provided by a home health agency certified by the Colorado Department of Public Health and Environment.
- I. "Mental health, behavioral health, and substance abuse disorder care" means, for the purposes of this regulation, health care services for a range of common mental or behavioral health conditions, or substance abuse disorders provided by a physician or non-physician professionals.

- J. "Mental health, behavioral health, and substance abuse disorder care providers" for the purposes of this regulation, and for the purposes of network adequacy measurements, includes psychiatrists, psychologists, psychotherapists, licensed clinical social workers, psychiatric practice nurses, licensed addiction counselors, licensed marriage and family counselors, and licensed professional counselors.
- K. "Network" means, for the purposes of this regulation, a group of participating providers providing services under a managed care plan. Any subdivision or subgrouping of a network is considered a network if covered individuals are restricted to the subdivision or subgrouping for covered benefits under the managed care plan as defined in § 10-16-102(43), C.R.S.
- L. "Primary care" means, for the purposes of this regulation, health care services for a range of common physical, mental or behavioral health conditions provided by a physician or non-physician primary care provider.
- M. "Primary care provider" or "PCP" means, for the purposes of this regulation, a participating health care professional designated by the carrier to supervise, coordinate or provide initial care or continuing care to a covered person, and who may be required by the carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person. For the purposes of network adequacy measurements, PCPs for adults and children includes physicians (pediatrics, general practice, family medicine, internal medicine, geriatrics, obstetrician/gynecologist); and physician assistants and nurse practitioners supervised by, or collaborating with, a primary care physician.
- N. "Specialist" means, for the purposes of this regulation, a physician or non-physician health care professional who:
1. Focuses on a specific area of physical, mental or behavioral health or a group of patients; and
 2. Has successfully completed required training and is recognized by the state in which he or she practices to provide specialty care.
- "Specialist" includes a subspecialist who has additional training and recognition above and beyond his or her specialty training.
- O. "Telemedicine" or "telehealth" means, for the purposes of this regulation, a mode of delivery of health care services through telecommunications systems, including information, electronic and communication technologies, to facilitate the assessment, diagnosis, consultation, treatment, education, care management, or self-management of a covered person's health care while the covered person is located at an originating site and the provider is located at a distant site. The terms include synchronous interactions and store-and-forward transfers. The terms do not include the delivery of health care services via telephone, facsimile machine or electronic mail systems.
- P. "Urgent care facility" means, for the purposes of this regulation, a facility or office that generally has extended hours, may or may not have a physician on the premises at all times, and is only able to treat minor illnesses and injuries. Urgent care does not typically have the facilities to handle an emergency condition, which includes life or limb threatening injuries or illnesses, as defined under emergency services.

Section 5 Reporting Requirements

- A. Network adequacy filings for a health benefit plan shall be filed with the Division through the System for Electronic Rate and Form Filing ("SERFF") prior to use.
- B. The following four (4) measurement standards shall be used to evaluate a carrier's network adequacy:

1. Compliance with network adequacy instructions published by the Division;
 2. Compliance with network adequacy definitions contained in this regulation;
 3. Compliance with the measurement details contained in this regulation; and
 4. Compliance with the reporting methodologies contained in this regulation.
- C. Attestations and certifications that adequate networks shall be provided by plan and group type on the "Colorado Network Adequacy Carrier Attestation Form" submitted with the Binder filing.

Section 6 Network Adequacy Standards

The following access to service and waiting time standards shall be met by all carriers filing ACA-compliant health benefit plans in order to comply with network adequacy requirements:

Service Type	Time Frame	Time Frame Goal
Emergency Care – Medical, Behavioral, Substance Abuse	24 hours a day, 7 days a week	Met 100% of the time
Urgent Care – Medical, Behavioral, Mental Health and Substance Abuse	Within 24 hours	Met 100% of the time
Primary Care – Routine, non-urgent symptoms	Within 7 calendar days	Met ≥ 90% of the time
Behavioral Health, Mental Health and Substance Abuse Care – Routine, non-urgent, non-emergency	Within 7 calendar days	Met ≥ 90% of the time
Prenatal Care	Within 7 calendar days	Met ≥ 90% of the time
Primary Care Access to after-hours care	Office number answered 24 hrs./ 7 days a week by answering service or instructions on how to reach a physician	Met ≥ 90% of the time
Preventive visit/well visits	Within 30 calendar days	Met ≥ 90% of the time
Specialty Care - non urgent	Within 60 calendar days	Met ≥ 90% of the time

Section 7 Availability Standards

- A. "Provider to Enrollee" ratios for different provider types shall be reported in the filed "Enrollment Document". The groupings/categories for the specific providers are listed in Appendix B.

- B. The standards listed below shall be used to measure network adequacy, along with geographic access standards, in counties with “large metro, metro and micro” status, as defined in Appendix A, for the specific provider types listed in Section 7.D. of this regulation.
- C. The carrier shall attest that it is compliant with the “provider to enrollee” ratios standards in Section 7.D. of this regulation
- D. The following availability standards shall be met by all carriers filing ACA-compliant health benefit plans in order to comply with network adequacy requirements:

Provider/Facility Type	Large Metro	Metro	Micro
Primary Care	1:1000	1:1000	1:1000
Pediatrics	1:1000	1:1000	1:1000
OB/GYN	1:1000	1:1000	1:1000
Mental health, behavioral health and substance abuse disorder care providers	1:1000	1:1000	1:1000

Section 8 Geographic Access Standards

- A. The carrier shall attest that at least one (1) of each of the providers listed below is available within the maximum road travel distance of any enrollee in each specific carrier's network.
- B. Access standards may require that a policyholder cross county or state lines to reach a provider.
- C. Network Adequacy Geographic Access Standards by Provider Type:

Specialty	Geographic Type				
	Large Metro	Metro	Micro	Rural	CEAC
	Maximum Distance (miles)	Maximum Distance (miles)	Maximum Distance (miles)	Maximum Distance (miles)	Maximum Distance (miles)
Primary Care	5	10	20	30	60
Gynecology, OB/GYN	5	10	20	30	60
Pediatrics - Routine/Primary Care	5	10	20	30	60
Allergy and Immunology	15	30	60	75	110
Cardiothoracic Surgery	15	40	75	90	130
Cardiovascular Disease	10	20	35	60	85

Chiropracty	15	30	60	75	110
Dermatology	10	30	45	60	100
Endocrinology	15	40	75	90	130
ENT/Otolaryngology	15	30	60	75	110
Gastroenterology	10	30	45	60	100
General Surgery	10	20	35	60	85
Gynecology only	15	30	60	75	110
Infectious Diseases	15	40	75	90	130
Licensed Clinical Social Worker	10	30	45	60	100
Nephrology	15	30	60	75	110
Neurology	10	30	45	60	100
Neurological Surgery	15	40	75	90	130
Oncology - Medical, Surgical	10	30	45	60	100
Oncology - Radiation/Radiation Oncology	15	40	75	90	130
Ophthalmology	10	20	35	60	85
Orthopedic Surgery	10	20	35	60	85
Physiatry, Rehabilitative Medicine	15	30	60	75	110
Plastic Surgery	15	40	75	90	130
Podiatry	10	30	45	60	100
Psychiatry	10	30	45	60	100
Psychology	10	30	45	60	100
Pulmonology	10	30	45	60	100
Rheumatology	15	40	75	90	130
Urology	10	30	45	60	100
Vascular Surgery	15	40	75	90	130

OTHER MEDICAL PROVIDER	15	40	75	90	130
Dental	15	30	60	75	110
Pharmacy	5	10	20	30	60
Acute Inpatient Hospitals	10	30	60	60	100
Cardiac Surgery Program	15	40	120	120	140
Cardiac Catheterization Services	15	40	120	120	140
Critical Care Services – Intensive Care Units (ICU)	10	30	120	120	140
Outpatient Dialysis	10	30	50	50	90
Surgical Services (Outpatient or ASC)	10	30	60	60	100
Skilled Nursing Facilities	10	30	60	60	85
Diagnostic Radiology	10	30	60	60	100
Mammography	10	30	60	60	100
Physical Therapy	10	30	60	60	100
Occupational Therapy	10	30	60	60	100
Speech Therapy	10	30	60	60	100
Inpatient Psychiatric Facility	15	45	75	75	140
Orthotics and Prosthetics	15	30	120	120	140
Outpatient Infusion/Chemotherapy	10	30	60	60	100
OTHER FACILITIES	15	40	120	120	140

Section 9 Essential Community Provider Standards

- A. Qualified Health Plan (QHP), Stand Alone Dental Plan (SADP), and dual (both medical and dental) carriers are required to have a sufficient number and geographic distribution of essential community providers (ECPs), where available.
- B. Carriers shall ensure the inclusion of a sufficient number of ECPs to ensure reasonable and timely access to a broad range of ECP providers for low-income, medically underserved individuals in their service areas.
- C. There are two ECP standards for carrier ECP submissions:

1. General ECP Standard. Carriers utilizing this standard shall demonstrate in their "ECP/Network Adequacy Template" that at least 30 percent (30%) of available ECPs in each plan's service area participate in the plan's network. This standard applies to all carriers except those who qualify for the alternate ECP standard.
2. Alternate ECP Standard. Carriers utilizing this standard shall demonstrate in their "ECP/Network Adequacy Template" and justifications, that they have the same number of ECPs as defined in the general ECP standard (calculated as 30 percent (30%) of the ECPs in the carrier's service area), but the ECPs should be located within Health Professional Shortage Areas (HPSAs) or five-digit ZIP codes in which 30 percent (30%) or more of the population falls below 200 percent (200%) of the federal poverty level (FPL). An alternate ECP standard carrier is one that provides a majority of covered professional services through physicians it employs or through a single contracted medical group.

Section 10 Requirements for Annual Network Adequacy Reporting

- A. Annual network adequacy filings shall consist of two (2) sections, both attached to the Binder filings. All network adequacy documents must be filed by carrier network, rather than by plan type or group size.
 1. The first section of the filing shall consist of the submittal of the "ECP/Network Adequacy Templates" in each applicable binder.
 2. The second section shall consist of the filing of "Network Access Plans", "Enrollment Documents", and maps for each network in the carrier's system.
- B. Each network that is included on the network templates filed in any of a carrier's Binder filings shall be included in the carrier's "ECP/Network Adequacy Template" filing.
- C. The data provided in the documents specified in Section 10.D., paragraphs 1. through 5., must apply to each network (i.e. HMO, PPO, EPO, etc.) in the carrier's service area. Networks that are not service area specific may be rejected.
- D. The following documents shall be provided for each network that is included on the network templates filed in any of a carrier's Binder filings. Templates and instructions specified by the Insurance Commissioner must be used, and will be provided to carriers annually.
 1. All carriers shall submit network provider and facility listings on the "ECP/Network Adequacy Template" in the Binder filing. All essential community providers (ECPs) in each network must be included in this template. The templates must be completed and filed as described in the annual QHP application instructions. Templates will require validation before submittal to the Division. The Division will require carriers to submit a justification if any of the requirements are not met. The justification shall include the reason that the requirement was not met and any corrective action(s) that will be taken by the carrier. The Division will review the justification and provide feedback on a case-by-case basis.
 2. All carriers shall submit network access plans for each network, pursuant to § 10-16-704(9), C.R.S. Carriers shall also submit a copy of the "Network Access Plan Cover Sheet" with the access plan for each network, as described in the instructions for filing network access plans. These must be attached as "Supporting Documentation" on the Binder filing.
 3. All carriers shall submit a separate "Enrollment Document" for each network. Enrollment document instructions will be provided to carriers by the Division. Enrollment documents must be submitted in an Excel format using the "DOI Enrollment Document Template". Counts used for this document must be based on the projected enrollment of all members in the carrier's individual, small group and large group plans utilizing that specific network.

4. All carriers shall submit maps showing geographic access standards for selected providers and facilities for each network. Instructions for required maps and map requirements will be provided to each carrier by the Division.
5. All carriers shall submit a copy of the federal “Supplementary Response: Inclusion of Essential Community Providers” form as part of their annual network adequacy filing. Specific requirements for submitting the “Supplementary Response: Inclusion of Essential Community Providers” will be provided to carriers by the Division.

Section 11 Required Attestations

- A. A carrier shall attest that each of its health benefit plans will maintain a provider network(s) that meets the standards contained in this regulation, and that each provider network is sufficient in number and types of providers, including providers that specialize in mental health and substance abuse services, to assure that the services will be accessible without unreasonable delay.
- B. A carrier shall attest that each of its health benefit plans include in its provider network(s) a sufficient number and geographic distribution of essential community providers (ECPs), where available, to ensure reasonable and timely access to a broad range of such providers for low-income, medically underserved individuals in its service areas.
- C. Each attestation shall be made on the “Colorado Network Adequacy Carrier Attestation Form” submitted with each binder filing.

Section 12 Incorporated Materials

The “Supplementary Response: Inclusion of Essential Community Providers” published by the Centers for Medicare and Medicaid Services shall mean “Supplementary Response: Inclusion of Essential Community Providers” as published on the effective date of this regulation and does not include later amendments to or editions of the “Supplementary Response: Inclusion of Essential Community Providers”. A copy of the “Supplementary Response: Inclusion of Essential Community Providers” can be found at the following link: https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/Chapter07aSuppResponseEssentialCommunityProvider_Version2_em_508_040816.pdf, and may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A Certified copy of the “Supplementary Response: Inclusion of Essential Community Providers” may be requested from the Division of Insurance. A charge for certification or copies may apply.

Section 13 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 14 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 15 Effective Date

This new regulation shall be effective on January 1, 2017.

Section 16 History

New regulation effective January 1, 2017

APPENDIX A – DESIGNATING COUNTY TYPES

The county type, Large Metro, Metro, Micro, Rural, or Counties with Extreme Access Considerations (CEAC), is a significant component of the network access criteria. CMS uses a county type designation methodology that is based upon the population size and density parameters of individual counties.

Density parameters are foundationally based on approaches taken by the U.S. Census Bureau in its delineation of “urbanized areas” and “urban clusters”, and the Office of Management and Budget (OMB) in its delineation of “metropolitan” and “micropolitan”. A county must meet both the population and density thresholds for inclusion in a given designation. For example, a county with population greater than one million and a density greater than or equal to 1,000 persons per square mile (sq. mile) is designated Large Metro. Any of the population-density combinations listed for a given county type may be met for inclusion within that county type (i.e., a county would be designated “Large Metro” if any of the three Large Metro population-density combinations listed in the following table are met; a county is designated as “Metro” if any of the five Metro population-density combinations listed in the table are met; etc.).

Population and Density Parameters

County Type	Population	Density
<i>Large Metro</i>	≥ 1,000,000	≥ 1,000/sq. mile
---	500,000 – 999,999	≥ 1,500/ sq. mile
---	Any	≥ 5,000/ sq. mile
<i>Metro</i>	≥ 1,000,000	10 – 999.9/sq. mile
---	500,000 – 999,999	10 – 1,499.9/sq. mile
---	200,000 – 499,999	10 – 4,999.9/sq. mile
---	50,000 – 199,999	100 – 4,999.9/sq. mile
---	10,000 – 49,999	1,000 – 4,999.9/sq. mile
<i>Micro</i>	50,000 – 199,999	10 – 99.9 /sq. mile
---	10,000 – 49,999	50 – 999.9/sq. mile
<i>Rural</i>	10,000 – 49,999	10 – 49.9/sq. mile
---	<10,000	10 – 4,999.9/sq. mile
<i>CEAC</i>	Any	<10/sq. mile

COLORADO COUNTY DESIGNATIONS

County	Classification	County	Classification	County	Classification
Adams	Metro	Fremont	Rural	Morgan	Rural
Alamosa	Rural	Garfield	Micro	Otero	Rural
Arapahoe	Metro	Gilpin	Rural	Ouray	CEAC
Archuleta	CEAC	Grand	CEAC	Park	CEAC
Baca	CEAC	Gunnison	CEAC	Phillips	CEAC
Bent	CEAC	Hinsdale	CEAC	Pitkin	Rural
Boulder	Metro	Huerfano	CEAC	Prowers	CEAC
Broomfield	Metro	Jackson	CEAC	Pueblo	Micro
Chaffee	Rural	Jefferson	Metro	Rio Blanco	CEAC
Cheyenne	CEAC	Kiowa	CEAC	Rio Grande	Rural
Clear Creek	Rural	Kit Carson	CEAC	Routt	CEAC
Conejos	CEAC	Lake	Rural	Saguache	CEAC
Costilla	CEAC	La Plata	Micro	San Juan	CEAC
Crowley	CEAC	Larimer	Metro	San Miguel	CEAC
Custer	CEAC	Las Animas	CEAC	Sedgwick	CEAC
Delta	Rural	Lincoln	CEAC	Summit	Rural
Denver	Large Metro	Logan	Rural	Teller	Rural
Dolores	CEAC	Mesa	Micro	Washington	CEAC
Douglas	Metro	Mineral	CEAC	Weld	Metro
Eagle	Micro	Moffat	CEAC	Yuma	CEAC
Elbert	Rural	Montezuma	Rural		
El Paso	Metro	Montrose	Rural		

APPENDIX B – DESIGNATING PROVIDER/FACILITY TYPES

Provider Types – For ECP/Network Adequacy Template and Enrollment Document

Primary Care (including General Practice, Family Medicine, Internal Medicine, and Geriatric physicians, and Primary Care Physician Assistants and Nurse Practitioners)

Gynecology, OB/GYN

Pediatrics - Routine/Primary Care

Allergy and Immunology

Cardiovascular Disease

Chiropracty

Dermatology

Endocrinology

ENT/Otolaryngology

Gastroenterology

General Surgery

Infectious Diseases

Nephrology

Neurology

Neurological Surgery

Medical Oncology & Surgical Oncology

Radiation Oncology

Ophthalmology

Orthopedic Surgery

Physiatry, Rehabilitative Medicine (including physiatrist, physical medicine and rehabilitation specialist)

Plastic Surgery

Podiatry

Psychiatry

Pulmonology

Rheumatology

Urology

Vascular Surgery

Cardiothoracic Surgery

Licensed Clinical Social Worker

Psychology

OTHER MEDICAL PROVIDER

Dental

Facility Types – For ECP/Network Adequacy Template and Enrollment Document

Pharmacy

General Acute Care Hospital

Cardiac Surgery Program

Cardiac Catheterization Services

Critical Care Services - Intensive Care Units (ICU)

Outpatient Dialysis

Surgical Services (Ambulatory Surgical Centers and Outpatient Hospital)

Skilled Nursing Facilities

Diagnostic Radiology (free-standing; hospital outpatient; ambulatory health facilities with Dx Radiology)

Mammography

Physical Therapy (individual physical therapists providing care in Free-standing; hospital outpatient and ambulatory health care facilities)

Occupational Therapist

Speech Therapy

Inpatient Psychiatry (Free-standing inpatient psychiatric facility and psychiatric beds within an Acute Care Hospital)

Orthotics and Prosthetics

Home Health Services

Durable Medical Equipment

Ambulatory Health Care Facilities – Infusion Therapy/Oncology/ Radiology

Heart Transplant Program

Heart/Lung Transplant Program

Kidney Transplant Program

Liver Transplant Program

Lung Transplant Program

Pancreas Transplant Program

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Tracking number: 2016-00369

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 09/20/2016

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2

The above-referenced rules were submitted to this office on 09/21/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 07, 2016 14:56:08

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Physical Therapy Board

CCR number

4 CCR 732-1

Rule title

4 CCR 732-1 PHYSICAL THERAPIST LICENSURE AND PHYSICAL THERAPIST
ASSISTANT CERTIFICATION 1 - eff 11/14/2016

Effective date

11/14/2016

DEPARTMENT OF REGULATORY AGENCIES

STATE PHYSICAL THERAPY BOARD

PHYSICAL THERAPIST LICENSURE & PHYSICAL THERAPIST ASSISTANT CERTIFICATION

4 CCR 732-1

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

GENERAL RULE PROVISIONS

101. Definitions

The purpose of this rule is to address the requirement under section 12-41-113(1), C.R.S., regarding supervision of persons not licensed as a physical therapist, and to clarify the types/levels of supervision utilized throughout the Physical Therapy Practice Act and these Board rules.

- A. "General supervision" means the physical therapist is not required to be on site for direction and supervision, but must be available at least by telecommunications.
- B. "Direct supervision" means the physical therapist is physically present in the same physical building.
- C. "Immediate supervision" means the physical therapist is physically present or immediately available in the same physical building to support the individual being supervised.

102. Licensure & Certification Requirements: Credit for Military Experience

The purpose of this rule is to outline the conditions and procedures governing the evaluation of an applicant's military training and experience under section 24-34-102(8.5), C.R.S.

- A. Education, training, or service gained in military services outlined in section 24-34-102(8.5), C.R.S., that is to be accepted and applied towards receiving either a physical therapist license or a physical therapist assistant certification must be substantially equivalent, as determined by the Board, to the qualifications otherwise applicable at the time of the receipt of the application. It is the applicant's responsibility to provide timely and complete evidence of the education, training and/or service gained in the military for review and consideration. Satisfactory evidence of such education, training or service will be assessed on a case-by-case basis.

103. Recognized Accrediting Agency

The purpose of this rule is to designate a nationally recognized accrediting agency for accrediting physical therapy and physical therapist assistant programs pursuant to sections 12-41-103(1), 12-41-107, 12-41-109, 12-41-111, 12-41-114, 12-41-205, 12-41-206, and 12-41-207, C.R.S.

- A. The Commission on Accreditation in Physical Therapy Education (CAPTE) is recognized as the accrediting agency for accrediting both physical therapy and physical therapist assistant programs.

104. Approved Examinations for Licensing

The purpose of this rule is to designate a nationally-recognized examination approved by the Board pursuant to sections 12-41-107, 12-41-109, 12-41-111, 12-41-205, 12-41-206, and 12-41-207, C.R.S.

- A. The examination developed by the Federation of State Boards of Physical Therapy (FSBPT) entitled the National Physical Therapy Examination (NPTE) for physical therapists is approved as the required examination in the licensure process. An applicant must achieve a passing score as determined by FSBPT in order to be eligible for licensure as a physical therapist.
- B. The examination developed by FSBPT entitled the National Physical Therapy Examination (NPTE) for physical therapist assistants is approved as the required examination in the certification process. An applicant must achieve a passing score as determined by FSBPT in order to be eligible for certification as a physical therapist assistant.

105. Declaratory Orders

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

- A. Any person or entity may petition the Board 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 Board.
- B. The Board will determine, at its discretion and without notice to petitioner, whether to rule upon such petition. If the Board determines that it will not rule upon such a petition, the Board shall promptly notify the petitioner of its action and state the reasons for such decision.
- C. In determining whether to rule upon a petition filed pursuant to this rule, the Board 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 Board;
 - 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 Board 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 Board 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; and
 - 5. Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to CRCP 57, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule, or order in question.
- D. Any petition filed pursuant to this rule shall set forth the following:
 - 1. The name and address of the petitioner and whether the petitioner is licensed or certified pursuant to Title 12, Article 41.
 - 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 Board determines that it will rule on the petition, the following procedures shall apply:

1. The Board may rule upon the petition based solely upon the facts presented in the petition. In such a case:
 - a. Any ruling of the Board will apply only to the extent of the facts presented in the petition and any amendment to the petition.
 - b. The Board may order the petitioner to file a written brief, memorandum, or statement of position.
 - c. The Board may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.
 - d. The Board may dispose of the petition on the sole basis of the matters set forth in the petition.
 - e. The Board 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 Board 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 its experience, technical competence, and specialized knowledge in the disposition of the petition.
2. If the Board rules upon the petition without a hearing, it shall promptly notify the petitioner of its decision.
3. The Board may, at its 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 Board 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 Board to consider.

F. The parties to any proceeding pursuant to this rule shall be the Board and the petitioner. Any other person may seek leave of the Board to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Board. 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 Board.

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.

106. Reporting Criminal Convictions, Judgments, and Administrative Proceedings

The purpose of this rule is to delineate the procedures a licensee or a certificate holder must adhere to when an act enumerated in sections 12-41-115 or 12-41-210, C.R.S., has occurred.

A. A licensee or certificate holder must inform the Board within 90 days of any of the following events:

1. The conviction of a felony under the laws of any state or of the United States, or of any level of crime related to the practice of physical therapy. A guilty verdict, a plea of guilty, a plea of nolo contendere, or the imposition of a deferred sentence accepted by the court is considered a conviction.
2. A disciplinary action imposed by another jurisdiction that licenses, certifies, or registers physical therapists or physical therapist assistants including, but not limited to, a citation, sanction, probation, civil penalty, or a denial, suspension, revocation, or modification of a license, certification, or registration, whether it is imposed by consent decree, order, or in some other manner, for any cause other than failure to pay a license, certification, or registration fee by the due date.
3. Revocation or suspension by another state board, municipality, federal or state agency of any health services related license, certification, or registration, other than a license, certification, or registration as a physical therapist or physical therapist assistant.

B. Any award, judgment, or settlement of a civil action or arbitration in which there was a final judgment or settlement for malpractice of physical therapy.

C. The notice to the Board must include the following information:

1. If the event is an action by a governmental agency:
 - a. The name of the agency;
 - b. Its jurisdiction;
 - c. The case name;
 - d. The docket, proceeding, or case number by which the event is designated; and
 - e. A copy of the consent decree, order, or decision.
2. If the event is a conviction of a crime described above:
 - a. The court;
 - b. Its jurisdiction;
 - c. The case name;
 - d. The case number;
 - e. A description of the matter or a copy of the indictment or charges;
 - f. Any plea or verdict accepted or entered by the court; and
 - g. A copy of the imposition of sentence related to the conviction and the completion of all terms of the sentence.
3. If the event concerns a civil action or arbitration proceeding:
 - a. The court or arbitrator;

- b. The jurisdiction;
 - c. The case name;
 - d. The case number;
 - e. A description of the matter or a copy of the complaint or demand for arbitration; and
 - f. A copy of the verdict, the court decision or arbitration award, or, if settled, the settlement agreement and court's order of dismissal.
4. The licensee or certificate holder notifying the Board may submit a written statement with the notice to be included with the licensee's or certificate holder's records.

107. Reporting Physical or Mental Illness or Condition

The purpose of this rule is to clarify the notification requirements of sections 12-41-118.5 and 12-41-214, C.R.S.

- A. A licensed physical therapist or certified physical therapist assistant must notify the Board if he/she suffers from any of the following:
- 1. A long-term (more than 90 days) physical illness/condition that renders the licensee or certificate holder unable, or limits his/her ability, to practice physical therapy with reasonable skill and patient safety; or
 - 2. A debilitating mental illness/condition that renders the licensee or certificate holder unable, or limits his/her ability, to practice physical therapy with reasonable skill and patient safety.
- B. The physical therapist or physical therapist assistant must notify the Board in writing of the illness or condition within 30 days and submit, within 60 days, a letter from his/her treating medical or mental health provider describing:
- 1. The condition(s);
 - 2. The impact on the licensee's or certificate holder's ability to practice safely based on his/her review of a job description for a physical therapist or physical therapist assistant; and
 - 3. Any applicable limitation(s) to his/her practice.
- C. Pursuant to sections 12-41-118 and 12-41-213, C.R.S., the Board may require the licensee or certificate holder to submit to an examination to evaluate the extent of the illness or condition and its impact on his/her ability to practice with reasonable skill and safety.
- D. Pursuant to sections 12-41-118.5 and 12-41-214, C.R.S., the Board may enter into a non-disciplinary confidential agreement with the physical therapist or physical therapist assistant in which he/she agrees to limit his/her practice based on any restriction(s) imposed by the illness or condition, as determined by the Board. A licensee or certificate holder subject to discipline for habitually abusing or excessively using or abusing alcohol, a habit-forming drug, or a controlled substance is not eligible to enter into a confidential agreement.

PHYSICAL THERAPIST LICENSURE RULES

201. Supervision and/or Direction of Persons Not Licensed as a Physical Therapist

Pursuant to section 12-41-113(1), C.R.S., the purpose of this rule is to clarify supervision and/or direction provisions for persons not licensed as a physical therapist, which include a physical therapist assistant, certified nurse aide, provisional physical therapist, physical therapy aide, athletic trainer, massage therapist, student physical therapist, or student physical therapist assistant. A therapist of record must be established if physical therapy services are being provided by any of the persons not licensed as a physical therapist listed above. A physical therapist who performs an initial examination and evaluation, and develops an appropriate plan of care, shall be the therapist of record for that patient, unless that physical therapist transfers the responsibility to another licensed physical therapist, or a provisional physical therapist under supervision of a physical therapist or a student physical therapist under supervision of a clinical instructor, experienced and skilled enough to take on such responsibility through documentation in the patient records, including the transfer of the procedures and responsibilities provided in this rule.

- A. Delegation of duties is determined by the education and training of the individual being delegated responsibilities as allowed pursuant to Article 41 of Title 12, C.R.S., and these Board rules. If a task cannot be delegated, then a physical therapist must personally attend to the task in-person and not through a patient chart review.
 - 1. A physical therapist shall determine if the individual not licensed as a physical therapist who is being delegated responsibility has the appropriate education, training, and/or experience to perform duties as allowed by statute and/or rule.
 - 2. A physical therapist shall rely on his/her expertise and clinical reasoning when determining the most appropriate utilization of a person not licensed as a physical therapist to provide for the delivery of service that is safe, effective, and efficient.
 - 3. A physical therapist must personally perform and cannot delegate to a person not licensed as a physical therapist the initial clinical contact, interpretation of referrals, initial examinations and evaluations, diagnosis and prognosis, development and modification of plans of care, determination of discharge criteria, and supervision of physical therapy services rendered to the patient/client, except for a provisional physical therapist under supervision of a physical therapist or a student physical therapist under supervision of a clinical instructor, experienced and skilled enough to take on such responsibility.
 - 4. A physical therapist shall not delegate wound debridement to a person not licensed as a physical therapist, except to a provisional physical therapist under supervision of a physical therapist or a student physical therapist under supervision of a clinical instructor, experienced and skilled enough to take on such responsibility, but may delegate non-selective wound care to a physical therapist assistant.
- B. A physical therapist is responsible for providing adequate or proper supervision and/or direction to a person not licensed as a physical therapist pursuant to section 12-41-115(1)(e), C.R.S.
 - 1. A physical therapist may supervise up to 4 individuals at one time who are not physical therapists to assist in the physical therapist's clinical practice. This limit does not include student physical therapists and student physical therapist assistants supervised by a physical therapist for educational purposes.
 - 2. A physical therapist shall regularly evaluate and observe the performance of any person under his/her supervision and/or direction to ensure that all physical therapy services rendered meet the standard of care for delegation to be continued.
- C. Pursuant to the definitions provided in Rule 101, a physical therapist shall provide:
 - 1. General supervision to a physical therapist assistant. However, pursuant to section 12-41-

113(2), C.R.S., direct supervision is required if the physical therapist assistant is administering topical and aerosol medications when they are consistent within the scope of physical therapy practice and when any such medication is prescribed by a licensed health care practitioner who is authorized to prescribe such medication. A prescription or order shall be required for each such administration within a plan of care.

2. General supervision to a certified nurse aide in a home health care setting, as part of a physical therapist plan of care.
3. Direct supervision to a provisional physical therapist. In addition, the supervising physical therapist must perform records review and co-signature of notes.
4. Direct supervision to a physical therapy aide.
5. Direct supervision to an athletic trainer providing athletic training within a physical therapist plan of care.
6. Direct supervision to a massage therapist providing massage therapy within a physical therapist plan of care.
7. Immediate supervision to a student physical therapist or a student physical therapist assistant.

202. Supervision of Physical Therapist Assistants and Physical Therapy Aides

The purpose of this rule is to specify supervisory provisions required by section 12-41-113(1), C.R.S., for physical therapist assistants certified in accordance with section 12-41-204, C.R.S., and physical therapy aides. This rule applies to all physical therapists who utilize physical therapist assistants and/or aides in their practice. The physical therapist shall establish a patient relationship with the client prior to any delegation that has been deemed as allowable and appropriate pursuant to Article 41, Title 12, C.R.S., and Board rules.

Physical Therapist Assistants

- A. For the purposes of these rules, physical therapists may supervise physical therapist assistants performing physical therapy services as defined in section 12-41-103(6), C.R.S., and pursuant to Rule 101 and Rule 201 as determined by the physical therapist of record, except for interventions or services that are otherwise prohibited by law.
 1. Physical therapist assistants may perform non-selective wound care, but may not perform wound debridement.
 2. Physical therapist assistants may not perform dry needling.
 3. Physical therapist assistants may not perform joint mobilization, unless the supervising physical therapist has determined that the physical therapist assistant has the necessary degree of education, training and skill for safe patient care. Entry-level education is inadequate; additional formal continuing education (psychomotor and didactic) is required to perform joint mobilization. Thrust, high-velocity techniques are not within the scope of the physical therapist assistants' practice.
 4. Physical therapist assistants may not perform or assist a physical therapist in providing physical therapy of animals.
- B. The following condition must be met before a physical therapist can utilize a physical therapist assistant: a physical therapist must be designated and recorded in the patient/client records as

responsible for supervising the care and interventions provided by the physical therapist assistant. The designated physical therapist must consistently provide for the planning, evaluating, and supervising of all care rendered to the patient/client.

- C. The physical therapist is responsible for the performance of all services performed by the physical therapist assistant. This responsibility requires the physical therapist to assure services are performed with a degree of care and skill appropriate to the physical therapist assistant's education and training.
- D. The physical therapist assumes accountability for the acts delegated to or performed by a physical therapist assistant. Before delegating performance of physical therapy services to a physical therapist assistant working under general supervision, as defined in Rule 101(A), the supervising physical therapist shall ensure that the physical therapist assistant is qualified by education and training to perform the physical therapy services in a safe, effective, and efficient manner.
- E. A physical therapist assistant may not supervise other personnel in the provision of physical therapy services to a patient.
- F. A physical therapist assistant under the general supervision, as defined in Rule 101(A), of a physical therapist may act as a clinical instructor for a physical therapist assistant student. However, immediate supervision, as defined in Rule 101(C), of the student physical therapist assistant by the physical therapist is required if the physical therapist assistant student is providing physical therapy services.

Physical Therapy Aides

- G. All individuals not licensed as a physical therapist, not licensed as a provisional physical therapist, not certified as a physical therapist assistant, not authorized to practice as a student physical therapist or physical therapist assistant, and not otherwise regulated as a health care professional, shall be considered an aide for the purposes of this rule.
- H. A physical therapy aide may participate in limited designated tasks, as assigned by a physical therapist. The supervising physical therapist must participate in patient care on each date of service when a physical therapy aide is involved in care. Supervision must also occur in compliance with Rule 101 and Rule 201.
- I. As to recordkeeping, a physical therapy aide may participate only in basic data recording in the medical record.
- J. Wound care/debridement, dry needling, administration of medications, joint mobilization, and treatment on animals shall not be delegated to a physical therapy aide. The supervising physical therapist shall ensure that the physical therapy aide is qualified by education and training to participate in limited designated tasks as assigned by the physical therapist.

203. Authorized Practice of Physical Therapy by a Person Not Licensed In Colorado

The purpose of this rule is to clarify the following conditions under which a physical therapist not licensed in Colorado may practice for a temporary period of time pursuant to section 12-41-114(1)(f), C.R.S., which allows the practice of physical therapy in Colorado for no more than 4 consecutive weeks or more than once in any 12-month period by a physical therapist licensed, certified, or registered in another state or country when providing services in the absence of a physical therapist licensed in Colorado. This provision is not available for a person applying for a license in Colorado whose application is pending review and potential approval. Additional requirements for eligibility including the following:

- A. The entity wishing to employ or engage the services of a visiting, physical therapist who is not

otherwise licensed in Colorado must notify the Board at least one week prior to the start date and must document the need for employing or engaging the services of a visiting physical therapist.

- B. The visiting physical therapist must possess a current and active license, certification, or registration in good standing in another state or country and provide a copy of the license, certification, or registration to the Board at least one week prior to practicing in Colorado.
- C. The visiting physical therapist must have been engaged in the active, clinical practice of physical therapy for 2 of the last 5 years in order to be eligible.

204. Licensure by Examination for Physical Therapists

The purpose of this rule is to delineate the requirements for licensure by examination for physical therapists pursuant to section 12-41-107, C.R.S.

- A. An applicant is required to demonstrate that he/she has successfully completed a physical therapy program that is either:
 - 1. Accredited by a nationally recognized accrediting agency pursuant to Rule 103; or
 - 2. Substantially equivalent pursuant to Rule 205.
- B. If applying to take the National Physical Therapy Examination (NPTE), an applicant:
 - 1. Must have successfully completed a physical therapy program or be eligible to graduate within 90 days of a program pursuant to section A of this rule; and
 - 2. Must meet the Federation of State Boards of Physical Therapy's (FSBPT) current eligibility requirements in effect at the time of registering for the NPTE, including any exam retake or low score limit policies.
- C. An applicant for licensure by examination must graduate from a physical therapy program pursuant to section A of this rule and pass the NPTE within the 2 years immediately preceding the date of the application.
- D. An applicant who is unable to demonstrate current practice competency under section C of this rule may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a license under this section D, the Board may subject said license to such lawful conditions as the Board finds are necessary to protect the public.

205. Licensing of Foreign-Trained Physical Therapist Graduates of Non-Accredited Programs

The purpose of this rule is to establish procedures for determining whether a foreign-trained physical therapist applicant who has graduated from a non-accredited program has substantially equivalent education and training as required pursuant to section 12-41-111(1)(a), C.R.S.

- A. A foreign-trained applicant who has graduated from a non-accredited program must have education and training in physical therapy substantially equivalent to the entry-level education and training required at accredited physical therapy programs in the United States in effect at the time of the applicant's graduation. This includes an assessment of the applicant's general and professional education, as well as training in wound care and debridement.

- B. Applicants who wish to have their general and professional education considered “substantially equivalent” in order to take the National Physical Therapy Examination (NPTE) through Colorado and qualify for licensure shall submit their credentials to the Foreign Credentialing Commission of Physical Therapy (FCCPT). The applicant must submit a credentials evaluation utilizing the version of the Coursework Evaluation Tool for Foreign-Educated Physical Therapists developed by the Federation of State Boards of Physical Therapy (FSBPT) that applies to the applicant’s year of graduation in order to evaluate the applicant’s credentials against the requirements at accredited physical therapy programs in place at the time of the applicant’s graduation. The Board will not accept a credentials evaluation from an organization not listed in this rule.
- C. A foreign-trained applicant who has graduated from a non-accredited program and already passed the NPTE may submit a credentials evaluation from a credentialing agency other than FCCPT provided that:
 - 1. The credentialing agency utilized the version of the Coursework Evaluation Tool for Foreign-Educated Physical Therapists developed by FSBPT that applies to the applicant’s year of graduation in order to evaluate the applicant’s credentials against the requirements at accredited physical therapy programs in place at the time of the applicant’s graduation; and
 - 2. The applicant has been licensed in good standing and actively engaged in clinical practice as a licensed physical therapist in the United States for 2 out of the 5 years immediately preceding his/her application for licensure.
- D. All expenses associated with the credential evaluation are the responsibility of the applicant.
- E. Failure to have a credentials evaluation pursuant to the terms of this rule will result in the Board denying the application.
- F. In the event a foreign-trained applicant’s general education is found to be deficient, the applicant may take and pass subject examinations from the College-Level Examination Program (CLEP) to overcome the deficiency in general education.
- G. In the event a foreign-trained applicant’s professional education is found to be deficient, the applicant shall either:
 - 1. Successfully complete a Board-approved plan to overcome deficiencies; or
 - 2. Overcome the deficiency by obtaining a master or doctorate degree at an accredited physical therapy program.
- H. Degrees obtained in a transitional program are not equivalent to a professional entry-level physical therapy degree and will not be accepted for initial licensure.

206. Licensure by Endorsement for Physical Therapists

The purpose of this rule is to delineate the requirements for licensure by endorsement for physical therapists pursuant to section 12-41-109, C.R.S. In order to be qualified for licensure by endorsement, an applicant is required to demonstrate that he/she does not currently have a revoked, suspended, restricted, or conditional license to practice as a physical therapist, or is currently pending disciplinary action against such license in another state or territory of the United States. An applicant must meet one of the following requirements:

- A. Graduated from an accredited physical therapy program within the past 2 years and passed the National Physical Therapy Examination (NPTE).

- B. Practiced in the United States as a licensed physical therapist for at least 2 of the 5 years immediately preceding the date of the application.
- C. If an applicant has not practiced as a licensed physical therapist for at least 2 of the 5 years immediately preceding the date of the application, then he/she is required to have passed the NPTE, or its equivalent, and may demonstrate competency through successful completion of 1 of the following:
 - 1. Complete 60 points of Professional Development Activities (PDA) pursuant to Rule 213(C)(2) (a-c) during the 2 years immediately preceding the application.
 - a. An applicant seeking to demonstrate competency through this pathway shall:
 - i. Complete the Federation of State Boards of Physical Therapy's (FSBPT) online continuing education competence learning and assessment tool (oPTion) or a comparable objective third-party assessment that compares a licensee's knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board; and
 - ii. Successfully complete 60 Category I points, directly related to the physical therapist's clinical practice and address any areas of deficiencies identified in the objective third-party assessment.
 - b. The applicant must submit the results of the objective third-party assessment and the corresponding 60 Category I points for Board consideration within 1 year of completing the objective third-party assessment.
 - 2. Successfully complete a Board authorized internship.
 - a. An applicant seeking to demonstrate competency through an internship shall:
 - i. Arrange for a Colorado-licensed, practicing physical therapist (the "supervising physical therapist") to supervise the internship; and
 - ii. Ensure that the supervising physical therapist immediately notifies the Board in writing of the establishment of the internship and submits for the Board's approval a plan for supervision using the most current version of the "Physical Therapist Clinical Performance Instrument" (CPI) or a comparable objective third-party assessment that compares a licensee's knowledge, skills, and abilities to standards for entry-level practice accepted by the Board.
 - b. The internship shall not commence without the Board's written approval of the supervising physical therapist's plan for supervision specified in subparagraph (2) (c) of this rule.
 - c. The internship shall consist of:
 - i. The applicant's actual practice of physical therapy as defined in section 12-41-103(6), C.R.S.;
 - ii. Supervision of the applicant at all times by any Colorado-licensed, practicing physical therapist on the premises where physical therapy services are being rendered; and

- iii. A minimum of 240 hours clinical practice within a consecutive 6-month period commencing from the Board's written approval of the plan for supervision.
 - d. The applicant shall ensure that the supervising physical therapist files a written report at the completion of the internship. This report must indicate whether the applicant demonstrates entry-level performance in all skills assessed by the CPI or comparable objective third-party assessment. Hard copy or electronic copies of the CPI or comparable objective third-party assessment are acceptable.
- D. An applicant who is unable to demonstrate competency under sections A, B, or C of this rule may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a license under this section D, the Board may subject said license to such lawful conditions as the Board finds are necessary to protect the public.

207. Reinstatement or Reactivation of an Expired or Inactive Physical Therapist License

The purpose of this rule is to establish the qualifications and procedures for applicants seeking reinstatement of an expired physical therapist license or reactivation of an inactive physical therapist license pursuant to sections 12-41-112 and 12-41-112.5, C.R.S.

- A. An applicant seeking reinstatement or reactivation of a physical therapist license shall complete a reinstatement or reactivation application and pay a fee as established by the Director.
- B. If the license has been expired or inactive for 2 years or less:
 - 1. Effective November 1, 2016, and if:
 - a. The licensee was practicing in Colorado until his/her license expired or was placed on inactive status during the renewal period ending October 31, 2016, the applicant shall demonstrate continuing professional competency pursuant to section 12-41-114.6, C.R.S., and Rule 213; or
 - b. The licensee was practicing outside of Colorado until his/her license expired or was placed on inactive status during the renewal period ending October 31, 2016, the applicant may demonstrate continuing professional competency through an option listed in section C below.
 - 2. Effective November 1, 2018, all applicants must demonstrate continuing professional competency pursuant to section 12-41-114.6, C.R.S., and Rule 213 for the 2 years immediately preceding the date the application is received.
- C. If the license has been expired or inactive for more than 2 years, an applicant must establish "competency to practice" pursuant to section 24-34-102(8)(d)(II), C.R.S., by submitting 1 of the following:
 - 1. Verification of an active, valid physical therapist license in good standing from another state or jurisdiction, along with proof of clinical physical therapy practice in that state or jurisdiction which includes a minimum of an average of 400 hours per year for the 2 years immediately preceding the date of application. The work experience must be attested as to the number of hours.

2. If an applicant has not practiced as a licensed physical therapist within the last 10 years in another state or jurisdiction, then:
 - a. Evidence of completing the Federation of State Boards of Physical Therapy's (FSBPT) online continuing competence learning and assessment tool (oPTion) or a comparable objective third-party assessment that compares a licensee's knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board and an average of 15 points of Professional Development Activities (PDA) pursuant to Rule 213(C)(2)(a-c) for each year the license has been expired or inactive (1.25 points for each month).
 - i. The applicant must submit the results of the objective third-party assessment and the corresponding PDA points for Board consideration within 1 year of completing the objective third-party assessment.
 - ii. All points must be Category I, and directly related to the physical therapist's clinical practice and address any areas of deficiencies identified in the objective third-party assessment.
 - b. Completion of a 240-hour internship within 6 consecutive months using the most current version of the "Physical Therapist Clinical Performance Instrument" (CPI) as the professional standard and measure of continued competency or a comparable objective third-party assessment that compares a licensee's knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board as required in Rule 206(C)(2). Satisfactory completion of the internship shall require both 240 hours of internship practice and successful demonstration of entry-level performance on all skills on the CPI or comparable objective third-party assessment on electronic or paper form.
 - c. Practice for 6 months on probationary status with a practice monitor subject to the terms established by the Board.
 3. If an applicant has not practiced as a licensed physical therapist for the last 10 or more years in another state or jurisdiction, then he or she is required to re-take and pass the National Physical Therapy Examination (NPTE).__
 4. An applicant who is unable to demonstrate competency under paragraphs (1), (2), or (3) of this section may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a license under this paragraph (4), the Board may subject said license to such lawful conditions as the Board finds are necessary to protect the public.
- D. An applicant for reinstatement or reactivation who has actively practiced in Colorado on an expired or inactive license in violation of section 12-41-106, C.R.S., is subject to denial of application, disciplinary action, and/or other penalties as authorized in the Physical Therapy Practice Act at section 12-41-101, *et seq.*, C.R.S., and in accordance with section 24-34-102, *et seq.*, C.R.S.

208. Use of Titles Restricted

The purpose of this rule is to clarify the use of titles and educational degrees pursuant to section 12-41-104, C.R.S.

- A. Obtaining a physical therapy license does not automatically entitle or confer upon the licensee the right to use the title “Dr.” or “Doctor”.
- B. A licensed physical therapist can use the title “Doctor” or “Dr.” only when such licensee has, in fact, been awarded a physical therapy doctorate degree (D.P.T.), or another academic or clinical doctorate degree (e.g., Ph.D., Sc.D.) from an accredited program by a nationally recognized accrediting agency as required pursuant to section 6-1-707, C.R.S., pertaining to the use of titles and degrees.
- C. A physical therapist holding a doctorate degree may include the title “Doctor” or “Dr.” only when accompanied by the words of the conferred degree following his/her legal name and after the title “P.T.”, for example: “Dr. Jane/John Doe, P.T., D.P.T.” or “Dr. Jane/John Doe, P.T., Ph.D.”
- D. A physical therapist not holding a physical therapy doctorate or transitional doctorate degree may not use the title D.P.T.

210. Requirements for Physical Therapists to Perform Physical Therapy of Animals

The purpose of this rule is to implement the requirements of sections 12-41-103.6(2)(b)(II) and 12-41-113(4), C.R.S., regarding the authority of physical therapists to treat animals.

- A. A physical therapist must have the knowledge, skill, ability, and documented competency to perform an act that is within the scope of practice for physical therapists.
- B. The Division of Professions and Occupations shall maintain a data base of all physical therapists that are qualified pursuant to this rule to practice physical therapy of animals in this state.
- C. All physical therapists that choose to practice physical therapy of animals shall provide the Board with such therapist's name, current address, education, and qualifications to perform physical therapy of animals for inclusion in the data base referenced in section B of this rule. Information in the data base shall be open to public inspection at all times. Forms for physical therapists to provide such information shall be provided by the Board.
- D. A physical therapist that desires to perform physical therapy of animals must comply with the following educational requirements:
 - 1. Minimum of 80 contact hours over and above entry-level human physical therapy program course work for non-human animals, to include:
 - a. FOUNDATION/CLINICAL SCIENCES
 - i. Gross and applied non-human animal anatomy/physiology;
 - ii. Wound healing and response of tissues to disuse and remobilization in the non-human animal;
 - iii. Animal behavior;
 - iv. Animal restraint; and
 - v. Zoonotic and infectious diseases.
 - b. EXAMINATION/EVALUATION/PROGNOSIS/PT DIAGNOSIS
 - i. Medical and surgical management of orthopedic, neurological, critically injured,

geriatric, arthritic, and obese non-human animals; and

ii. Gait and other movement analyses.

c. INTERVENTION/PLAN OF CARE/OUTCOME

i. Therapeutic exercise applied to non-human animals;

ii. Therapeutic modalities; and

iii. Outcome assessment and documentation.

d. CLINICAL EXPERIENCE

i. Documented successful completion of a minimum of 120 hours under the supervision of a licensed physical therapist listed in the data base maintained by the Division of Professions and Occupations to perform physical therapy of animals or a licensed veterinarian.

E. Prior to performing physical therapy of an animal, the physical therapist shall obtain veterinary medical clearance of the animal by a Colorado-licensed veterinarian and must document such clearance in the animal patient's record.

F. Veterinary medical clearance means:

1. The veterinarian has previously examined the animal patient and has provided a differential diagnosis, if appropriate; and

2. The veterinarian has cleared the animal for physical therapy.

G. It is expected that the physical therapist and the veterinarian will continue professional collaboration as necessary for the well-being of the animal patient.

H. Once veterinary medical clearance has been received; the physical therapist is responsible for developing the plan of care for the animal patient's physical therapy.

I. The animal patient's record must include the verbal or written veterinary medical clearance. If verbal clearance is received, the physical therapist must document the verbal clearance in the animal patient's record, including the name of the veterinarian, date, and time clearance was received.

J. Complaints against physical therapists alleging a violation related to animal physical therapy will be forwarded to the State Board of Veterinary Medicine for its review and advisory recommendation to the State Physical Therapy Board. The State Physical Therapy Board retains the final authority by statute for decisions related to discipline of any physical therapist.

211. Requirements for Physical Therapists to Perform Dry Needling

A. Dry needling (also known as Trigger Point Dry Needling) is a physical intervention that uses a filiform needle to stimulate trigger points, diagnose and treat neuromuscular pain and functional movement deficits; is based upon Western medical concepts; requires an examination and diagnosis, and treats specific anatomic entities selected according to physical signs. Dry needling does not include the stimulation of auricular or distal points.

B. Dry needling as defined pursuant to this rule is within the scope of practice of physical therapy.

- C. A Physical Therapist must have the knowledge, skill, ability, and documented competency to perform an act that is within the Physical Therapist's scope of practice. Except as part of a course of study on dry needling pursuant to paragraph D.2 of this Rule, a Physical Therapist shall not perform dry needling unless competent to do so.
- D. To be deemed competent to perform dry needling, a Physical Therapist must:
 - 1. have practiced for at least two years as a licensed Physical Therapist; and
 - 2. have successfully completed a dry needling course of study that consists of a minimum of 46 hours of in-person (i.e. not online) dry needling training.
- E. A provider of a dry needling course of study must meet the educational and clinical prerequisites as defined in this rule, paragraph D above and demonstrate a minimum of two years of dry needling practice techniques. The provider is not required to be a Physical Therapist.
- F. Physical Therapists performing dry needling in their practice must have written informed consent for each patient where this technique is used. The patient must sign and receive a copy of the informed consent form. The consent form must, at a minimum, clearly state the following information:
 - 1. Risks and benefits of dry needling; and
 - 2. Physical Therapist's level of education and training in dry needling; and
 - 3. The Physical Therapist will not stimulate any distal or auricular points during dry needling.
- G. When dry needling is performed, it must be clearly documented in the procedure notes and must indicate how the patient tolerated the technique, as well as the outcome after the procedure.
- H. Dry needling shall not be delegated and must be directly performed by a qualified, licensed Physical Therapist.
- I. Dry needling must be performed in a manner consistent with generally accepted standards of practice, including clean needle techniques, and the guidelines and recommendations of the Centers for Disease Control and Prevention ("CDC").
- J. The Physical Therapist shall supply written documentation, upon request by the Board, which substantiates appropriate training as required by this Rule. Failure to provide written documentation, upon request, is a violation of this Rule, and is prima facie evidence that the Physical Therapist is not competent and not permitted to perform dry needling

212. Inactive License Status for Physical Therapists

The purpose of this rule is to outline the conditions and procedures governing inactive licensure status pursuant to section 12-41-112.5, C.R.S.

- A. A physical therapist with an inactive license must not engage in any act or conduct that constitutes the practice of physical therapy while the physical therapist's license is inactive.
- B. A physical therapist with an inactive license is exempt from the professional liability insurance requirements of section 12-41-114.5, C.R.S.
- C. A physical therapist with an inactive license is exempt from the continuing professional competency requirements of section 12-41-114.6, C.R.S., and Rule 213.

- D. A physical therapist may apply for reactivation of an inactive license by successfully meeting the requirements of Rule 207.

213. Continuing Professional Competency

The purpose of this rule is to establish a continuing professional competency program pursuant to section 12-41-114.6, C.R.S., wherein a physical therapist shall maintain and demonstrate continuing professional competency in order to renew, reinstate, or reactivate a license to practice physical therapy in the state of Colorado.

Furthermore, pursuant to section 12-41-114.6(2), C.R.S., records of assessment or other documentation developed or submitted in connection with the continuing professional competency program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a physical therapist. A person or the Board shall not use the records or documents unless used by the Board to determine whether a physical therapist is maintaining continuing professional competency to engage in the profession.

A. Definitions

1. Assessment of Knowledge and Skills (AKS): an objective third-party assessment that compares a licensee's knowledge, skills, and abilities to the standards for entry-level practice.
2. Continuing Professional Competency: the ongoing ability of a physical therapist to learn, integrate, and apply the knowledge, skills, and judgment to practice as a physical therapist according to generally accepted standards and professional ethical standards.
3. Continuing Professional Development (CPD): the Board program through which a licensee can satisfy the continuing professional competency requirements in order to renew, reinstate, or reactivate a license.
4. Deemed Status: A method to satisfy continuing professional competency requirements. A licensee who satisfies the continuing professional competency requirements of a Colorado state agency or department pursuant to section 12-41-114.6(1)(c), C.R.S., may qualify under this method in lieu of completing the Board's CPD program.
5. Learning Plan: a Board approved form through which a licensee documents his/her goals and plans of learning that were developed from his/her Reflective Self-Assessment (RSAT), which is defined below, and AKS (when appropriately applied).
6. Military Exemption: A method to satisfy continuing professional competency requirements. A licensee who has been approved for this exemption will not be required to meet continuing professional competency requirements during the renewal period in which he/she was approved by the Division of Professions and Occupations.
7. Professional Development Activities (PDA): learning activities undertaken to increase the licensee's knowledge and skill or hone existing knowledge and skill for the purpose of continuing professional development.
8. Reflective Self-Assessment Tool (RSAT): a reflective practice tool in which a licensee can reflect upon his/her knowledge and skills pertaining to the foundational areas of physical therapy practice taking into account the licensee's current level and area of practice.

B. Continuing Professional Competency Requirements

1. Effective after the 2014 license renewal, or upon the completion of the first renewal of a license thereafter, the licensee shall demonstrate continuing professional competency in order to renew a license by:
 - a. Participation in the Continuing Professional Development (CPD) program;
 - b. Participation in a program of continuing professional competency through a Colorado state agency or department, including continuing competency requirements imposed through a contractual arrangement with a provider as set forth in section 12-41-114.6(1)(c), C.R.S. This status is defined as "Deemed Status" in section A(4) of this rule and further described in section D of this rule; or
 - c. Receiving an exemption for military service as defined in section 12-70-102, C.R.S. Military exemptions must be approved by the Division of Professions and Occupations. Licensees seeking a military exemption shall submit a request in writing with evidence that the licensee's military service meets the criteria established in section 12-70-102, C.R.S., and section E of this rule.
2. A licensee shall attest at the time of the renewal of a license to his/her compliance with continuing professional competency requirements.

C. Continuing Professional Development Program

1. The Continuing Professional Development (CPD) program entails the following:
 - a. The licensee shall complete the Reflective Self-Assessment Tool (RSAT) once per 2-year renewal period. A licensee shall use the Board approved form.
 - i. The execution of a Learning Plan once per 2-year renewal period that is based upon the licensee's Reflective Self-Assessment Tool (RSAT) or Assessment of Knowledge and Skills (AKS). A licensee shall use the Board approved form.
 - ii. Accrual of 30 points of Professional Development Activities (PDA) per 2-year renewal period.
2. Professional Development Activities (PDA)
 - a. Professional Development Activities must be relevant to the licensee's practice as a physical therapist and pertinent to his/her Learning Plan. The Board will not pre-approve specific courses or providers. The licensee shall determine which activities and topics will meet his/her Learning Plan, and select an appropriate provider.
 - b. Professional Development Activities are separated into Category I, Category II, and Category III activities and each category has a corresponding point value. Points are used in lieu of continuing education units (CEU) or contact hours to allow credit for non-continuing education type activities.
 - c. Points will be accepted if the activity is included in the Board's *Professional Development Activities List*. The Board may accept or reject activities submitted for consideration that are not identified on its list.
 - d. A minimum of 15 of the required 30 points must be Category I activities.

- e. Professional Development Activities will only apply for one 2-year renewal period.
- 3. The completion of an Assessment of Knowledge and Skills (AKS) will not be accepted more than once every 10 years.
 - a. An AKS must meet the following criteria:
 - i. Be drafted and validated by qualified physical therapists and psychometricians;
 - ii. Be comprised of evidence based practice;
 - iii. Be maintained for relevancy and advancements in and affecting the profession; and
 - iv. Provide feedback to the participant/licensee regarding his/her performance and suggested learning opportunities to enhance his/her knowledge and skills.
 - b. Administrative Approval. The Board finds the following AKSs to have met the criteria established in section C(3)(a) of this rule, and are administratively approved by the Board:
 - i. The online continuing competence learning and assessment tool (oPTion) administered by the Federation of State Boards of Physical Therapy (FSBPT).
 - ii. If the AKS is not listed as administratively approved by the Board in this rule, then additional documentation demonstrating the AKS satisfies the Board criteria will be required prior to registering and completing the AKS.
 - c. The licensee may count the completion of an AKS as a Category I activity toward a mandatory 30 PDA points for the corresponding 2-year renewal period in compliance with the State Physical Therapy Board's *Professional Development Activities List* for assigned point values.
- 4. Audit of Compliance. The following documentation is required for an audit of compliance of a licensee's Continuing Professional Development:
 - a. The Learning Plan that is signed and executed which contains the licensee's goals in the form and manner as approved by the Board.
 - b. A certificate of completion or other report issued by the AKS provider indicating the name of the licensee, AKS title, content, and the licensee's date of completion.
 - c. Documentation of 30 points of Professional Development Activities in compliance with the State Physical Therapy Board's *Professional Development Activities List* for documentation requirements for PDAs.
 - d. The Board may accept or reject Professional Development Activities (PDA) that do not meet the criteria established by the Board for PDA or standards of quality as defined in the State Physical Therapy Board's *Professional Development Activities List, Standards of Quality for Category I Continuing Education Activities*, and this rule.
- D. Deemed Status. The following criteria must be met in order to claim this status:

1. In order to renew a license, a licensee shall attest to his/her Deemed Status.
 2. To qualify, the licensee must be in full compliance with the requirements of his/her state agency or department during the entire 2-year renewal period of his/her physical therapist license and on track to successfully complete that program or have successfully completed it.
 3. 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. Proof from the Colorado state agency or department or contractual entity verifying that the licensee is in compliance with its continuing professional competency program; and
 - b. A letter from his/her employer certifying dates of employment for the entire 2-year license renewal period, without any break; or
 - c. Other documentation approved by the Board which reflects the licensee's compliance with a program of continuing professional competency.
- E. Military Exemption. Pursuant to section 12-70-102, C.R.S., licensees who have been called to federally funded active duty for more than 120 days for the purpose of serving in a war, emergency, or contingency may request an exemption from the continuing professional competency requirements for the renewal, reinstatement, or reactivation of his/her license for the 2-year renewal period that falls within the period of service or within six months following the completion of service.
1. Military exemptions must be approved by the Division of Professions and Occupations. Licensees seeking a military exemption shall submit a request in writing with evidence that the licensee's military service meets the criteria established in section 12-70-102, C.R.S.
 2. After being granted a military exemption, in order to complete the renewal process, a licensee shall attest to his/her military exemption.
- F. Records Retention. A licensee shall retain documentation demonstrating his/her compliance for 2 complete 2-year renewal periods.
- G. Non-Compliance. Falsifying an attestation or other documentation regarding the licensee's compliance with continuing professional competency requirements constitutes the falsification of information in an application and may be grounds for discipline pursuant to sections 12-41-115(1)(k) and (r), C.R.S.
- H. Reinstatement and Reactivation. A licensee seeking to reinstate or reactivate a license which has been expired or inactivated for 2 years or less shall meet the competency requirements outlined in Rule 207(B).

215. Provisional Physical Therapist License

The purpose of this rule is to establish the qualifications and procedures for applicants seeking a provisional license to practice as a physical therapist pursuant to section 12-41-107.5, C.R.S. Refer to Rule 201 for applicable supervision requirements.

- A. A provisional license may be issued only one time and cannot be renewed or reinstated.

- B. An applicant is not eligible to be issued a provisional physical therapist license if he/she has failed or passed the National Physical Therapy Examination (NPTE).
- C. Pursuant to section 12-41-107.5, C.R.S., a provisional physical therapist license expires no later than 120 days after it is issued. If the individual passes the NPTE after the license was issued, then the license will expire no later than the 120 days after the date it was issued, or a regular license to practice as a physical therapist is issued to the licensee. However, if the individual issued a provisional license fails the NPTE after the license was issued, then the license expires within 3 business days of his/her failing results being sent to the candidate.
- D. A provisional physical therapist shall purchase and maintain professional liability insurance, or be insured under a supervising physical therapist, for the amounts specified in section 12-41-114.5(1), C.R.S., unless the provisional physical therapist is exempted pursuant to section 12-41-114.5(3), C.R.S.

PHYSICAL THERAPIST ASSISTANT RULES

301. Supervision Required for Physical Therapist Assistant Practice

The purpose of this rule is to clarify supervision parameters pursuant to section 12-41-203(2), C.R.S.

Physical therapist assistants ("P.T.A.") shall not provide physical therapy services unless the physical therapist assistant works under the general supervision, as defined in Rule 101(A), of a licensed physical therapist.

302. Supervision of Others by Physical Therapist Assistants Prohibited

The purpose of this rule is to clarify supervisory parameters pursuant to section 12-41-103.6(2)(b), C.R.S.

- A. A physical therapist assistant may not supervise other personnel in the provision of physical therapy services to a patient.
- B. A physical therapist assistant under the general supervision, as defined in Rule 101(A), of a physical therapist may act as a clinical instructor for a physical therapist assistant student. However, immediate supervision, as defined in Rule 101(C), of the student physical therapist assistant remains with the physical therapist if the physical therapist assistant student is providing physical therapy services.

303. Certification by Examination for Physical Therapist Assistants

The purpose of this rule is to delineate the requirements for certification by examination for physical therapist assistants pursuant to section 12-41-205, C.R.S.

- A. An applicant is required to demonstrate that he/she has successfully completed a physical therapy program pursuant to Rule 204 or a physical therapist assistant program that is either:
 - 1. Accredited by a nationally recognized accrediting agency pursuant to Rule 103; or
 - 2. Substantially equivalent pursuant to Rule 304.
- B. If applying to take the National Physical Therapy Examination (NPTE), an applicant:
 - 1. Must have successfully completed a physical therapy or physical therapist assistant program, or be eligible to graduate within 90 days of a program pursuant to section A of this rule; and

2. Must meet the Federation of State Boards of Physical Therapy's (FSBPT) current eligibility requirements in effect at the time of registering for the NPTE, including any exam retake or low score limit policies.
- C. An applicant for certification by examination must graduate from a physical therapy program pursuant to section A of this rule and pass the NPTE within the 2 years immediately preceding the date of the application.
- D. An applicant who is unable to demonstrate current practice competency under section C of this rule may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a certification under this section D, the Board may subject said certification to such lawful conditions as the Board finds are necessary to protect the public.

304. Certification of Foreign-Trained Physical Therapist Assistant Graduates of Non-Accredited Programs

The purpose of this rule is to establish procedures for determining whether a foreign-trained physical therapist assistant applicant who has graduated from a non-accredited program has substantially equivalent education and training as required pursuant to section 12-41-207(1)(a), C.R.S.

- A. A foreign-trained applicant who has graduated from a non-accredited program must have education and training as a physical therapist assistant substantially equivalent to the entry-level education and training required at accredited physical therapist assistant programs in the United States in effect at the time of the applicant's graduation. This includes but is not limited to an assessment of the applicant's foundational studies and applied and technical education, as well as training in non-selective wound care.
- B. Applicants who wish to have their foundational studies, and applied/technical education considered "substantially equivalent" in order to take the National Physical Therapy Examination (NPTE) through Colorado and qualify for certification shall submit their credentials to the Foreign Credentialing Commission of Physical Therapy (FCCPT). The applicant must submit a credentials evaluation utilizing the version of the Coursework Tool for Foreign Educated Physical Therapist Assistants developed by the Federation of State Boards of Physical Therapy (FSBPT) that applies to the applicant's year of graduation in order to evaluate the applicant's credentials against the requirements at accredited physical therapist assistant programs in place at the time of the applicant's graduation. The Board will not accept a credentials evaluation from an organization not listed in this rule.
- C. A foreign-trained applicant who has graduated from a non-accredited program and already passed the NPTE may submit a credentials evaluation from a credentialing agency other than FCCPT provided that:
1. The credentialing agency utilized the version of the Coursework Evaluation Tool for Foreign-Educated Physical Therapists developed by FSBPT that applies to the applicant's year of graduation in order to evaluate the applicant's credentials against the requirements at accredited physical therapist assistant programs in place at the time of the applicant's graduation; and
 2. The applicant has been licensed, certified, or registered in good standing and actively engaged in clinical practice as a physical therapist assistant in the United States for 2 out of the 5 years immediately preceding his or her application for certification.

- D. All expenses associated with the credentials evaluation are the responsibility of the applicant.
- E. Failure to have a credentials evaluation pursuant to the terms of this rule will result in the Board denying the application.
- F. In the event a foreign-trained applicant's foundational studies are found to be deficient, the applicant may take and pass subject examinations from the College-Level Examination Program (CLEP) to overcome the deficiency in general education.
- G. In the event a foreign-trained applicant's applied and technical education is found to be deficient, the applicant shall either:
 - 1. Successfully complete a Board-approved plan to overcome deficiencies; or
 - 2. Overcome the deficiency by obtaining an associate degree from an accredited physical therapist assistant program.

305. Certification by Endorsement for Physical Therapist Assistants

The purpose of this rule is to delineate the requirements for certification by endorsement pursuant to section 12-41-206, C.R.S. In order to be qualified for certification by endorsement, an applicant is required to demonstrate that he/she does not currently have a revoked, suspended, restricted, or conditional license, certification, or registration to practice as a physical therapist assistant, or is currently pending disciplinary action against such license, certification, or registration in another state or territory of the United States. An applicant must meet one of the following requirements:

- A. Graduated from a physical therapist assistant program within the past 2 years and passed the National Physical Therapy Examination (NPTE).
- B. Practiced in the United States as a licensed, certified, or registered physical therapist assistant for at least 2 of the 5 years immediately preceding the date of the application.
- C. If an applicant has not practiced as a licensed, certified, or registered physical therapist assistant for at least 2 of the 5 years immediately preceding the date of the application, then he/she is required to have passed the NPTE, or its equivalent, and may demonstrate competency through successful completion of 1 of the following:
 - 1. Completion of 60 hours of continuing education related to the practice of physical therapy during the 2 years immediately preceding the application.
 - a. An applicant seeking to demonstrate competency through this pathway shall:
 - i. Complete an objective third-party assessment that compares a certificate holder's knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board; and
 - ii. Successfully complete all hours as Category I in compliance with the "Physical Therapy Board Standards for Continuing Education Activities", directly related to the physical therapist assistant's clinical practice and address any areas of deficiencies identified in the objective third-party assessment.
 - b. The applicant must submit the results of the objective third-party assessment and the corresponding 60 Category I continuing education hours for Board consideration within 1 year of completing the objective third-party assessment.

2. Successful completion of a Board authorized internship.

- a. An applicant seeking to demonstrate competency through an internship shall:
 - i. Arrange for a Colorado-licensed, practicing physical therapist (the “supervising physical therapist”) to supervise the internship; and
 - ii. Ensure that the supervising physical therapist immediately notifies the Board in writing of the establishment of the internship and submits for the Board’s approval a plan for supervision using the most current version of the “Physical Therapist Assistant Clinical Performance Instrument” (CPI) or a comparable objective third-party assessment that compares a certificate holder’s knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board.
- b. The internship shall not commence without the Board’s written approval of the supervising physical therapist’s plan for supervision specified in subparagraph (2) (c) of this rule.
- c. The internship shall consist of:
 - i. The applicant’s actual practice of physical therapy as defined in section 12-41-103(6), C.R.S.;
 - ii. Direct supervision, as defined in Rule 101(B), of the applicant at all times by the Board approved Colorado-licensed, practicing physical therapist; and
 - iii. A minimum of 240 hours clinical practice within a consecutive 6-month period commencing from the Board’s written approval of the plan for supervision.
- d. The applicant shall ensure that the supervising physical therapist files a written report at the completion of the internship. This report must indicate whether the applicant demonstrates entry-level performance in all skills assessed by the CPI or comparable objective third-party assessment. Hard copy or electronic copies of the CPI or comparable objective third-party assessment are acceptable.

D. An applicant who is unable to demonstrate competency under sections A, B, or C of this rule may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a certification under this section D, the Board may subject said certification to such lawful conditions as the Board finds are necessary to protect the public.

306. Reinstatement of an Expired Certification for Physical Therapist Assistants

The purpose of this rule is to establish the qualifications and procedures for applicants seeking reinstatement of an expired physical therapist assistant certification pursuant to section 12-41-208, C.R.S.

- A. An applicant seeking reinstatement of an expired physical therapist assistant certification shall complete a reinstatement application and pay a reinstatement fee as established by the Director.
- B. If the certification has been expired for more than 2 years, an applicant must establish “competency to

practice” pursuant to 24-34-102(8)(d)(II)(A) & (D), C.R.S., by submitting 1 of the following:

1. Verification of an active, valid physical therapist assistant license, certification, or registration in good standing from another state or jurisdiction, along with proof of clinical physical therapy practice in that state or jurisdiction which includes a minimum of an average of 400 hours per year for the 2 years immediately preceding the date of application. The work experience must be attested as to the number of hours.
2. If an applicant has not practiced as a licensed, certified, or registered physical therapist assistant within the last 10 years in another state or jurisdiction, then:
 - a. Evidence of completing an objective third-party assessment that compares a certificate holder’s knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board and an average of 30 hours per year in physical therapy continuing education courses since the date the certification expired.
 - i. The applicant must submit the results of the objective third-party assessment and the corresponding continuing education hours for Board consideration within 1 year of completing the objective third-party assessment.
 - ii. All continuing education hours must be Category I in compliance with the “Physical Therapy Board Standards for Continuing Education Activities”, and directly related to the physical therapist assistant’s clinical practice and address any areas of deficiencies identified in the objective third-party assessment.
 - iii. The Board may accept 2.5 hours for each month the certification is expired.
 - b. Completion of a 240-hour internship within 6 consecutive months using the most current version of the “Physical Therapist Assistant Clinical Performance Instrument” (CPI) as the professional standard and measure of continued competency or a comparable objective third-party assessment that compares a certificate holder’s knowledge, skills, and abilities to the standards for entry-level practice accepted by the Board as required in Rule 305(C)(2). Satisfactory completion of the internship shall require both 240 hours of internship practice and successful demonstration of entry-level performance on all skills on the CPI or comparable objective third-party assessment on electronic or paper form.
 - c. Practice for six months on probationary status with a practice monitor subject to the terms established by the Board.
3. If an applicant has not practiced as a licensed, certified, or registered physical therapist for the last 10 or more years in another state or jurisdiction, then he/she is required to re-take and pass the National Physical Therapy Examination (NPTE).__
4. An applicant who is unable to demonstrate competency under paragraphs (1), (2), or (3) of this section may request to demonstrate competency by any other means. The Board shall consider such a request on a case-by-case basis. The decision to approve such a request shall be at the sole discretion of the Board. In considering whether to approve such a request, the Board shall consider public safety, the particular circumstances and hardships faced by the applicant, and such other factors as the Board deems appropriate. If the Board grants a certification under this paragraph (4), the Board may subject said certification to such lawful conditions as the Board finds are necessary to protect the public.

- C. An applicant for reinstatement who has actively practiced in Colorado on an expired certification in violation of section 12-41-204, C.R.S., is subject to denial of application, disciplinary action, and/or other penalties as authorized in the Physical Therapy Practice Act at section 12-41-201 et seq., C.R.S., and in accordance with section 24-34-102 et seq., C.R.S.

Editor's Notes

History

Rules 7, 10, 11 eff. 11/30/2007.

Rule 6 eff. 03/30/2011.

Rules 1 - 11 emer. rule repealed eff. 03/09/2012.

Rules 1 - 11 emer. rule eff. 03/09/2012.

Rules 1 - 11, 303, 304 emer. rule eff. 04/02/2012.

Rules 301, 302, 305, 306 emer. rule eff. 06/01/2012.

Rules 1 - 11 repealed eff. 06/30/2012.

Rules 201 - 211, 301 - 305 eff. 06/30/2012.

Rules 101 – 102, 212, 214 eff. 01/30/2013.

Rules 207 and 213, eff. 11/01/2014.

Rule 215 emer. rule eff. 06/02/2014.

Rules 202, 203, 205, 215, 303 eff. 09/14/2014.

Rules 207 and 213, eff. 11/01/2014.

Rules 102, 103, 201, 202, 203, 204, 205, 206, 208, 212, 302, 303, 304, 305, and 306 eff. 05/15/2015.

Rules 101, 102, 103, 104, 105, 106, 107, 201, 202, 204, 205, 206, 207, 209 (repealed), 210, 212, 213, 214 (repealed), 215, 301, 302, 303, 304, 305, and 306 eff. 11/14/2016.

CYNTHIA H. COFFMAN
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DAVID C. BLAKE
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Solicitor General



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Office of the Attorney General

Tracking number: 2016-00359

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - State Physical Therapy Board

on 09/16/2016

4 CCR 732-1

PHYSICAL THERAPIST LICENSURE AND PHYSICAL THERAPIST ASSISTANT CERTIFICATION

The above-referenced rules were submitted to this office on 09/20/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

September 30, 2016 15:34:53

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Health Facilities and Emergency Medical Services Division (1011, 1015 Series)

CCR number

6 CCR 1015-1

Rule title

6 CCR 1015-1 EMERGENCY MEDICAL SERVICES ACCOUNT 1 - eff 11/14/2016

Effective date

11/14/2016

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities and Emergency Medical Services Division

EMERGENCY MEDICAL SERVICES ACCOUNT

6 CCR 1015-1

Adopted by the Board of Health on September 21, 2016.

* * * * *

[Publication Instructions: Replace current existing text from Section 1 through Section 4.2 with the following new text from Section 1 through Section 4.2(B). In other words, entire rule is being replaced with the following new language.]

Section 1 - Statement of Basis and Purpose

The General Assembly of the State of Colorado in Section 25-3.5-102, CRS, recognized the importance of an efficient and reliable statewide emergency medical and trauma network for the promotion of health, safety, and welfare of Colorado residents and visitors. The assembly further amended the statute to include the creation of an Emergency Medical Services Account (Section 25-3.5-601, CRS) and specified that funds from said account shall be utilized by local emergency medical and trauma service providers in order to improve the statewide emergency medical and trauma network.

Section 2 - Definitions

As used in these regulations, the words and terms in this section shall have the meaning as set forth herein unless the context clearly requires a different meaning.

- 2.1 All definitions that apply to Section 25-3.5-602, C.R.S. apply to these rules.
- 2.2 "Contract" - The document between the Department and applicant chosen as a recipient of funds from the Emergency Medical Service Account. The contract describes the terms and conditions of the award agreement.
- 2.3 "Council" - The State Emergency Medical and Trauma Services Advisory Council created in Section 25-3.5-104, C.R.S.
- 2.4 "Emergency Account" - Funds set aside pursuant to Section 25-3.5-603(3)(a)(II)(A), C.R.S. for unexpected emergencies that arise after the deadline for grant applications has passed or those circumstances that require immediate attention or action.
- 2.5 "Emergency Medical and Trauma Services" - Planning, training and services needed to prevent, respond to and treat an injury or sudden illness particularly when there is a threat to life or long-term functional abilities.

Section 3 - Emergency Medical and Trauma Service Funding

- 3.1 In order to be eligible for emergency medical and trauma service funding, an applicant must be able to demonstrate:
 - A) That the funds requested are for the provision of emergency medical and trauma services, and
 - B) Will be used to maintain or upgrade the access to and/or quality of emergency medical and trauma services within the state.

- 3.2 Applications must be submitted in the format required by the Department prior to the announced deadlines.
- 3.3 To be considered, applications must
 - A) Be complete and
 - B) Be submitted in the manner specified in the announcement.
- 3.4 All applications will be subject to verification by the Department.
 - 3.4.1 Verification shall include:
 - A) A review of the application for completeness and compliance with the requirements specified in the application, and
 - B) A review of the applicant's eligibility as set forth in these regulations.
 - 3.4.2 Any application found to be inconsistent with the requirements specified in paragraphs A) and B) will be rejected and the applicant will be notified of the rejection.
- 3.5 The Department, in consultation with the Council, shall establish requirements for matching funds from applicants prior to the opening of each grant cycle. These requirements will be provided in the application process.
- 3.6 Any application received that does not meet the matching funds requirement specified in the application will be rejected unless the applicant requests a waiver of the matching funds.
 - 3.6.1 The Council shall establish a committee to review all applications requesting a waiver of the matching funds requirement. The committee will evaluate each application requesting a waiver to determine whether the applicant has successfully demonstrated that local matching funds are not available.
 - 3.6.2 Any application that does not receive a waiver from the Council will not be eligible for funding.
- 3.7 To provide a fair and impartial review and evaluation of the applications, the Council shall establish review committees of members designated by the Council. Each committee will review and evaluate applications and submit recommendations to the Department.
- 3.8 The Department shall provide final review and prioritization of the applications and make awards based upon:
 - A) Priorities established by statute,
 - B) Recommendations from the Council,
 - C) Substantiated need of the applicant, and
 - D) Effect upon the emergency medical and trauma system should funds not be awarded.

- 3.9 The Department, in consultation with the Council, may, within statutory limitations, reestablish funding priorities for the Emergency Medical and Trauma Services Funding Program to address specific needs related to the maintaining and upgrading of the Colorado emergency medical and trauma services system.
- 3.10 A letter of intent to award funds to an applicant is only an offer to enter into a funding contract, and not an actual funding obligation on the part of the Department. Only when a contract listing conditions of the award is accepted and, if applicable signed by all parties, will any formal obligation be recognized or funds disbursed.

Section 4 - Emergency Medical and Trauma Services Emergency Funding

- 4.1 Application for funds from the Emergency Account may be submitted to the Department at any time. Unless waived by the Department because of extreme emergency or need for immediate action, the application must be submitted in the format approved by the Department and shall contain:
- A) Evidence of financial need or hardship;
 - B) A detailed description of the emergency, to include causation, resolution, and the effect on local delivery of emergency medical and trauma services if funding is not provided; and
 - C) The methods explored by the applicant to resolve the crisis other than funding from the Emergency Account.
- 4.2 In addition to meeting the standard grant eligibility requirements, the emergency fund applicant must be able to demonstrate:
- A) That the request for funds is for an unexpected emergency and
 - B) If the funds are not received, access to and/or quality of local emergency medical services will be seriously hindered or eliminated.

CYNTHIA H. COFFMAN
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Office of the Attorney General

Tracking number: 2016-00360

Opinion of the Attorney General rendered in connection with the rules adopted by the

Health Facilities and Emergency Medical Services Division (1011, 1015 Series)

on 09/21/2016

6 CCR 1015-1

EMERGENCY MEDICAL SERVICES ACCOUNT

The above-referenced rules were submitted to this office on 09/27/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

September 30, 2016 15:35:27

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Public Safety

Agency

Colorado Bureau of Investigation

CCR number

8 CCR 1507-20

Rule title

8 CCR 1507-20 IMPLEMENTATION OF THE NATIONAL INSTANT CRIMINAL
BACKGROUND CHECK SYSTEM WITH THE COLORADO BUREAU OF
INVESTIGATION SERVING AS THE POINT OF CONTACT 1 - eff 11/14/2016

Effective date

11/14/2016



DEPARTMENT OF PUBLIC SAFETY

Colorado Bureau of Investigation

IMPLEMENTATION OF THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM WITH THE COLORADO BUREAU OF INVESTIGATION SERVING AS THE POINT OF CONTACT

8 CCR 1507-20

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

CBI-IC-1

Definitions

The term **business day** means a 24-hour day (beginning at 12:01 a.m.) on which all state offices are open.

The term **the bureau** means the Colorado Bureau of Investigation.

The term **firearm** means (a) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (b) the frame or receiver of any such weapon; (c) any firearm muffler or firearm silencer; or (d) any destructive device. Such term does not include an antique firearm.

The term **destructive device** means (a) any explosive, incendiary, or poison gas-

- (1) Bomb,
- (2) Grenade,
- (3) Rocket having a propellant charge of more than four ounces,
- (4) Missile having an explosive or incendiary charge of more than one-quarter ounce
- (5) Mine, or
- (6) Device similar to any of the devices described.

(b) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable of sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (c) any combination of parts either designed or intended for use in converting any device into destructive device described in subparagraph (a) or (b) and from which a destructive device may be readily assembled. The term **destructive device** shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, or is an antique.



The term **antique firearm** means (a) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or (b) any replica of any firearm described in subparagraph (a) if such replica-

- (1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or
- (2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or
- (c) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term antique firearm shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

CBI-IC-2

Maintenance, Confidentiality, and Security of Records

The Bureau shall ensure that the InstaCheck Unit has adequate security to protect against any unauthorized personnel gaining access to the computer equipment or to any stored data.

Personnel having access to data collected pursuant to background checks for firearm transfers shall be screened thoroughly by the Bureau. This screening shall apply to non-criminal justice maintenance or technical personnel. Employees accessing the NICS will be kept to a minimum.

All visitors to the InstaCheck Unit must be accompanied by staff personnel at all times.

The Bureau shall maintain appropriate software to prevent data concerning background checks for firearm transfers from being accessible to any unauthorized terminals.

The Bureau shall maintain a central computer, through which each inquiry must pass for screening and verification.

Bureau personnel shall not release any information collected, created, or provided pursuant to a background check for firearm transfer, except as provided by law.

CBI-IC-3

Procedures for Appealing a Denial Decision

Any individual who has received a denial may within 30 days of the date of the issuance of the denial request a review of the denial. For any Individual who has submitted the request for review of the denial the CBI will by statute review and uphold or reverse the denial within 30 days from the date of receipt of the review request.

All official forms shall be maintained on the official CBI website.

Unless otherwise noted, the term "days" means "calendar days".

CBI-IC-4

Destruction of Records

Information pertaining to an approved individual which is collected or created pursuant to a background check for a firearm transfer shall be destroyed within 24 hours of the issuance of the approval consistent with federal law.

The Bureau shall maintain the transaction number, the date and time of its issuance, and the FFL to



whom it was relayed. Nothing in this rule shall be interpreted so as to prohibit the updating of criminal history records to accurately reflect dispositions.

CBI-IC-5

Forms to be Adopted/Identification of Transferee

The Bureau shall adopt the Bureau of Alcohol, Tobacco and Firearms form 4473 to document the transaction and to avoid unnecessary duplication. Transferors shall ensure that the 4473 form is completed by both the transferor and transferee prior to contacting the Bureau for a background check. Form 4473 shall be maintained in accordance with Federal law and rule.

Transferors shall identify transferees with a valid government issued photo identification and shall verify the name, date of birth, and address given by the transferee. Additional documents may be required to establish residency.

CBI-IC-6

Hours of Operation

The Bureau shall be open to conduct background checks for firearm transfers from 9am to 9pm every calendar day except Christmas Day and Thanksgiving Day. Requests submitted by Federal Firearms Licensees to the Bureau which originated prior to 9pm will be handled until the queue is empty.

CBI-IC-7

Access to the System/When contact is Made

The Bureau shall maintain a toll-free and a local telephone number for Federal Firearms Licensees to contact the Bureau to request background checks prior to the transfer of firearms. Nothing in this rule shall preclude the Bureau from providing alternate means of contacting the Bureau for the purpose of conducting such checks. The toll-free and local number shall be operational every day that the Bureau is open for business. The toll-free number is not available to local Federal Firearms Licensees.

Contact shall not be considered to have been made until information regarding the transferee has been transmitted to and acknowledged by the Bureau.

CBI-IC-8

Bureau Personnel and Training

Within fiscal restraints established by legislation, the Bureau shall employ personnel at levels, which correspond to the reasonably anticipated volume of inquiries. The Bureau shall assign such personnel according to the anticipated demand load. The Bureau shall provide adequate training for personnel commensurate with their duties, to include system usage, customer service, and reasons for approval and denial.

CBI-IC-9

Forms, Publications, and Rules Incorporated by Reference

All forms, publications, and rules adopted and/or incorporated by reference in these regulations are on file and available for public inspection by contacting the Agent In Charge of the InstaCheck Program, Colorado Bureau of Investigation, Department of Public Safety, 690 Kipling Street, Denver, Colorado. This rule does not include later amendments to or editions of any materials incorporated by reference. All publications and rules adopted and incorporated by reference in these regulations may be examined at any state publications depository library.



History

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
Chief of Staff

FREDERICK R. YARGER
Solicitor General



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Office of the Attorney General

Tracking number: 2016-00388

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado Bureau of Investigation

on 09/19/2016

8 CCR 1507-20

**IMPLEMENTATION OF THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM
WITH THE COLORADO BUREAU OF INVESTIGATION SERVING AS THE POINT OF CONTACT**

The above-referenced rules were submitted to this office on 09/19/2016 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

October 04, 2016 11:52:50

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Terminated Rulemaking

Department

Department of Labor and Employment

Agency

Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1101-1

Tracking number

2016-00515

Termination date

10/15/2016

Reason for termination

The Division needs to evaluate the rules in conjunction with stakeholders.

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/13/2016

Department

Department of Health Care Policy and Financing

Agency

Executive Director of Health Care Policy and Financing



COLORADO

Department of Health Care
Policy & Financing

PUBLIC NOTICE

October 25, 2016

Supplemental Medicaid Payments and Disproportionate Share Hospital (DSH) Payments for Hospital Providers

Effective October 26, 2016, the Department of Health Care Policy and Financing (Department) proposes to submit a State Plan Amendment (SPA) to modify supplemental Medicaid inpatient and Disproportionate Share Hospital (DSH) payments implemented as authorized under Section 25.5-4-402.3, Colorado Revised Statutes (2016).

The Colorado Health Care Affordability Act authorizes the Department to increase Medicaid payments to hospitals for inpatient services up to the available federal upper payment limit, to increase Medicaid payments to hospitals for outpatient services up to 100 percent of costs, to increase payments to hospitals that participate in the Colorado Indigent Care Program (CICP) up to 100 percent of costs, and to pay quality incentive payments to hospitals. Supplemental Medicaid payments and DSH payments may be modified and payment amounts may be increased to meet these provisions.

This adjustment will result in a change to the annual aggregate expenditures. These payments will be funded through providers' fees and matching Medicaid funds. No state general funds will be used. Aggregate payments to hospitals will not exceed federal upper payment limits for inpatient hospital services and aggregate DSH payments will not exceed the annual federal allotment.

General Information

A link to this notice will be posted on the [Department's website](#) starting on October 25, 2016. Written comments may be addressed to:

Director, Health Programs Office
Department of Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203.

Our mission is to improve health care access and outcomes for the people we serve while demonstrating sound stewardship of financial resources.
www.colorado.gov/hcpf



Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/17/2016

Department

Department of Revenue

Agency

Division of Motor Vehicles



COLORADO
Department of Revenue

Department of Motor Vehicle
1881 Pierce Street
Lakewood, CO 80214

Stakeholder Workshop Notification of Future Rule Promulgation

Concerning Rule 1 CCR 204-10 Rule 11 Emergency Vehicle Authorization

There will be a public workshop held for discussion of the above rule on:

Date: Thursday, November 7, 2016

Time: 10:00-11:00 a.m.

Location: 1881 Pierce Street
Boards/Commissions Conference Room 110
Lakewood, CO 80214

Please enter through Entrance B. The Conference Room is to the left.

The following is the call-in information if you are unable to attend this workshop in person:

If you cannot attend:

1. Please join my meeting. <https://global.gotomeeting.com/join/514270390>

2. Use your microphone and speakers (VoIP) - a headset is recommended. Or, call in using your telephone:

Dial [+1 \(646\) 749-3131](tel:+16467493131)

Access Code: 514-270-390

Audio PIN: Shown after joining the meeting

Meeting ID: 514-270-390

We look forward to seeing you at this workshop.



Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/18/2016

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)



COLORADO

Department of Health Care
Policy & Financing

Home and Community Based Services Waiver Amendment for the Brain Injury (BI) and Spinal Cord Injury (SCI) Waivers

October 13, 2016

Legislation passed to allow the Department to seek federal authorization to implement Medicaid Buy-In for adults who are eligible to receive Home and Community Based Services (HCBS). The Department is requesting federal authorization to implement the Medicaid Buy-In program for Working Adults with Disabilities (Adult Buy-In) for adults who are eligible to receive Home and Community Based Services (HCBS). Adult Buy-In is being added to the Brain Injury (BI) and Spinal Cord Injury (SCI) Waivers. This program provides Health First Colorado (Colorado's Medicaid Program) benefits for working individuals with disabilities, ages 16 through 64, whose adjusted individual income is at or below 450% of the Federal Poverty Level (FPL). Eligible individuals will receive Health First Colorado benefits by paying a monthly premium on a sliding scale based on their adjusted individual income. Applicants are considered a family size of one for the program and waiver services can be covered through the Adult Buy-In program.

Individuals on the Adult Buy-In program will have access to these benefits as long as they meet the program's level of care requirement and targeting criteria through a functional needs assessment. Adding the Adult Buy-In program to the waivers provides individuals the opportunity to receive services to assist in meeting their daily needs while working. The Adult Buy-In program is funded through the Hospital Provider Fee cash fund. The Department does not foresee any negative implications as a result of these Waiver Amendments.

In order to make this change official, the Department of Health Care Policy and Financing is required to submit an HCBS Waiver amendment to our Federal partners for approval. As part of this process, the Department is federally required to provide a 30-day public notice and comment period, as well as at least one additional opportunity for public comment.



Please review the following information for your opportunity to participate in this process if you choose.

Summary of Waiver Amendment

Medicaid Buy-In Program for Working Adults with Disabilities

A new eligibility group will be served in the Brain Injury (BI) and Spinal Cord Injury (SCI) waivers. This will allow working individuals with disabilities to buy into Health First Colorado (Colorado's Medicaid Program) (TWWIIA Basic Coverage Group as provided in §1902(a) (10) (A)(ii)(XV) of the Act).

GUIDELINES FOR SUBMITTING COMMENTS

- The Department will have a draft of the BI and SCI Waiver Amendments open for public comment from 10/13/2016 to 11/11/2016. The amendments will be posted on the Department's website: www.colorado.gov/hcpf/hcbs-waiver-transition
- Individuals may request draft Waiver Amendments materials via email at: LTSS.PublicComment@state.co.us
- Comments regarding the draft Waiver Amendments can be emailed directly to: LTSS.PublicComment@state.co.us
- Comments can also be addressed to the following:
ATTN: Erica Weidenfeld
1570 Grant Street
Denver, CO 80203
303-866-5913
- All comments will be maintained and responses provided in a regularly updated listening log kept on the Department's website: www.colorado.gov/hcpf/hcbs-waiver-transition

The Department commits to incorporating comments, concerns, and suggestions into the proposed waiver amendment plan when possible.



Calendar of Hearings

Hearing Date/Time	Agency	Location
11/18/2016 09:00 AM	Division of Professions and Occupations - State Board of Social Work Examiners	1560 Broadway, Conference Room 110D
11/14/2016 02:30 PM	Division of Professions and Occupations - Office of Fantasy Contest Operator Licensing and Registration	1560 Broadway, Suite 1250-A, Denver Colorado
11/18/2016 01:00 PM	Public Employees' Retirement Association	Colorado PERA Office - 1301 Pennsylvania Street, Denver CO 80203