

Colorado Register



44 CR 21

Volume 44 , No. 21

November 10, 2021

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

2021-00680

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Below

Subjects and issues involved

The purpose of this amendment is to repeal parts of the rule that are duplicative of statute, explain that the child care expenses tax credit must be adjusted if the federal credit on which it is based is adjusted, and to clarify the proper apportionment of the credit allowed to part-year Colorado residents.

Statutory authority

39-21-112(1) and 39-22-119, C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

INCOME TAX

1 CCR 201-2

Rule 39-22-119. Child Care Expenses Tax Credit.

Basis and Purpose. The bases for this rule are §sections 39-21-112(1) and §39-22-119, C.R.S. The purpose of this rule is to clarify that provide clarification regarding the child care expenses tax credit must be adjusted if the federal credit on which it is based is adjusted, and to describe the proper apportionment of the credit allowed to part-year Colorado residents.

(1) ~~**Child Care Expenses Tax Credit.** Resident individuals who claim the federal tax credit for child care expenses on their federal income tax return shall be allowed a credit against their Colorado income tax liability as follows:~~

(a) ~~For income tax years beginning before January 1, 2019:~~

(i) ~~A credit equal to 50% of the federal tax credit for taxpayers whose federal adjusted gross income is \$25,000 or less.~~

(ii) ~~A credit equal to 30% of the federal tax credit for taxpayers whose federal adjusted gross income is between \$25,001 and \$35,000.~~

(iii) ~~A credit equal to 10% of the federal credit for taxpayers whose federal adjusted gross income is between \$35,001 and \$60,000.~~

(b) ~~For income tax years beginning on and after January 1, 2019, a credit equal to 50% of the federal tax credit for taxpayers whose federal adjusted gross income is less than or equal to \$60,000.~~

(c) ~~This credit cannot be claimed by taxpayers whose federal adjusted gross income exceeds \$60,000 in a given tax year.~~

(1) The allowable Colorado child care expenses tax credit is equal to a percentage of the federal tax credit allowed for child care expenses. If the federal tax credit a taxpayer claims for child care expenses is disallowed, in whole or in part, or otherwise adjusted, the allowable Colorado child care expenses tax credit shall be adjusted accordingly based on the amount of the federal credit that is allowed.

(2) **Part-Year Residents.** ~~A part-year Colorado resident is allowed only that portion of the Colorado child care expenses tax credit that is equal to the credit multiplied by the ratio (not to exceed 100%) of the taxpayer's Colorado modified adjusted income over the taxpayer's entire federal modified taxable income. In the case of a part-year Colorado resident, the allowable child care expenses tax credit shall be apportioned by multiplying the credit otherwise calculated pursuant to section 39-22-119, C.R.S., by the ratio determined under section 39-22-110(1), C.R.S.; except that the ratio for apportioning the child care expenses tax credit may not exceed 100%, even if the ratio determined under section 39-22-110(1), C.R.S., exceeds 100%.~~

- (a) Example 1. Taxpayer A is a part-year Colorado resident in tax year 2020. Their apportionment ratio determined pursuant to section 39-22-110(1), C.R.S., is 60%. Taxpayer A is allowed a credit of \$1,000 on their 2020 federal income tax return for child care expenses. Taxpayer A satisfies the requirements for the child care expenses tax credit pursuant to section 39-22-119, C.R.S. The Colorado child care expenses tax credit allowed to Taxpayer A is calculated first by multiplying the \$1,000 federal credit by 50%, pursuant to section 39-22-119(1.7), C.R.S., and then multiplying the result (\$500) by the 60% apportionment ratio, pursuant to section 39-22-119(4), C.R.S. Taxpayer A is allowed a Colorado child care expenses tax credit of \$300.
- (b) Example 2. Taxpayer B is a part-year Colorado resident in tax year 2020. Their apportionment ratio determined pursuant to section 39-22-110(1), C.R.S., is 110%. Taxpayer B is allowed a \$1,000 credit on their 2020 federal income tax for child care expenses. Taxpayer B satisfies the requirements for the child care expenses tax credit pursuant to section 39-22-119, C.R.S. The Colorado child care expenses tax credit allowed to Taxpayer B is calculated first by multiplying the \$1,000 federal credit by 50%, pursuant to section 39-22-119(1.7), C.R.S., and then multiplying the result (\$500) by the 100%, pursuant to section 39-22-119(4), C.R.S., and paragraph (2) of this rule, because the apportionment ratio determined pursuant to section 39-22-110(1), C.R.S., exceeds 100%. Taxpayer B is allowed a Colorado child care expenses tax credit of \$500.

COLORADO DEPARTMENT OF REVENUE STATEMENT OF BASIS AND PURPOSE

Child Care Expenses Tax Credit

Rule 39-22-119

1 CCR 201-2

Basis

The statutory bases for this rule are sections 39-21-112(1) and 39-22-119, C.R.S.

Purpose

The purpose of this amendment is to repeal parts of the rule that are duplicative of statute, explain that the child care expenses tax credit must be adjusted if the federal credit on which it is based is adjusted, and to clarify the proper apportionment of the credit allowed to part-year Colorado residents.

Notice of Proposed Rulemaking

Tracking number

2021-00681

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this rule is to describe the proper apportionment of the low-income child care expenses tax credit allowed to part-year Colorado residents.

Statutory authority

39-21-112(1) and 39-22-119.5, C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

INCOME TAX

1 CCR 201-2

Rule 39-22-119.5. Low-Income Child Care Expenses Tax Credit.

Basis and Purpose. The bases for this rule are sections 39-21-112(1) and 39-22-119.5, C.R.S. The purpose of this rule is to describe the proper apportionment of the low-income child care expenses tax credit allowed to part-year Colorado residents.

- (1) In the case of a part-year Colorado resident, the allowable low-income child care expenses tax credit shall be apportioned by multiplying the credit otherwise calculated pursuant to section 39-22-119.5, C.R.S., by the ratio determined under section 39-22-110(1), C.R.S.; except that the ratio for apportioning the low-income child care expenses tax credit may not exceed 100%, even if the ratio determined under section 39-22-110(1), C.R.S., exceeds 100%.
- (a) *Example 1.* Taxpayer A is a part-year Colorado resident in tax year 2020. Their apportionment ratio determined pursuant to section 39-22-110(1), C.R.S., is 60%. Taxpayer A satisfies the requirements for the low-income child care expenses tax credit pursuant to section 39-22-119.5, C.R.S. Taxpayer A's child care expenses in 2020 were \$2,000. The Colorado low-income child care expenses tax credit allowed to Taxpayer A is calculated first by multiplying the \$2,000 in child care expenses by 25%, pursuant to section 39-22-119.5(3)(b), C.R.S., and then multiplying the result (\$500) by the 60% apportionment ratio, pursuant to section 39-22-119.5(6), C.R.S. Taxpayer A is allowed a Colorado low-income child care expenses tax credit of \$300.
- (b) *Example 2.* Taxpayer B is a part-year Colorado resident in tax year 2020. Their apportionment ratio determined pursuant to section 39-22-110(1), C.R.S., is 110%. Taxpayer B satisfies the requirements for the low-income child care expenses tax credit pursuant to section 39-22-119.5, C.R.S. Taxpayer B's child care expenses in 2020 were \$2,000. The Colorado low-income child care expenses tax credit allowed to Taxpayer B is calculated first by multiplying the \$2,000 in child care expenses by 25%, pursuant to section 39-22-119.5(3)(b), C.R.S., and then multiplying the result (\$500) by the 100% apportionment ratio, pursuant to section 39-22-119.5(6), C.R.S., and paragraph (1) of this rule, because the apportionment ratio determined pursuant to section 39-22-110(1), C.R.S., exceeds 100%. Taxpayer B is allowed a Colorado low-income child care expenses tax credit of \$500.

COLORADO DEPARTMENT OF REVENUE STATEMENT OF BASIS AND PURPOSE

Low-Income Child Care Expenses Tax Credit Rule 39-22-119.5 1 CCR 201-2

Basis

The statutory bases for this rule are sections 39-21-112(1) and 39-22-119.5, C.R.S.

Purpose

The purpose of this rule is to describe the proper apportionment of the low-income child care expenses tax credit allowed to part-year Colorado residents.

Notice of Proposed Rulemaking

Tracking number

2021-00687

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this rule is to publish the amount of any state sales tax refund when there are sufficient excess state revenues under the Taxpayers Bill of Rights (TABOR).

Statutory authority

39-21-112(1), 39-22-2001, 39-22-2002, and 39-22-2003, C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxpayer Service Division - Tax Group

PROCEDURE AND ADMINISTRATION

1 CCR 201-2

Rule 39-22-2003. State Sales Tax Refund.

Basis and Purpose. The bases for this rule are sections 39-21-112(1), 39-22-2001, 39-22-2002, and 39-22-2003, C.R.S. The purpose of this rule is to publish the amount of any state sales tax refund when there are sufficient excess state revenues under the Taxpayer's Bill of Rights (TABOR), as required by section 39-22-2002(7), C.R.S.

- (1) The state sales tax refund available to qualified individuals is listed below for recent income tax years, according to the filing status and modified adjusted gross income reported on the Colorado income tax return.

(a) 2016 - 2020: No refund available.

(b) 2021:

<u>Modified Adjusted Gross Income</u>	<u>\$44,000 or less</u>	<u>\$44,001 - \$88,000</u>	<u>\$88,001 - \$139,000</u>	<u>\$139,001- \$193,000</u>	<u>\$193,001- \$246,000</u>	<u>\$246,001 or more</u>
<u>Single Filer Refund</u>	<u>\$37</u>	<u>\$49</u>	<u>\$56</u>	<u>\$68</u>	<u>\$74</u>	<u>\$117</u>
<u>Joint Filer Refund</u>	<u>\$74</u>	<u>\$98</u>	<u>\$112</u>	<u>\$136</u>	<u>\$148</u>	<u>\$234</u>

COLORADO DEPARTMENT OF REVENUE STATEMENT OF BASIS AND PURPOSE

State Sales Tax Refund Rule 39-22-2003 1 CCR 201-2

Basis

The statutory bases for this rule are sections 39-21-112(1), 39-22-2001, 39-22-2002, and 39-22-2003, C.R.S.

Purpose

The purpose of this rule is to publish the amount of any state sales tax refund when there are sufficient excess state revenues under the Taxpayer's Bill of Rights (TABOR).

Notice of Proposed Rulemaking

Tracking number

2021-00682

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this amendment is to repeal this rule because its provisions are either obsolete or duplicative with statute.

Statutory authority

39-21-112(1), 39-21-113, 39-22-120, and 39-22-627 C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

INCOME TAX

1 CCR 201-2

Rule 39-22-120. TABOR Credits and Subtractions Subject to Excess Revenues.

(1) **Income Tax Refund Mechanism Table.** The credits and subtractions listed in the tables below are refund mechanisms for a revenue surplus that is required to be refunded under TABOR. Some credits and subtractions have been discontinued as refund mechanisms (paragraphs b) and c)). The credit or subtraction is available for tax years beginning on or after January 1 of the year indicated if sufficient excess revenues existed in the July 1-June 30 fiscal year ending during that year. These credits and subtractions were not available in years 1998 or earlier.

(a) The following credit is currently an applicable refund mechanism when a sufficient surplus exists:

Credit/Subtraction	CRS Statute	1999	2000	2001	2002-2011
Earned income credit	39-22-123	yes	yes	yes	no

(b) The following credits and subtractions were refund mechanisms for revenue surplus, but have since been discontinued as refund mechanisms:

Credit/Subtraction	CRS Statute	1999	2000	2001	2002 or later
Agricultural value-added cash-fund credit	39-22-528	no	no	yes	no
Agricultural value-added credit	39-22-527	no	no	yes	no
Child care/child tax credits — expanded credits	39-22-119(5)	no	yes	yes	no
Colorado Institute of Technology-contribution credit	39-22-525	no	no	no	no
Colorado source capital gain-subtraction-pre 5/9/94 assets	39-22-518(5)(a)	yes	yes	yes	no
Colorado source capital gain-subtraction-one year holding-period	39-22-518(5)(c)	no	no	yes	no
Foster care credit	39-22-127	no	no	yes	no
Health benefit plan credit	39-22-125	no	yes	yes	no
Health care professional credit	39-22-126	no	yes	yes	no
High technology scholarship-contribution credit	39-22-523	no	no	yes	no
Individual development account-contribution credit	39-22-524	no	no	yes	no
Interest, dividend and capital gain-subtraction	39-22-104(4)(i)	no	yes	yes	no

Qualifying charitable contribution subtraction	39-22-104(4)(m)	no	no	yes	no (see paragraph c) below)
--	-----------------	----	----	-----	--------------------------------

(c) Although the qualifying charitable contribution subtraction has been discontinued as a refund mechanism, it is available for tax years beginning on or after 2006 regardless of whether there is a revenue surplus.

(2) **Sales and Property Tax Refund Mechanism Table.** The credits and refunds listed in the table below were refund mechanisms for surplus funds required to be refunded under TABOR, but have been discontinued. The table below lists the tax years in which these credits and subtractions are available:

(a) The business personal property tax refund was available for taxes paid during the fiscal year ending during the year indicated if sufficient excess revenues existed in the July 1-June 30 fiscal year ending during that year, and were issued early in the fiscal year beginning during the year indicated.

(b) The sales tax reduction on certain commercial trucks was available for the fiscal year beginning on July 1 of the year indicated if sufficient excess revenues existed in the July 1-June 30 fiscal year ending during that year.

(c) The sales and use tax refunds were available for the fiscal year ending in the year indicated if sufficient excess revenues existed in the July 1-June 30 fiscal year ending during that year, and must be claimed in the following calendar year as required:

(d) These credits and refunds were not available in years 1998 or earlier.

Credit/Refund	CRS Statute	1999	2000	2001	2002 or later
Business personal property tax refund	39-22-124	yes	yes	yes	no
Sales tax reduced rate on commercial trucks over 26,000 GVW	39-26-106(3)	no	no	yes	no
Sales/Use tax refund for pollution control equipment	39-26-502	no	yes	yes	no

(3) **State Sales Tax Refund.** The state sales tax refund was available for the income tax years beginning on or after January 1 of the year listed below based on the gross income reported on the Colorado income tax return. [§ 39-22-2002, C.R.S.]

(a) 1997

If federal AGI is	\$15,000 or less	\$15,001—\$100,000	\$100,001 or more
Single filers enter	\$37	\$60	\$80
Joint filers enter	\$74	\$120	\$160

(b) 1998

If federal AGI is	\$20,000 or less	\$20,001—\$50,000	\$50,001—\$95,000	\$95,001 or more
Single filers enter	\$142	\$195	\$276	\$384
Joint filers enter	\$284	\$390	\$552	\$768

(c) 1999

If applicable income is	\$25,000 or less	\$25,001—\$50,000	\$50,001—\$75,000	\$75,001—\$100,000	\$100,001—\$125,000	\$125,001 or more
Single filers enter	\$159	\$212	\$244	\$290	\$312	\$502

Joint filers enter	\$318	\$424	\$488	\$580	\$624	\$1,004
--------------------	-------	-------	-------	-------	-------	---------

(d) — 2000

If applicable income is	\$26,000 or less	\$26,001–\$53,000	\$53,001–\$78,000	\$78,001–\$103,000	\$103,001–\$126,000	\$126,001 or more
Single filers enter	\$182	\$245	\$288	\$325	\$363	\$574
Joint filers enter	\$364	\$490	\$576	\$650	\$726	\$1,148

(e) — 2001

If applicable income is	\$27,000 or less	\$27,001–\$56,000	\$56,001–\$83,000	\$83,001–\$110,000	\$110,001–\$135,000	\$135,001 or more
Single filers enter	\$144	\$187	\$220	\$252	\$283	\$451
Joint filers enter	\$288	\$374	\$440	\$504	\$566	\$902

(f) — 2002–2004 No refund available.

(g) — 2005 Single filers \$15; Joint filers \$30

(h) — 2006–2011 No refund available.

- (4) — **Surplus Controlled Table.** The credits and attributes listed in the table below are not refund mechanisms for surplus funds to be refunded under TABOR but are only available for income tax years beginning on or after January 1 of the year indicated if sufficient excess revenues existed in the July 1-June 30 fiscal year ending during that year. These credits and attributes were not available in years 1997 or earlier.

(a) — The following attribute is currently an applicable surplus controlled attribute when a surplus exists:

Credit/Attribute	CRS Statute	1998	1999	2000	2001	2002–2004	2005	2006–2011
Gross conservation easement credit a—refundability of credit	39-22-522	no	no	yes	yes	no	yes	no

(b) — The following credit was a surplus controlled credit for the tax years listed below, but has been discontinued and is no longer a surplus controlled credit:

Credit/Attribute	CRS Statute	1998	1999	2000	2001	2002 or later
Child care/child tax credits—50% / \$200	39-22-119(1.5)	yes	yes	yes	yes	no

- (5) — **Income Tax Rate Refund Mechanism.** The income tax rate reduction from 4.63% to 4.5% is a refund mechanism for surplus funds required to be refunded under TABOR. The rate reduction was not available in tax years 2011 or earlier. [§ 39-22-627, C.R.S.]

COLORADO DEPARTMENT OF REVENUE STATEMENT OF BASIS AND PURPOSE

TABOR Credits and Subtractions Subject to Excess Revenues

Rule 39-22-120

1 CCR 201-2

Basis

The statutory bases for this rule are sections 39-21-112(1), 39-21-113, 39-22-120, and 39-22-627 C.R.S.

Purpose

The purpose of this amendment is to repeal this rule because its provisions are either obsolete or duplicative with statute.

Notice of Proposed Rulemaking

Tracking number

2021-00686

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this amendment is to adjust the Colorado income tax rate for 2021 in accordance with section 39-22-627, C.R.S.

Statutory authority

39-21-112(1), 39-22-104(1.7), 39-22-301(1)(d), and 39-22-627, C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxpayer Service Division - Tax Group

PROCEDURE AND ADMINISTRATION

1 CCR 201-2

Rule 39-22-627. Temporary Adjustment of Income Tax Rate of Income Tax.

Basis and Purpose: The statutory bases for this rule are sections 39-21-112(1), [39-22-104\(1.7\)](#), [39-22-301\(1\)\(d\)](#), and 39-22-627, C.R.S. The purpose of this rule is to adjust the Colorado income tax rate in accordance with section 39-22-627, C.R.S.

[\(1\)](#) Pursuant to section 39-22-627, C.R.S., the Colorado income tax rate for the tax imposed on individuals, estates, trusts, and corporations pursuant to sections 39-22-104(1.7) and 39-22-301(1)(d)(I)(I) [and \(J\)](#), C.R.S., is reduced ~~from four and sixty-three one hundredths percent~~ to four and one-half percent for:

[\(a\)](#) tax years commencing on or after January 1, 2019, but prior to January 1, 2020; [and](#)

[\(b\)](#) tax years commencing on or after January 1, 2021, but prior to January 1, 2022.

COLORADO DEPARTMENT OF REVENUE STATEMENT OF BASIS AND PURPOSE

Temporary Adjustment of Income Tax Rate

Rule 39-22-627

1 CCR 201-2

Basis

The statutory bases for this rule are sections 39-21-112(1), 39-22-104(1.7), 39-22-301(1)(d), and 39-22-627, C.R.S.

Purpose

The purpose of this amendment is to adjust the Colorado income tax rate for 2021 in accordance with section 39-22-627, C.R.S.

Notice of Proposed Rulemaking

Tracking number

2021-00683

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this amendment is to repeal the rule because it is obsolete. The credit in section 39-22-123, C.R.S., was available only in TABOR surplus years and only in income tax years for which a credit was not allowed under section 39-22-123.5, C.R.S. On January 1, 2016, the credit in section 39-22-123.5, C.R.S., became available every tax year and superseded the credit in section 39-22-123, C.R.S.

Statutory authority

39-21-112(1), 39-21-113, 39-22-123, and 39-22-123.5, C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

INCOME TAX

1 CCR 201-2

Rule 39-22-123. Earned Income Credit.

- (1) — ~~The Colorado earned income tax credit is 10% (8.5% for 1999) of the federal earned income credit claimed on the taxpayer's federal income tax return. The credit is available only to full and part-year Colorado residents. The credit is available only in tax years in which state revenues exceed limitations on state fiscal year spending by amounts established in 39-22-123(4), C.R.S. In October or November of each year, the State will certify whether there are sufficient excess revenues to make this credit available. See Rule 39-22-120 for years in which the credit is available.~~
- (2) — **Part-Year Residents of Colorado.** ~~The Colorado earned income credit of a part-year resident is computed by multiplying the percentage for the tax year times that portion of the federal earned income credit earned in Colorado. The portion of the federal earned income credit earned in Colorado is the federal earned income credit multiplied by the ratio (not to exceed 100%) of the modified Colorado adjusted gross income over the total modified federal adjusted gross income, as these amounts are determined by 39-22-110, C.R.S.~~

COLORADO DEPARTMENT OF REVENUE STATEMENT OF BASIS AND PURPOSE

Earned Income Tax Credit

Rule 39-22-123

1 CCR 201-2

Basis

The statutory bases for this rule are sections 39-21-112(1), 39-21-113, 39-22-123, and 39-22-123.5, C.R.S.

Purpose

The purpose of this amendment is to repeal the rule because it is obsolete. The credit in section 39-22-123, C.R.S., was available only in TABOR surplus years and only in income tax years for which a credit was not allowed under section 39-22-123.5, C.R.S. On January 1, 2016, the credit in section 39-22-123.5, C.R.S., became available every tax year and superseded the credit in section 39-22-123, C.R.S.

Notice of Proposed Rulemaking

Tracking number

2021-00684

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this rule is to clarify the availability and calculation of the earned income tax credit.

Statutory authority

39-21-112(1), 39-21-113, 39-22-123, and 39-22-123.5, C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

INCOME TAX

1 CCR 201-2

Rule 39-22-123.5. Earned Income Tax Credit.

Basis and Purpose. The bases for this rule are sections 39-21-112(1), 39-21-113, 39-22-123, and 39-22-123.5, C.R.S. The purpose of this rule is to clarify the availability and calculation of the earned income tax credit.

(1) The Colorado earned income tax credit is allowed:

(a) under section 39-22-123, C.R.S., for tax years commencing during 1999, 2000, 2001, and 2015; and

(b) under section 39-22-123.5, C.R.S. for income tax years commencing on or after January 1, 2016.

(2) Under section 39-22-123.5(2), C.R.S., the allowable Colorado earned income tax credit is equal to a percentage of the allowed federal earned income tax credit. If the federal earned income tax credit a taxpayer claims is disallowed, in whole or in part, or otherwise adjusted, the allowable Colorado earned income tax credit under section 39-22-123.5(2), C.R.S., shall be adjusted accordingly based on the amount of the federal credit that is allowed. However, additional Colorado earned income tax credit may be allowable under section 39-22-123.5(2.5), C.R.S.

(3) In the case of a part-year Colorado resident, the allowable Colorado earned income tax credit shall be apportioned by multiplying the credit otherwise calculated pursuant to section 39-22-123.5, C.R.S., by the ratio determined under section 39-22-110(1), C.R.S.; except that the ratio for apportioning the Colorado earned income tax credit may not exceed 100%, even if the ratio determined under section 39-22-110(1), C.R.S., exceeds 100%.

COLORADO DEPARTMENT OF REVENUE STATEMENT OF BASIS AND PURPOSE

Earned Income Tax Credit Rule 39-22-123.5 1 CCR 201-2

Basis

The statutory bases for this rule are sections 39-21-112(1), 39-21-113, 39-22-123, and 39-22-123.5, C.R.S.

Purpose

The purpose of this rule is to clarify the availability and calculation of the earned income tax credit.

Notice of Proposed Rulemaking

Tracking number

2021-00685

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this rule is to clarify that the child tax credit must be adjusted if the federal credit on which it is based is adjusted, and to describe the proper apportionment of the child tax credit allowed to part-year Colorado residents.

Statutory authority

39-21-112(1) and 39-22-129, C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

INCOME TAX

1 CCR 201-2

Rule 39-22-129. Child Tax Credit.

Basis and Purpose. The bases for this rule are sections 39-21-112(1) and 39-22-129, C.R.S. The purpose of this rule is to clarify that the child tax credit must be adjusted if the federal credit on which it is based is adjusted, and to describe the proper apportionment of the child tax credit allowed to part-year Colorado residents.

- (1) Under section 39-22-129(3), C.R.S., the allowable Colorado child tax credit is equal to a percentage of the allowed federal child tax credit. If the federal child tax credit a taxpayer claims is disallowed, in whole or in part, or otherwise adjusted, the allowable Colorado child tax credit under section 39-22-129(3), C.R.S., shall be adjusted accordingly based on the amount of the federal credit that is allowed. However, additional Colorado child tax credit may be allowable under section 39-22-129(3.5), C.R.S.
- (2) In the case of a part-year Colorado resident, the allowable child tax credit shall be apportioned by multiplying the credit otherwise calculated pursuant to section 39-22-129, C.R.S., by the ratio determined under section 39-22-110(1), C.R.S.; except that the ratio for apportioning the child tax credit may not exceed 100%, even if the ratio determined under section 39-22-110(1), C.R.S., exceeds 100%.

COLORADO DEPARTMENT OF REVENUE STATEMENT OF BASIS AND PURPOSE

Child Tax Credit Rule 39-22-129 1 CCR 201-2

Basis

The statutory bases for this rule are sections 39-21-112(1) and 39-22-129, C.R.S.

Purpose

The purpose of this rule is to clarify that the child tax credit must be adjusted if the federal credit on which it is based is adjusted, and to describe the proper apportionment of the child tax credit allowed to part-year Colorado residents.

Notice of Proposed Rulemaking

Tracking number

2021-00695

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-4

Rule title

SALES AND USE TAX

Rulemaking Hearing

Date

12/02/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this rule is to amend the permanent rule defining the terms room and accommodation. Specifically, the rule adds the statement of basis and purpose required by section 24-4-103(4)(c), C.R.S. The rule also deletes camp grounds from the definition of an accommodation. In the Departments opinion, camp grounds are too dissimilar from the types of properties listed in section 39-26-102(11), C.R.S., to be an accommodation within the meaning of that section.

Finally, the rule strikes a sentence from the definition of accommodation describing an exemption from taxation. The sentence does not adequately describe the conditions for exemption, and the exemption applies equally to sales of rooms and sales of accommodations. The rules governing the exemption are more fully discussed in Rule 39-26-704-4.

Statutory authority

39-21-112(1), 39-26-102(11), and 39-26-122, C.R.S.

Contact information

Name

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

SALES AND USE TAX

1 CCR 201-4

Rule 39-26-102(11). Rooms and Accommodations.

Basis and Purpose. The statutory bases for this rule are sections 39-21-112(1), 39-26-102(11), and 39-26-122, C.R.S. The purpose of this rule is to define the terms “room” and “accommodation” as those terms are used in the definition of “sale” or “sale and purchase” in section 39-22-102(11), C.R.S., and elsewhere in article 26 of title 39, C.R.S.

(1) A “room” is a regular sleeping room or unit which is a part of a hotel, apartment hotel, inn, lodging house, guest house, motor hotel, motel, mobile home, dude ranch or guest ranch, for which a charge is made for its use.

(2) “Accommodation” includes the furnishing of space in any camp grounds, auto camp, or trailer court or park, under any concession, permit, right to access, license to use, or any other agreement by or through which any such space may be used or occupied. Accommodations are exempt from taxation if rented for at least thirty consecutive days during the calendar year or preceding year.

(See Rule 39-26-704-4)

**COLORADO DEPARTMENT OF REVENUE
OFFICE OF TAX POLICY**

STATEMENT OF BASIS AND PURPOSE

Rooms and Accommodations

Rule 39-26-102(11)

1 CCR 201-4

Basis

The statutory bases for this rule are sections 39-21-112(1), 39-26-102(11), and 39-26-122, C.R.S.

Purpose

The purpose of this rule is to amend the permanent rule defining the terms “room” and “accommodation.” Specifically, the rule adds the statement of basis and purpose required by section 24-4-103(4)(c), C.R.S. The rule also deletes “camp grounds” from the definition of an “accommodation.” In the Department’s opinion, “camp grounds” are too dissimilar from the types of properties listed in section 39-26-102(11), C.R.S., to be an “accommodation” within the meaning of that section.

Finally, the rule strikes a sentence from the definition of “accommodation” describing an exemption from taxation. The sentence does not adequately describe the conditions for exemption, and the exemption applies equally to sales of “rooms” and sales of “accommodations.” The rules governing the exemption are more fully discussed in Rule 39-26-704-4.

Notice of Proposed Rulemaking

Tracking number

2021-00689

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-4

Rule title

SALES AND USE TAX

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this rule is to remove the requirement that a prosthetic device be dispensed pursuant to a prescription order.

Statutory authority

39-21-112(1) and 39-26-717, C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

SALES AND USE TAX

1 CCR 201-4

Rule 39-26-717. Medical Material, Equipment, and Drugs.

Basis and Purpose. The bases for this rule are section 39-21-112(1) and section 39-26-717, C.R.S. The purpose of this rule is to provide clarification regarding sales tax exemptions allowed for medical materials, equipment, and drugs.

- (1) **Definitions.** As used in this rule and section 39-26-717, C.R.S., unless the context otherwise requires:
- (a) "Prescription drug" has the same meaning as set forth in section 12-280-103(42), C.R.S.
 - (b) "Urine- and blood-testing kits and materials" include glucose strips and puncture lancets.
 - (c) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for such device, ~~dispensed pursuant to a prescription order as defined in section 39-26-717(1)(e), C.R.S., and~~ worn on or in the body to:
 - (i) artificially replace a missing portion of the body;
 - (ii) prevent or correct physical deformity or malfunction; or
 - (iii) support a weak or deformed portion of the body.
 - (d) "Corrective eyeglasses and contact lenses" include over-the-counter corrective eyeglasses. However, the charges for eyeglass lens coatings (anti-reflective, scratch-resistant, anti-fog, etc.) that are separately stated on the invoice for corrective eyeglasses are taxable.
 - (e) "Furnished by a practitioner as part of professional services provided to a patient," as used in section 39-26-717(2)(a) and (2)(k), C.R.S., means "furnished to a patient" by a "practitioner" as part of "professional services" as those terms are defined in section 39-26-717(1)(c), C.R.S., and this paragraph (1)(e).
 - (i) *Furnished to a Patient.*
 - (A) "Furnished to a patient" means either:
 - (I) provided to a patient to take with them when they leave the practitioner's facility; or
 - (II) ingested or inhaled by the patient, injected into the patient, or administered intravenously or topically at the practitioner's facility (i.e., the prescription drug, nonprescription drug, or material is absorbed into the patient's body).

(B) Examples.

- (I) Ibuprofen, acetaminophen, aspirin, and topical antiseptics and pain relief administered to a patient at the practitioner's facility are furnished to a patient.
- (II) Medical supplies such as heel pads used during surgery to prevent skin and tissue damage are not furnished to a patient, even though they are worn by the patient, because they are neither ingested or inhaled by the patient, injected into the patient, or administered intravenously or topically at the practitioner's facility, nor do they leave the facility with the patient.
- (III) Splints, casts, bandages, arm slings, packages of topical antiseptics and topical pain relief balms that are provided by a practitioner to a patient for use outside the practitioner's facility are furnished to a patient.
- (IV) Tongue depressors, single-use scalpels, sponges, and other items that are used by the practitioner in the delivery of the professional services are not furnished to a patient.
- (V) A patient's purchase of bandages from a medical supply retailer is not exempt pursuant to section 39-26-717(2)(k), C.R.S., even if the practitioner recommends the use of such bandages, because the bandages were not furnished by the practitioner.

(ii) *Professional Services.*

- (A) "Professional services" does not include the sale of any item by a practitioner to a patient, unless such item is directly related to the professional service provided by the practitioner to the patient.
 - (I) *Example.* If a practitioner performs surgery to repair knee cartilage, and, as a necessary part of the service, sells the knee brace to assist in the recovery of the surgery, then the sale of the knee brace is exempt because it is provided as part of the professional service. However, if the practitioner performs knee surgery and, in addition to the knee brace, the patient elects to purchase an orthopedic pillow for the patient's recurring neck pain (for which the patient is not seeing the practitioner), the sale of the pillow is unrelated to the professional service, and, therefore, the sale of the orthopedic pillow does not qualify under this exemption.

- (f) "Materials", as used in section 39-26-717(2)(k), C.R.S., does not include non-medical materials, such as baby diapers, disposable razors, boxes of tissues, toilet paper, deodorant, mouthwash, hand lotion (even if medicated), baby bottles, denture cleaner and adhesive, slippers, shave kits, admission kits, sanitary pads, and tampons, regardless of whether such non-medical materials are "furnished to a patient" as defined in paragraph (1)(e)(i) of this rule.

- (g) "Oxygen delivery equipment" means a system used to transport oxygen directly into the patient's lungs and administered because the patient experiences an inadequate supply of oxygen.
 - (i) "Oxygen delivery equipment" includes:
 - (A) Liquid oxygen containers, oxygen cylinders, cylinder transport devices (sheaths, carts), cylinder stands, support devices, regulators, flowmeters, tank wrench, liquid oxygen base dispenser, liquid oxygen portable dispenser, oxygen concentrators, oxygen humidifiers, oxygen fittings, tubing, face masks and related items necessary for the delivery of oxygen to the patient;
 - (B) Pressure ventilators, volume ventilators, and other respiratory equipment that produce a form of controlled respiration in which compressed air is delivered under positive pressure into the patient's lungs;
 - (C) Respiratory equipment that induces air into the lungs of a patient, through the application of pressure to the chest area, regardless of whether the pressure applied is negative pressure or positive pressure;
 - (D) Exsufflation belts, iron lungs, chest shells, pulmo wraps, and the pumps and regulators necessary for the operation of the listed equipment; and
 - (E) Repair and replacement parts for oxygen delivery equipment.
- (h) *Durable medical equipment, including repair and replacement parts.*
 - (i) "Durable medical equipment" includes, to the extent such items meet the statutory definition in section 39-26-717(1)(a), C.R.S.:
 - (A) Drug infusion equipment (non-implanted);
 - (B) Reaching, sitting, and sleeping aids, including sitting and sleeping cushions, overbed tables, specially designed hand utensils, foam wedges and cushions, alternating pressure pads, specialized seating and desks, boards, decubitis seating and sleeping pads for existing decubitis ulcers, patient lifts and slings;
 - (C) Toilet, bath and shower aids, including bed pans, urinals, and raised toilet seats, tub stools or benches, bath rails, and sitz bath chairs;
 - (D) Communication devices for physically impaired persons, including writing and speech aids;
 - (E) Injection guns;
 - (F) Electronic nerve stimulators (non-implanted) and insulin infusion pumps (non-implanted);
 - (G) Enteral feeding pumps and bags;
 - (H) Heat lamps, heat pads, and hot water bottles;
 - (I) Billi lights;

- (J) Traction equipment, splints, and holders (non-implanted);
 - (K) Manual resuscitators;
 - (L) Physical and occupational therapy equipment, including hand exercise equipment putty, leg weights, bone fracture therapy devices (but not implanted fixators), muscle and nerve stimulators (non-implanted), paraffin baths, and hydrocollators;
 - (M) Eating and drinking aids, including specialized utensils;
 - (O) Stethoscopes;
 - (P) Hospital beds, but only if the bed is specially designed for the treatment of an existing illness or injury (e.g., adjustment mechanisms to adjust head and leg height and angle), marketed primarily for medical use, and constructed with medically necessary or appropriate design components that represent a significant portion of the cost of the bed (e.g., an inexpensive alert light does not convert a conventional bed into an exempt hospital bed). Bed mattresses are not "durable medical equipment" unless they meet the requirements of this paragraph (1)(h)(i) (P) and section 39-26-717(1)(a), C.R.S.
- (ii) In general, equipment used primarily for preventative care, such as elder care or bariatric care, is not exempt durable medical equipment because the equipment is primarily and customarily used in the absence of an existing illness or injury. Equipment not specifically designed for the treatment of an existing illness or injury does not qualify for the durable medical equipment exemption even though the practitioner may believe that the equipment is useful or beneficial to the patient.
- (i) "Mobility enhancing equipment":
- (i) includes accessories related to equipment listed in section 39-26-717(1)(b)(II), C.R.S., such as ramps, motorized mechanical lifts, and carrying racks whose primary and customary purpose is to load or carry an exempt scooter in or on a motor vehicle;
 - (ii) includes stairglides, lifts in home, and patient transport devices; and
 - (iii) does not include items that are not primarily and customarily used to enhance mobility, such as shoe insoles, arch pads, dancer pads, knee braces, and ankle braces.
- (j) "Equipment and related accessories for inhalation therapy" include room humidifiers, vaporizers, aspirators, aerosol compressors (stationary and portable), ultrasonic nebulizers, volume ventilators, respirators and related device supplies, percussors, vibrators, intermittent positive pressure breathing, circuits, devices and supplies, air oxygen mixers, oxygen concentrators, apnea monitors, ventilator vaporizers, and tubing.
- (2) **Dispensed Pursuant to a Prescription Order.** The exemptions authorized by section 39-26-717(2)(~~f~~), (g), (h), (i), and (j), C.R.S., apply only to items named therein that are dispensed pursuant to a prescription order and are therefore limited to purchases and leases of such items by a patient.

- (a) A hospital or other medical service provider's purchases are not exempt under section 39-26-717(2)(f), (g), (h), (i), or (j), C.R.S., because the hospital or provider's purchase is not made pursuant to a prescription order.
- (b) The exemptions authorized by section 39-26-717(2)(f), (g), (h), (i), and (j), C.R.S., do not apply to any items named when used for animals because the term "person" used in the definition of "prescription order" in section 39-26-717(1)(e)(II), C.R.S., does not include animals.

COLORADO DEPARTMENT OF REVENUE STATEMENT OF BASIS AND PURPOSE

Medical Material, Equipment, and Drugs

Rule 39-26-717

1 CCR 201-4

Basis

The statutory bases for this rule are sections 39-21-112(1) and 39-26-717, C.R.S.

Purpose

The purpose of this rule is to remove the requirement that a “prosthetic device” be dispensed pursuant to a prescription order.

Notice of Proposed Rulemaking

Tracking number

2021-00690

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-7

Rule title

CIGARETTE TAX, TOBACCO PRODUCTS TAX, NICOTINE PRODUCTS TAX

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this rule is to provide clarification on the definition of the term manufacturers list price.

Statutory authority

39-21-112(1), 39-28.6-102, and 39-28.6-103, C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

CIGARETTE TAX, TOBACCO ESCROW FUNDS – MASTER SETTLEMENT AGREEMENT, TOBACCO PRODUCTS TAX, [NICOTINE PRODUCTS TAX](#)

1 CCR 201-7

[Rule 39-28.6-102. Manufacturer's List Price.](#)

Basis and Purpose. [The statutory bases for this rule are sections 39-21-112, 39-28.6-102\(7\), and 39-28.6-103, C.R.S. The purpose of this rule is to provide clarification on the definition of manufacturer's list price.](#)

- [\(1\) As used in the definition of "manufacturer's list price" in section 39-28.6-102\(5\), C.R.S., the term "invoice price" includes all consideration the manufacturer or supplier receives from the distributor in whatever form and regardless of the time of receipt. The term "invoice price" also includes any and all charges reflected on an invoice from the manufacturer or supplier to the distributor, whether separately stated or not, including, but not limited to, any federal excise tax and any charge for shipping, transportation, and storage.](#)
 - [\(a\) The "invoice price" for a nicotine product does not include any separately stated charges for non-nicotine products listed on the same invoice. "Non-nicotine products" are any tangible personal property that is not a nicotine product as defined in section 39-28.6-102\(7\), C.R.S.](#)
 - [\(b\) If services provided in connection with the purchase of both nicotine products and non-nicotine products are aggregated on an invoice, the "invoice price" may exclude the portion of any aggregated charges that are properly allocable to non-nicotine products. The portion of any aggregated service charges that are properly allocable to non-nicotine products shall be determined by multiplying such charges by a fraction, the numerator of which is the sum total of all non-nicotine products on the invoice and the denominator of which is the sum total of all nicotine and non-nicotine products on the invoice, excluding from both the numerator and denominator any discounts or other price reductions allowed by the manufacturer or supplier.](#)
- [\(2\) For the purpose of calculating the tax due, the manufacturer's list price is determined without regard to any discounts or other price reductions allowed by the manufacturer or supplier.](#)

**COLORADO DEPARTMENT OF REVENUE
OFFICE OF TAX POLICY**

STATEMENT OF BASIS AND PURPOSE

**Manufacturer's List Price
Rule 39-28.6-102
1 CCR 201-7**

Basis

The statutory bases for this rule are sections 39-21-112(1), 39-28.6-102, and 39-28.6-103, C.R.S.

Purpose

The purpose of this rule is to provide clarification on the definition of the term "manufacturer's list price."

Notice of Proposed Rulemaking

Tracking number

2021-00691

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-7

Rule title

CIGARETTE TAX, TOBACCO PRODUCTS TAX, NICOTINE PRODUCTS TAX

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this rule is to clarify the conditions under which a distributor is eligible to retain a service fee from the nicotine products tax they remit.

Statutory authority

39-21-112(1) and 39-28.6-107, C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

CIGARETTE TAX, TOBACCO ESCROW FUNDS – MASTER SETTLEMENT AGREEMENT,
TOBACCO PRODUCTS TAX, [NICOTINE PRODUCTS TAX](#)

1 CCR 201-7

[Rule 39-28.6-107. Distributor's Service Fee.](#)

[Basis and Purpose.](#) The bases for this rule are sections 39-21-112 and 39-28.6-107, C.R.S. The purpose of this rule is to clarify conditions under which a distributor is eligible to retain a service fee from the tax they remit.

- (1) **[Distributor's Service Fee.](#)** Except as provided in this paragraph (1), a distributor may, in the remittance of tax, deduct and retain a service fee in the amount prescribed by section 39-28.6-107(2), C.R.S.
- (a) [If the distributor is delinquent in remitting any portion of the tax due, other than in unusual circumstances shown to the satisfaction of the executive director, the distributor shall not retain a service fee for any portion of the tax for which the distributor is delinquent.](#)
- (b) [If a distributor has retained a service fee pursuant to paragraph \(1\) of this rule and, after the applicable due date, owes additional tax for a filing period as the result of an amended return or an adjustment made by the Department, the distributor shall not be permitted to deduct and retain a service fee with respect to the additional tax, but the distributor may retain the service fee associated with the original return, so long as the distributor filed the original return in good faith.](#)

**COLORADO DEPARTMENT OF REVENUE
OFFICE OF TAX POLICY**

STATEMENT OF BASIS AND PURPOSE

**Distributor's Service Fee
Rule 39-28.6-107
1 CCR 201-7**

Basis

The statutory bases for this rule are sections 39-21-112(1) and 39-28.6-107, C.R.S.

Purpose

The purpose of this rule is to clarify the conditions under which a distributor is eligible to retain a service fee from the nicotine products tax they remit.

Notice of Proposed Rulemaking

Tracking number

2021-00688

Department

200 - Department of Revenue

Agency

201 - Taxation Division

CCR number

1 CCR 201-13

Rule title

ENTERPRISE ZONE REGULATIONS

Rulemaking Hearing**Date**

11/30/2021

Time

10:00 AM

Location

Virtual Hearing See Comments

Subjects and issues involved

The purpose of this rule is to clarify the calculation of enterprise zone business facility employee credits.

Statutory authority

39-21-112(1), 39-30-102(1)(b) and (2), 39-30-103(7)(a), 39-30-105.1, and 39-30-108(1), C.R.S.

Contact information**Name**

Anthony Fiedler

Title

Administrative Assistant III

Telephone

303 866 5627

Email

anthony.fiedler@state.co.us

DEPARTMENT OF REVENUE

Taxation Division

ENTERPRISE ZONE REGULATIONS

1 CCR 201-13

Rule 39-30-105.1. Enterprise Zone Business Facility Employee Credits.

Basis and Purpose. The statutory bases for this rule are sections 39-21-112(1), 39-30-102(1)(b) and (2), 39-30-103(7)(a), 39-30-105.1, and 39-30-108(1), C.R.S. The purpose of this rule is to clarify the calculation of enterprise zone business facility employee credits.

- (1) **Business Facilities.** The term “business facility” as defined in section 39-30-105.1(6)(b) and (e), C.R.S., does not include any temporary structures or mobile units, except where such temporary structures or mobile units are used in association with one or more permanent structures defined as a “business facility” by section 39-30-105.1(6)(b) and (e), C.R.S.
- (2) **Calculation of Total Business Facility Employees for the Tax Year.** The provisions of this paragraph (2) apply to the calculation of business facility employees pursuant to section 39-30-105.1(5), C.R.S.
- (a) Except as provided in paragraph (2)(b) of this rule, the number of business facility employees for any taxable year is determined by dividing by twelve the sum of the number of business facility employees employed by the taxpayer at the business facility on the last business day of each month of the taxable year.
- (b) If the business facility is in operation for less than the entire taxable year, the number of business facility employees is determined by dividing the sum of the number of business facility employees employed by the taxpayer at the business facility on the last business day of each full calendar month of the taxable year during which the business facility was in operation by the number of such full calendar months of operation. If the business facility's period of operation commences or ceases during a calendar month, and the business facility is therefore not in operation for the full calendar month, such partial month of operation is not considered in the calculation of business facility employees.
- (i) A business facility is “in operation for less than the entire taxable year” only if all business activities conducted at the facility cease temporarily for a period of not less than one full calendar month during the taxable year. Business activities are not deemed to have ceased at a facility in any month during which any employee performs work at or in the facility or during which the generation of any gross revenue can be attributed to the facility.
- (c) In the case of a taxable year that is less than twelve months, the number of business facility employees is determined pursuant to paragraph (2)(a) of this rule, unless the business facility is operation for less than the entire taxable year as determined pursuant to paragraph (2)(b) of this rule.
- (d) *Pre-certification.*

- (i) Calculating Employees for the Tax Year. For the purpose of section 39-30-105.1(5), C.R.S., and this rule, if a taxpayer does not pre-certify pursuant to section 39-30-103(7)(a), C.R.S. prior to the commencement of the tax year, the number of employees for any month that commences prior to pre-certification during such tax year shall be deemed not to exceed the highest number of business facility employees calculated for any prior tax year pursuant to section 39-30-105.1(5)(a), C.R.S.
- (ii) Calculating Employees for Prior Years. In calculating the number of business facility employees for any prior year, in order to determine the increase in employees in the current tax year, the number of business facility employees employed by the taxpayer at the business facility on the last business day of each month of the prior year(s) shall be included in the calculation, regardless of whether the taxpayer pre-certified pursuant to section 39-30-103(7)(a), C.R.S. prior to or during such prior year(s).
- (e) For the purpose of applying the provisions of section 39-30-105.1(5)(b), C.R.S., “replacement business facility” means a business facility at which the taxpayer (or a related taxpayer) operates a revenue-producing enterprise substantially similar to a revenue-producing enterprise that was operated by the taxpayer (or a related taxpayer) at another business facility in this state that discontinued operating on or before the close of the first taxable year in which commercial operations commenced at the new business facility.
- (f) If any or all of a business facility employee’s duties are not in connection with the operation of the business facility or are performed outside of the enterprise zone, the employee is included in the calculation of business facility employees pursuant to section 39-30-105.1(5), C.R.S., only to the extent of the employee’s duties performed both in connection with the operation of the business facility and within the enterprise zone. However, in accordance with section 39-30-105.1(6)(c)(II), C.R.S., an employee is fully included in the calculation of business facility employees pursuant to section 39-30-105.1(5), C.R.S., if the employee customarily performs duties within the zone and in connection with the operation of the business facility for at least twenty hours per week throughout the taxable year, regardless of whether the employee also performs duties unconnected with the business facility or outside the enterprise zone. Except as provided in paragraph (2)(g) of this rule, an employee’s duties are performed in connection with the operation of a business facility only if and to the extent that such duties:
 - (i) are performed in or at the business facility, including the land on which the facility is located; and
 - (ii) contribute materially to the operation of a revenue-producing enterprise conducted in or at the business facility.
- (g) For the purpose of section 39-30-105.1, C.R.S., and paragraph (2)(f) of this rule, an employee whose primary duties consist of operating a commercial motor vehicle with a commercial driver’s license:
 - (i) shall be deemed to be working one hundred percent within the zone if the employee spends no more than five percent of his or her total time at any business of the employer other than the business within the zone; and
 - (ii) performs duties in connection with the operation of a business facility only if and to the extent that such duties contribute materially to the operation of a revenue-producing enterprise conducted in or at the business facility, regardless of whether those duties are performed in or at the business facility.

(3) **Calculation of New or Additional Business Facility Employees.**

- (a) First Tax Year of Operation. In determining the credit for the business facility's first year of operation, the number of business facility employees is calculated pursuant to section 39-30-105.1(5)(a), C.R.S., and paragraph (2) of this rule.
- (b) Subsequent Tax Years. In determining the credit for each tax year subsequent to the business facility's first year of operation, the credit is allowed for each additional business facility employee calculated pursuant to section 39-30-105.1(5)(a), C.R.S., and paragraph (2) of this rule over the highest number of business facility employees calculated for any prior tax year pursuant to section 39-30-105.1(5)(a), C.R.S., and paragraph (2) of this rule.
 - (i) The credit allowable for any tax year subsequent to the business facility's first year of operation is determined pursuant to section 39-30-105.1(1)(a)(III), C.R.S., and this paragraph (3)(b), regardless of whether the taxpayer claimed any credit for the first year of operation.
 - (ii) A taxpayer who acquires a business facility that was operated by another party prior to the acquisition and continues operating the business facility in a substantially similar revenue-producing enterprise is allowed a credit for only the number of additional business facility employees, calculated pursuant to section 39-30-105.1(1)(a)(III), C.R.S., and this paragraph (3)(b), in excess of the highest total number of business facility employees employed at the facility in any prior tax year.
 - (A) It is presumed that an acquired business facility was operated in a revenue-producing enterprise prior to the acquisition unless the revenue-producing enterprise under the prior operator substantially ceased at least six months prior to such acquisition or, in the case of seasonal cessation, the cessation was for at least twelve months prior to such acquisition.
 - (B) The taxpayer acquiring the business facility must obtain from the prior operator such employee records as are necessary to determine the highest average number of employees of prior tax years.
 - (C) The calculation provided in this paragraph (3)(b)(ii) applies regardless of whether the prior operator claimed any credit under section 39-30-105.1, C.R.S.

(4) **Rules for Specific Additional Credits.**

- (a) Credits for Business Facilities in Enhanced Rural Enterprise Zones and Business Facilities That Add Value to Agricultural Commodities Through Manufacturing or Processing.
 - (i) The additional credits authorized by section 39-30-105.1(1)(a)(II), (3)(a), and (3)(b), C.R.S., are allowed only with respect to employees for which the taxpayer claims credit for the same tax year pursuant to section 39-30-105.1(1)(a)(I) or (III), C.R.S.
 - (ii) For the purpose of section 39-30-105.1(3), C.R.S., a business "adds value through manufacturing or processing to agricultural commodities" if it engages directly in an activity that substantially transforms an agricultural commodity into

a form other than that which enters the normal agricultural commodity marketing channels. Harvesting, cleaning, packaging, storing, transporting, wholesaling, retailing, or otherwise distributing commodities without substantially changing the form of the commodity do not qualify.

(b) Credit for Employee Health Insurance.

- (i) For each of the first two full tax years that a taxpayer operates a business facility in an enterprise zone, the taxpayer is allowed an additional credit for each business facility employee, calculated in accordance with paragraph (2) of this rule, for whom the taxpayer provides insurance under a health insurance plan or program that satisfies the requirements prescribed under section 39-30-105.1(1)(b), C.R.S. The credit is not allowed for any tax year subsequent to the first two full tax years that a taxpayer operates a business facility in an enterprise zone, regardless of whether the taxpayer qualified for or claimed any credit for the first two full tax years.
- (ii) For the purpose of section 39-30-105.1(1)(b), C.R.S., and this paragraph (4)(b), a "full tax year" is a tax year comprised of twelve months and does not include a short period as defined in section 443 of the Internal Revenue Code.

COLORADO DEPARTMENT OF REVENUE

STATEMENT OF BASIS AND PURPOSE

Enterprise Zone Business Facility Employee Credits

39-30-105.1

1 CCR 201-13

Basis

The statutory bases for this rule are sections 39-21-112(1), 39-30-102(1)(b) and (2), 39-30-103(7)(a), 39-30-105.1, and 39-30-108(1), C.R.S.

Purpose

The purpose of this rule is to clarify the calculation of enterprise zone business facility employee credits. The rule clarifies:

- the method of calculating business facility employees for the purpose of calculating the credit;
- the meaning of the term “replacement business facility” as it is used in section 39-30-105.1(5)(b), C.R.S.;
- the calculation of the number of business facility employees with respect to employees who spend some of their time performing duties not connected with the operation of the business facility or working outside of the enterprise zone;
- that employees must work in or at the business facility, including the land on which the facility is located, to qualify for the credit;
- the calculation of the credit allowed for a business facility’s first tax year of operation and for any subsequent tax year;
- that the additional enterprise zone employee credits, for employees working at facilities engaged in manufacturing or processing agricultural commodities and/or located in rural enterprise zones, are allowed only with respect to employees for whom the general business facility employee credit is claimed;
- the kind of activities that add value through manufacturing or processing to agricultural commodities;
- the conditions under which a taxpayer may claim a credit for employee health insurance; and
- the calculation of the credit for any tax year in which the taxpayer did not submit the required pre-certification form to the enterprise zone administrator prior to the commencement of the tax year.

Notice of Proposed Rulemaking

Tracking number

2021-00711

Department

500,1008,2500 - Department of Human Services

Agency

502 - Behavioral Health

CCR number

2 CCR 502-1

Rule title

BEHAVIORAL HEALTH

Rulemaking Hearing

Date

12/03/2021

Time

08:30 AM

Location

Location Pending State's response to COVID-19. Anticipated to be held entirely online.

Subjects and issues involved

HB 21-1305 requires the State Board of Human Services to establish the training requirements for individuals pursuing an addiction counselor licensure. Prior to HB 21-1305 the State Board of Human Services only established the training requirements for individuals pursuing an addiction counselor certification. HB 21-1305 also moved the addiction counselor continuing competency program, created pursuant to Section 12-245-806, C.R.S. from the Department of Human Services to the Department of Regulatory Agencies State Board of Addiction Counselor Examiners. These rules establish the training requirements that individuals must meet in order to be eligible for an addiction counselor licensure or certification and repeals the OBH rules for the addiction counselor continuing competency program. NOTE: Due to the ongoing COVID-19 situation, it is anticipated that this meeting will take place entirely online. Please check here for any updates on location/connection: <https://cdhs.colorado.gov/sbhs>

Statutory authority

26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 12-245-804(3), C.R.S.; 27-80-108(1), C.R.S.

Contact information

Name

Ryan Templeton

Title

Policy Advisor

Telephone

303.866.7405

Email

ryan.templeton@state.co.us

Title of Proposed Rule: Addiction Counselor Training Requirements

CDHS Tracking #: 21-10-27-01

Office, Division, & Program: Rule Author: Ryan Templeton
OBH, Division of Community
Behavioral Health

Phone: 303-866-7405

E-Mail:
ryan.templeton@state.co.us

RULEMAKING PACKET

Type of Rule: (complete a and b, below)

a. ☒ Board ☐ Executive Director

b. ☒ Regular ☐ Emergency

This package is submitted to State Board Administration as: (check all that apply)

☒ AG Initial
Review

☒ Initial Board
Reading

☐ AG 2nd Review

☐ Second Board Reading
/ Adoption

This package contains the following types of rules: (check all that apply)

2 Amended Rules

0 New Rules

3 Repealed Rules

7 Reviewed Rules

What month is being requested for this rule to first go before the State Board?	December 2021
---	---------------

What date is being requested for this rule to be effective?	March 1, 2022
Is this date legislatively required?	Yes

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ **Date:** _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates:	1st Board 12/3/2021	2nd Board 1/7/2022	Effective Date 3/1/2022
---------------------	------------------------	-----------------------	----------------------------

Title of Proposed Rule: Addiction Counselor Training Requirements

CDHS Tracking #: 21-10-27-01

Office, Division, & Program: Rule Author: Ryan Templeton
OBH, Division of Community
Behavioral Health

Phone: 303-866-7405

E-Mail:
ryan.templeton@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

*Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. **1500 Char max***

Section 12-245-804(3), C.R.S. (HB 21-1305) requires the State Board of Human Services to establish the training requirements for individuals pursuing an addiction counselor licensure. Prior to HB 21-1305 the State Board of Human Services only established the training requirements for individuals pursuing an addiction counselor certification. HB 21-1305 also moved the addiction counselor continuing competency program, created pursuant to Section 12-245-806, C.R.S. from the Department of Human Services to the Department of Regulatory Agencies' State Board of Addiction Counselor Examiners. These rules establish the training requirements that individuals must meet in order to be eligible for an addiction counselor licensure or certification and repeals the OBH rules for the addiction counselor continuing competency program.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

☐
☐

to comply with state/federal law and/or

to preserve public health, safety and welfare

Justification for emergency:

n/a

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2021)	State Board to promulgate rules
26-1-109, C.R.S. (2021)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2021)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
12-245-804(3), C.R.S.	State Board shall establish by rule education requirements for licensure and certification.
27-80-108(1), C.R.S. (2021)	State Board has the power to promulgate rules, including: (e) Certification requirements necessary to be certified by the Director of the Division of Professions and Occupations, pursuant to Part 8 of Article 245 of Title 12; (e.5) On or before March 1, 2022, standards that addiction counselors must meet to participate in public programs or to provide purchased services and education requirements necessary to be licensed by the Director of the Division of Professions and Occupations, pursuant to Part 8 of Article 245 of Title 12;

Title of Proposed Rule: Addiction Counselor Training Requirements

CDHS Tracking #: 21-10-27-01

Office, Division, & Program: Rule Author: Ryan Templeton
OBH, Division of Community
Behavioral Health

Phone: 303-866-7405

E-Mail:
ryan.templeton@state.co.us

Does the rule incorporate material by reference?

☐

Yes

☒

No

Does this rule repeat language found in statute?

☐

Yes

☒

No

If yes, please explain.

n/a

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Individuals pursuing addiction counselor licensure or certification will bear the burden of these regulatory requirements as they will be required to meet the training requirements established in these rules.

Individuals in need of or receiving behavioral health treatment services should benefit from these rules, as training of addiction counselors is being standardized.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

As of October 20, 2021, the Colorado Certification Education Requirements Tracking System shows 5,323 individuals are currently enrolled in addiction counselor training classes provided by OBH-approved trainers. Individuals pursuing addiction counselor certification and licensure will have standardized training to complete in addiction competencies. In the short term, individuals have opportunities to receive financial assistance to complete the addiction trainings at the CAT, CAS, and LAC levels (refer to SB197). Long term impacts include the increase in the number of certified and licensed addiction counselors to advance the addiction workforce with the expanded opportunities for financial compensation.

3. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just "no impact" answer should include "no impact because...."***

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

State fiscal impact is expected to be minimal because the Office of Behavioral Health has been responsible for the training requirements for addiction counselor certification. Adding addiction counselor licensure training requirements is absorbable due to the credentialing program already being established.

County Fiscal Impact

County fiscal impact is not expected because the Office of Behavioral Health's role in the licensing or certification of addiction counselors affect individuals on county programs.

Federal Fiscal Impact

Title of Proposed Rule: Addiction Counselor Training Requirements

CDHS Tracking #: 21-10-27-01

Office, Division, & Program: Rule Author: Ryan Templeton
OBH, Division of Community
Behavioral Health

Phone: 303-866-7405

E-Mail:
ryan.templeton@state.co.us

Federal fiscal impact is not expected because the Office of Behavioral Health's role in the licensing or certification of addiction counselors is specific to Colorado.

Other Fiscal Impact (such as providers, local governments, etc.)

Updates will impact individuals pursuing a credential as an addiction counselor, as these rules establish which training an individual is required to complete prior to pursuing the credential from the Department of Regulatory Agencies. This rule should not change to current fiscal impact on individuals pursuing certification as an addiction technician or specialist (CAT or CAS), as OBH currently requires specific trainings for those credentialing categories. Individuals pursuing an addiction counselor licensure (LAC) can expect the cost of the seven required training to be approximately \$1395.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

The Office of Behavioral Health utilized HB 21-1305 and the Department of Regulatory Agencies staff and State Board of Addiction Counselor Examiners in the development of these rules. This rule update aligns directly with the statutory requirements changed by HB 21-1305.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. Answer should NEVER be just "no alternative" answer should include "no alternative because..."

No alternatives to rule-making were considered because statute requires OBH to promulgate rules implementing this program.

Title of Proposed Rule:	Addiction Counselor Training Requirements	
CDHS Tracking #:	21-10-27-01	
Office, Division, & Program:	Rule Author: Ryan Templeton	Phone: 303-866-7405
OBH, Division of Community Behavioral Health		E-Mail: ryan.templeton@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
21.330.1	Statutory references are no longer accurate.	<p>A. Authority to establish the educational requirements necessary for an individual to pursue certification as an addiction counselor pursuant to Part 8 of Article 245 of Title 12, C.R.S. is provided by Sections 12-245-804(3), C.R.S. and 27-80-108(1)(e), C.R.S.</p> <p>B. Authority to establish requirements for clinical supervision is provided by Section 12-245-805(1), C.R.S.</p> <p>C. Authority to establish requirements for addiction counseling continuing professional competency is provided by Section 12-245-806(1)(b), C.R.S.</p> <p>D. Levels of addiction counselor certification and licensure</p> <ol style="list-style-type: none"> 1. Individuals pursuing certification as an addiction technician (CAT) or an addiction specialist (CAS) shall be in compliance with all applicable state statutes and CDHS regulations. 2. Pursuant to Section 12-245-804(1)(e), C.R.S. an applicant pursuing licensure as an addiction counselor or registration as an addiction counselor candidate, pursuant to 12-245-804(3.7), C.R.S. shall meet the requirements for a certification as an addiction specialist established in section 21.330.31.B. <p>E. The Department of Regulatory Agencies' State Board of Addiction Counselor Examiners created pursuant to Section 12-245-802, C.R.S. is the entity responsible for issuing a license as an addiction counselor (LAC), a certification as an addiction specialist (CAS) or a certification as an addiction technician (CAT) granted an applicant meets all applicable statutory and regulatory requirements, including the regulatory standards established in section 21.330.</p>	<p>A. Authority to establish the educational requirements necessary for an individual to pursue licensure or certification as an addiction counselor pursuant to Part 8 of Article 245 of Title 12, C.R.S. is provided by Sections 12-245-804(3), C.R.S. and 27-80-108(1)(e), C.R.S.</p> <p>B. The Department of Regulatory Agencies' State Board of Addiction Counselor Examiners created pursuant to Section 12-245-802, C.R.S. is the entity responsible for issuing a license as an addiction counselor (LAC), a certification as an addiction specialist (CAS) or a certification as an addiction technician (CAT) granted an applicant meets all applicable statutory and regulatory requirements, including the regulatory standards established in section 21.330.</p>	Removed inaccurate statutory references.	No
21.330.2	No changes, included for	n/a	n/a	No changes, included for referencing	No

Title of Proposed Rule:	Addiction Counselor Training Requirements	
CDHS Tracking #:	21-10-27-01	
Office, Division, & Program:	Rule Author: Ryan Templeton	Phone: 303-866-7405
OBH, Division of Community Behavioral Health		E-Mail: ryan.templeton@state.co.us

	referencing				
21.330.31	Training requirements do not address what is required pursuant to statute.	<p>A. An individual must complete the following course work and trainings to be eligible for credentialing as a CAT:</p> <ol style="list-style-type: none"> 1. Addiction counseling; 2. Client records management; 3. Principles of addiction; 4. Professional ethics; 5. Culturally informed treatment; 6. Pharmacology; 7. Motivational interviewing; 8. Trauma-informed care; and 9. Group counseling skills. <p>B. In addition to the course work and trainings established in 21.330.31.A., an individual must complete the following course work and trainings to be eligible for credentialing as a CAS:</p> <ol style="list-style-type: none"> 1. Clinical assessment and treatment planning; 2. Cognitive behavioral therapy; 3. Co-occurring disorders; 4. Advanced pharmacology; 5. Advanced professional ethics; 6. Advanced motivational interviewing; 7. Advanced models; 8. Specialized addiction treatment; 9. Infectious diseases; 10. Clinical supervision I; and 11. Clinical supervision II. 	<p>A. In addition to the statutory requirement listed in Section 12-245-804(3.5)(a), C.R.S., an individual must complete nine (9) individual courses or trainings to be eligible for certification as an addiction technician (CAT). CAT courses or trainings shall address:</p> <ol style="list-style-type: none"> 1. General counseling theories; 2. Treatment methods; and, 3. Addiction counselor competencies. <p>B. In addition to the statutory requirement listed in Section 12-245-804(3.5)(b), C.R.S., an individual must complete twenty (20) individual courses or trainings, which includes the nine (9) CAT trainings required pursuant to 21.330.31(A), to be eligible for certification as an addiction specialist (CAS). CAS courses or trainings shall address:</p> <ol style="list-style-type: none"> 1. General counseling theories; 2. Treatment methods; 3. Infectious diseases and substance use/misuse; 4. Addiction counselor competencies; and, 5. Clinical supervision. <p>C. In addition to the statutory requirement listed in Section 12-245-804(1), C.R.S., an individual must complete seven (7) individual courses or trainings to be eligible for licensure as an addiction counselor (LAC). LAC courses or trainings shall address:</p> <ol style="list-style-type: none"> 1. General counseling theories; 2. Treatment methods; 3. Infectious diseases and substance use/misuse; 4. Addiction counselor professional ethics; and, 5. Clinical supervision. 	Establishes licensure training requirements, and aligns certification requirements across all three levels of credentials.	No

Title of Proposed Rule:	Addiction Counselor Training Requirements	
CDHS Tracking #:	21-10-27-01	
Office, Division, & Program:	Rule Author: Ryan Templeton	Phone: 303-866-7405
OBH, Division of Community Behavioral Health		E-Mail: ryan.templeton@state.co.us

21.330.32	No changes, included for referencing	n/a	n/a	No changes, included for referencing	No
21.331	Strike title because OBH is no longer the state agency responsible for this program.	ADDICTION COUNSELING CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS	None	Removed title because OBH is no longer the state agency responsible for this program.	No
21.331.1	Strike section because OBH is no longer the state agency responsible for this program.	A. Pursuant to Section 12-245-806, C.R.S., licensed addiction counselors, certified addiction specialists and certified addiction technicians shall demonstrate continuing professional competence through participation and compliance with the continuing professional development program set forth in 21.331.3. B. Pursuant to Section 12-245-806(2), C.R.S., the Department Of Regulatory Agencies' State Board of Addiction Counselor Examiners created pursuant to Section 12-245-802, C.R.S., shall use the addiction counseling continuing professional competency program to determine whether a licensed or certified addiction counselor is maintaining continuing professional competency to engage in the profession of addiction counseling.	None	Removed section because OBH is no longer the state agency responsible for this program.	No
21.331.2	Strike section, as OBH is no longer the state agency responsible for this program.	"Addiction professional" means a licensed addiction counselor (LAC), a certified addiction specialist (CAS) or a certified addiction technician (CAT).	None	Removed section because OBH is no longer the state agency responsible for this program.	No
21.331.3	Strike section because OBH is no longer the state agency responsible for this program.	A. During the two (2) years between the start date of the current credential and the upcoming expiration date, an addiction professional shall complete a self-assessment of the knowledge and skills of a licensed or certified addiction counselor. The self-assessment shall address, but not be limited to, the following transdisciplinary foundations that underlie the work of all addiction counselors established in Section 12-245-803(2), C.R.S.: 1. Understanding addiction; 2. Treatment knowledge; 3. Application to practice; and	None	Removed section because OBH is no longer the state agency responsible for this program.	No

Title of Proposed Rule: Addiction Counselor Training Requirements	
CDHS Tracking #: 21-10-27-01	
Office, Division, & Program:	Rule Author: Ryan Templeton
OBH, Division of Community Behavioral Health	Phone: 303-866-7405
	E-Mail: ryan.templeton@state.co.us

	<p>4. Professional readiness.</p> <p>B. Based on the self-assessment completed pursuant to 21.331.3(A), an addiction professional shall develop, execute, and document a learning plan that addresses how the addiction counselor will learn, integrate, and apply the knowledge, skill, and judgment to practice as an addiction counselor according to generally accepted industry standards and professional ethical standards.</p> <p>C. An addiction professional shall demonstrate the completion of learning plan goals through documentation of activities in the area of understanding addiction, treatment knowledge, application to practice, and professional readiness necessary to ensure at least minimal ability to safely practice the profession.</p> <p>1. A certified addiction technician (CAT) is required to complete a total of twenty (20) contact hours of education/training activities (online or in-person) within the two (2) years between the start date of the current credential and the upcoming expiration date.</p> <p>2. A licensed addiction counselor (LAC) or certified addiction specialist (CAS) is required to complete a total of forty (40) contact hours of education/training activities (online or in-person) within the two (2) years between the start date of the current credential and the upcoming expiration date.</p> <p>D. An addiction professional is responsible for maintaining proof of the self-assessment, learning plan, and supporting documents demonstrating the completion of continuing professional competency education/training activity hours within the two (2) years between the start date of the current credential and the upcoming expiration date.</p>			
--	--	--	--	--

STAKEHOLDER COMMENT SUMMARY

Development

Title of Proposed Rule:	Addiction Counselor Training Requirements	
CDHS Tracking #:	21-10-27-01	
Office, Division, & Program:	Rule Author: Ryan Templeton	Phone: 303-866-7405
OBH, Division of Community Behavioral Health		E-Mail: ryan.templeton@state.co.us

Individuals involved in the creation of the rule proposal included the Office of Behavioral Health's Addiction Counselor Clinical Training Program and Workforce Development Manager, Mary McMahon. The Department of Regulatory Agencies staff and members of DORA's State Board of Addiction Counselor Examiners also participated in the rule development and the Colorado Association of Addiction Professional also contributed in the development of these proposed rules.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

The proposed rule draft, along with a feedback survey, was posted on the Colorado Department of Human Services website. The Office of Behavioral Health informed behavioral health stakeholders through direct contact and through the OBH monthly newsletter that the rule draft was available for review and feedback. Stakeholders who receive the monthly newsletter include: Colorado Behavioral Healthcare Council; Colorado Hospital Association; Mental Health Colorado; Behavioral Health Planning and Advisory Council; Department of Public Health and Environment; Department of Regulatory Agencies; Department of Health Care Policy and Financing; Department of Public Safety; substance use disorder providers; community mental health centers; community mental health clinics; hospitals; patient advocacy agencies; individuals and families with lived experience; and law enforcement.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

☒ Yes ☐ No

If yes, who was contacted and what was their input?

Department of Regulatory Agencies staff Reina Sbarbaro-Gordan and Ronne Hines, State Board of Addiction Counselors Alan Cook.

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

☐ Yes ☒ No

Name of Sub-PAC	Not applicable		
Date presented	Not applicable		
What issues were raised?	Not applicable		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	n/a	n/a	n/a

Title of Proposed Rule:	Addiction Counselor Training Requirements	
CDHS Tracking #:	21-10-27-01	
Office, Division, & Program:	Rule Author: Ryan Templeton	Phone: 303-866-7405
OBH, Division of Community Behavioral Health		E-Mail: ryan.templeton@state.co.us

If not presented, explain why. There is not a Behavioral Health Sub-PAC

PAC

Have these rules been approved by PAC?

☐ Yes ☒ No

Date presented	Not applicable		
What issues were raised?	Not applicable		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	n/a	n/a	n/a
If not presented, explain why.	Pursuant to PAC Bylaws, Office of Behavioral Health rules are not required to go through PAC.		

Other Comments

Comments were received from stakeholders on the proposed rules:

☐ Yes ☒ No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

The rule updates will be posted for an opportunity for stakeholder review and feedback.

(2 CCR 502-1)

21.330 ADDICTION COUNSELOR CERTIFICATION AND LICENSURE

21.330.1 STATUTORY AUTHORITY AND APPLICABILITY

- A. Authority to establish the educational requirements necessary for an individual to pursue LICENSURE OR certification as an addiction counselor pursuant to Part 8 of Article 245 of Title 12, C.R.S. is provided by Sections 12-245-804(3), C.R.S. and 27-80-108(1)(e), C.R.S.
- ~~B. Authority to establish requirements for clinical supervision is provided by Section 12-245-805(1), C.R.S.~~
- ~~C. Authority to establish requirements for addiction counseling continuing professional competency is provided by Section 12-245-806(1)(b), C.R.S.~~
- ~~D. Levels of addiction counselor certification and licensure~~
- ~~1. Individuals pursuing certification as an addiction technician (CAT) or an addiction specialist (CAS) shall be in compliance with all applicable state statutes and CDHS regulations.~~
 - ~~2. Pursuant to Section 12-245-804(1)(e), C.R.S. an applicant pursuing licensure as an addiction counselor or registration as an addiction counselor candidate, pursuant to 12-245-804(3.7), C.R.S. shall meet the requirements for a certification as an addiction specialist established in section 21.330.31.B.~~
- B-E. The Department of Regulatory Agencies' State Board of Addiction Counselor Examiners created pursuant to Section 12-245-802, C.R.S. is the entity responsible for issuing a license as an addiction counselor (LAC), a certification as an addiction specialist (CAS) or a certification as an addiction technician (CAT) granted an applicant meets all applicable statutory and regulatory requirements, including the regulatory standards established in section 21.330.

21.330.2 DEFINITIONS

"CAS" for the purpose of this section means a Certified Addiction Specialist.

"CAT" for the purpose of this section means a Certified Addiction Technician.

"DORA" means the Department of Regulatory Agencies.

"LAC" means a Licensed Addiction Counselor.

21.330.3 COURSE WORK AND TRAINING REQUIREMENTS FOR INDIVIDUALS PURSUING AN ADDICTION COUNSELOR CREDENTIAL

21.330.31 Addiction Counseling Course Work and Training

- A. IN ADDITION TO THE STATUTORY REQUIREMENT LISTED IN SECTION 12-245-804(3.5)(a), C.R.S., AN INDIVIDUAL MUST COMPLETE NINE (9) INDIVIDUAL COURSES OR TRAININGS TO BE ELIGIBLE FOR CERTIFICATION AS AN ADDICTION TECHNICIAN (CAT). CAT COURSES OR TRAININGS SHALL ADDRESS:

1. GENERAL COUNSELING THEORIES;
2. TREATMENT METHODS; AND,
3. ADDICTION COUNSELOR COMPETENCIES.

~~An individual must complete the following course work and trainings to be eligible for credentialing as a CAT:~~

- ~~1.——Addiction counseling;~~
- ~~2.——Client records management;~~
- ~~3.——Principles of addiction;~~
- ~~4.——Professional ethics;~~
- ~~5.——Culturally informed treatment;~~
- ~~6.——Pharmacology;~~
- ~~7.——Motivational interviewing;~~
- ~~8.——Trauma-informed care; and~~
- ~~9.——Group counseling skills.~~

- B. IN ADDITION TO THE STATUTORY REQUIREMENT LISTED IN SECTION 12-245-804(3.5)(b), C.R.S., AN INDIVIDUAL MUST COMPLETE TWENTY (20) INDIVIDUAL COURSES OR TRAININGS, WHICH INCLUDES THE NINE (9) CAT TRAININGS REQUIRED PURSUANT TO 21.330.31(A), TO BE ELIGIBLE FOR CERTIFICATION AS AN ADDICTION SPECIALIST (CAS). CAS COURSES OR TRAININGS SHALL ADDRESS:

1. GENERAL COUNSELING THEORIES;
2. TREATMENT METHODS;
3. INFECTIOUS DISEASES AND SUBSTANCE USE/MISUSE;
4. ADDICTION COUNSELOR COMPETENCIES; AND,
5. CLINICAL SUPERVISION.

~~In addition to the course work and trainings established in 21.330.31.A., an individual must complete the following course work and trainings to be eligible for credentialing as a CAS:~~

- 1.——Clinical assessment and treatment planning;
- 2.——Cognitive behavioral therapy;
- 3.——Co-occurring disorders;
- 4.——Advanced pharmacology;
- 5.——Advanced professional ethics;
- 6.——Advanced motivational interviewing;
- 7.——Advanced models;
- 8.——Specialized addiction treatment;
- 9.——Infectious diseases;
- 10.——Clinical supervision I; and
- 11.——Clinical supervision II.

C. IN ADDITION TO THE STATUTORY REQUIREMENT LISTED IN SECTION 12-245-804(1), C.R.S., AN INDIVIDUAL MUST COMPLETE SEVEN (7) INDIVIDUAL COURSES OR TRAININGS TO BE ELIGIBLE FOR LICENSURE AS AN ADDICTION COUNSELOR (LAC). LAC COURSES OR TRAININGS SHALL ADDRESSING:

1. GENERAL COUNSELING THEORIES;
2. TREATMENT METHODS;
3. INFECTIOUS DISEASES AND SUBSTANCE USE/MISUSE;
4. ADDICTION COUNSELOR PROFESSIONAL ETHICS; AND,
5. CLINICAL SUPERVISION.

21.330.32 Completion of Addiction Counseling Course Work and Training

- A. Addiction counseling course work and training shall be completed through an addiction counselor clinical training program approved by the Department pursuant to 27-80-111, C.R.S.
- B. Course work and training competency may also be obtained through academic educational equivalency.
1. An individual pursuing academic educational equivalency must demonstrate proficiency in each of the addiction counseling course work and trainings established in Section 21.330.31.
 2. Academic educational equivalency may be accomplished by successful completion of equivalent department required course work and trainings, obtained from accredited institutions of higher education.

3. Courses in the behavioral health sciences obtained from accredited institutions of higher education equivalent to the department required training shall be demonstrated through official transcripts and syllabi and/or course descriptions.

**~~21.330.4 — REQUIREMENTS FOR CLINICAL SUPERVISION PROVIDED BY A
CERTIFIED ADDICTION SPECIALIST (CAS) AND LICENSED ADDICTION
COUNSELOR (LAC)~~**

~~An individual pursuing a credential as a certified addiction technician (CAT) or a certified addiction specialist (CAS) may receive clinically supervised addiction work experience hours and consultation from an appropriately trained certified addiction specialist (CAS) or licensed addiction counselor (LAC). Exceptions to who can provide clinical supervision for an individual pursuing a credential as a CAT or CAS may be reviewed by DORA'S State Board of Addiction Counselor Examiners, created pursuant to 12-245-802, C.R.S.~~

~~21.331 — ADDICTION COUNSELING CONTINUING PROFESSIONAL COMPETENCY~~

~~21.331.1 — STATUTORY AUTHORITY~~

- ~~A. Pursuant to Section 12-245-806, C.R.S., licensed addiction counselors, certified addiction specialists and certified addiction technicians shall demonstrate continuing professional competence through participation and compliance with the continuing professional development program set forth in 21.331.3.~~
- ~~B. Pursuant to Section 12-245-806(2), C.R.S., the Department Of Regulatory Agencies' State Board of Addiction Counselor Examiners created pursuant to Section 12-245-802, C.R.S., shall use the addiction counseling continuing professional competency program to determine whether a licensed or certified addiction counselor is maintaining continuing professional competency to engage in the profession of addiction counseling.~~

~~21.331.2 — DEFINITIONS~~

~~"Addiction professional" means a licensed addiction counselor (LAC), a certified addiction specialist (CAS) or a certified addiction technician (CAT).~~

**~~21.331.3 — ADDICTION COUNSELING CONTINUING PROFESSIONAL COMPETENCY
REQUIREMENTS~~**

- ~~A. During the two (2) years between the start date of the current credential and the upcoming expiration date, an addiction professional shall complete a self-assessment of the knowledge and skills of a licensed or certified addiction counselor. The self-assessment shall address, but not be limited to, the following transdisciplinary foundations that underlie the work of all addiction counselors established in Section 12-245-803(2), C.R.S.:~~
 - ~~1. Understanding addiction;~~
 - ~~2. Treatment knowledge;~~
 - ~~3. Application to practice; and~~

4. ~~Professional readiness.~~
- B. ~~Based on the self-assessment completed pursuant to 21.331.3(A), an addiction professional shall develop, execute, and document a learning plan that addresses how the addiction counselor will learn, integrate, and apply the knowledge, skill, and judgment to practice as an addiction counselor according to generally accepted industry standards and professional ethical standards.~~
- C. ~~An addiction professional shall demonstrate the completion of learning plan goals through documentation of activities in the area of understanding addiction, treatment knowledge, application to practice, and professional readiness necessary to ensure at least minimal ability to safely practice the profession.~~
1. ~~A certified addiction technician (CAT) is required to complete a total of twenty (20) contact hours of education/training activities (online or in-person) within the two (2) years between the start date of the current credential and the upcoming expiration date.~~
2. ~~A licensed addiction counselor (LAC) or certified addiction specialist (CAS) is required to complete a total of forty (40) contact hours of education/training activities (online or in-person) within the two (2) years between the start date of the current credential and the upcoming expiration date.~~
- D. ~~An addiction professional is responsible for maintaining proof of the self-assessment, learning plan, and supporting documents demonstrating the completion of continuing professional competency education/training activity hours within the two (2) years between the start date of the current credential and the upcoming expiration date.~~

Notice of Proposed Rulemaking

Tracking number

2021-00679

Department

700 - Department of Regulatory Agencies

Agency

708 - Civil Rights Commission

CCR number

3 CCR 708-1

Rule title

STATE OF COLORADO CIVIL RIGHTS COMMISSION RULES AND REGULATIONS

Rulemaking Hearing

Date

12/17/2021

Time

10:00 AM

Location

Teleconference: (US) +1 302-440-5415 (PIN: 382737985)

Subjects and issues involved

The purpose of the proposed amendments is to accommodate for Division staff who are available to assist with the filing of charges but who may be doing so remotely, and thus not at the Divisions offices, and to remove provisions that are inaccurate in the context of the Divisions application of Colorados anti-discrimination act.

Statutory authority

The Colorado Civil Rights Commissions specific authority to promulgate these rules is found at § 24-34-305(1)(a), C.R.S.

Contact information

Name

Aubrey Elenis

Title

Director

Telephone

303-894-2997

Email

DORA_CCRD@state.co.us

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

DEPARTMENT OF REGULATORY AGENCIES

Civil Rights Commission

STATE OF COLORADO CIVIL RIGHTS COMMISSION RULES AND REGULATIONS

3 CCR 708-1

Rule 10.4 – Charges.

(E) Filing, Review and Notice.

- (1) Charges shall be in writing and shall be signed and verified by the Charging Party or their attorney. Charges shall be filed with the Division at any of its official offices or at other offices designated by the Division to accept written charges of discrimination. Charges shall be filed by personal delivery, mail, or through the electronic case filing system, Case Connect.
- (2) Staff shall be available ~~at the Division's offices~~ to assist in the ~~drafting and~~ filing of charges and to review ~~and approve~~ charges submitted for appropriate form and content prior to filing.
- (3) Upon filing of the charge, the Division shall serve a copy of the charge and a notice by mail to the last known addresses of the parties. The notice shall acknowledge the filing of the charge and advise the parties of the time limits applicable to charge processing and of the procedural rights and obligations of parties required by the Law and these Rules.

Rule 10.5 – Mediation, Investigation, Dismissal and Conciliation.

(C) Determinations of Probable Cause and Dismissal.

(1) No Probable Cause Determinations.

If it is determined, based upon the information gathered during the investigation, that probable cause for crediting the allegations of a charge does not exist, the Director shall dismiss the charge and notify the parties of such determination in writing by mail. The notice shall advise the Charging Party of the right to appeal the no probable cause determination to the Commission and that if the Charging Party wishes to file a suit in district court, such lawsuit must be filed within ninety (90) days of the date of mailing of the determination.

a. Probable Cause Determinations.

If it is determined based upon the information gathered during the investigation that probable cause for crediting the allegations of a charge exists, the Director shall notify the parties of such determination in writing by mail and order the parties to attempt to resolve the charge through conciliation (compulsory mediation).

b. No Probable Cause Dismissal for Other Reasons.

The Director may, without deciding on the merits of the alleged acts of discrimination, dismiss a charge for the following reasons: lack of jurisdiction; voluntary withdrawal of the charge; settlement of the charge; receipt of a request for issuance of a right to sue notice; referral of the charge to the Equal Employment Opportunity Commission (EEOC), U.S. Department of Housing and Urban Development (HUD), or the Colorado State Personnel Board; failure or refusal by the Charging Party/Complainant to cooperate in the investigation; and inability of the Division to locate the Charging Party; and for any other reasonable grounds documented by the Division during the investigation that, in the discretion of the Director, warrant administrative closure of the case.

Statements of basis, specific statutory authority, and purpose, incorporated on the date of adoption

Adopted December 17, 2021; effective January 30, 2022

Statutory Authority

The amendments to these parts are adopted by the Colorado Civil Rights Commission (the "Commission") pursuant to its authority at section 24-34-305(1)(a), C.R.S., to adopt rules for the implementation of parts 3 through 7 of article 34 of title 24.

Purpose

The purpose of these revisions is to accommodate for Division staff who are available to assist with the filing of charges but who may be doing so remotely, and thus not at the Division's offices, and to remove provisions that are inaccurate in the context of the Division's application of Colorado's anti-discrimination act.

Factual and Policy Issues

As a result of the pandemic, staff of the Division began working remotely and thus offering their assistive services also remotely. The Division anticipates that some staff will continue to work in remote or hybrid-remote environments. The Commission, therefore, amends 10.4(E)(2) to accommodate that not all assistance must be provided at the Division's offices.

Additionally, in reviewing these rules, the Commission identified language that is not consistent with the Division's or Commission's application of these rules and enforcement of Colorado's anti-discrimination act.

Specifically, Division staff neither draft nor approve complaints of discrimination at the time of filing. Division staff assist complainants who seek assistance and confirm that the materials to be submitted are complete. As such, the Commission amends Rule 10.4(E)(2) to remove language that is contrary to the Division's staff's practices and authority.

Further, the Director does not dismiss any charges for any grounds not otherwise specified by Colorado's anti-discrimination act. The Commission, therefore, amends Rule 10.5(C)(1)(b) to remove language that is contrary to the Director's grounds for dismissal.

Notice of Proposed Rulemaking

Tracking number

2021-00709

Department

900 - Department of Law

Agency

901 - Peace Officer Standards and Training Board

CCR number

4 CCR 901-1

Rule title

PEACE OFFICER TRAINING PROGRAMS AND PEACE OFFICER CERTIFICATION

Rulemaking Hearing

Date

12/03/2021

Time

10:00 AM

Location

Please check POST website for details: <https://post.colorado.gov/about-post/post-board/post-board-meeting-schedule>

Subjects and issues involved

Changes to Rules 1 pursuant to change in legislation.

Statutory authority

Pursuant to sections §§ 24-31-303 (1)(g).

Contact information

Name

Victoria Edstedt

Title

Administrative Coordinator

Telephone

720-508-6718

Email

victoria.edstedt@coag.gov

Rule 1 – Definitions

*Effective ~~November 15, 2021~~ **JANUARY 30, 2022***

As used in these rules

- (a) "Academy director" means that person responsible for the administration and operation of a POST-approved academy.
- (b) "Applicant" means any person formally seeking approval by the Board.
- (c) "Appointed" means sworn in and serving as a peace officer or reserve peace officer.
- (d) "Approved" means formally accepted or authorized by the Board.
- (e) "ACT" means Arrest Control Tactics, one of the skills training programs required for the basic, refresher and reserve training academies.
- (f) "Assistant skills instructor" means an individual who has successfully completed a relevant approved skills instructor training program and who may instruct the corresponding skills training program in arrest control, law enforcement driving, or firearms under the direction and in the presence of a full skills instructor, and assist in evaluating and coaching trainees at an approved basic, refresher or reserve training academy.
- (g) "Authorized emergency vehicle" means such vehicles as further defined in § 42-1-102(6), C.R.S.
- (h) "Board" means the Colorado Peace Officer Standards and Training Board.
- (i) "Bodily injury" means physical pain, illness, or any impairment of physical or mental condition, per § 18-1-901(3)(c), C.R.S.
- (j) "Certification examination" means the written test required, per § 24-31-305(1)(a)(III), C.R.S.
- (k) "Certified peace officer" means any person who has successfully attained POST Certification, as further described in §§ 24-31-305 and 24-31-308, C.R.S.
- (l) "Course" means a formal unit of instruction relating to a particular subject.
- (m) "C.R.S." means Colorado Revised Statutes, codified laws of the State of Colorado.
- (n) "Director" means the director of the POST Board staff.

(o) “Disqualifying incident” means:

- (I) A finding of guilt following either a verdict of guilty by the court or jury, or a plea of guilty, or a plea of nolo contendere., per § 24-31-305(1.5)(a), C.R.S. Any Colorado juvenile adjudication is not a conviction.
- (II) Entering into a deferred judgment and sentencing agreement, a deferred prosecution agreement, or a pretrial diversion agreement of any disqualifying incident, whether pending or successfully completed, per §§ 24-31-305(1.5)(b) and 24-31-904(4), C.R.S.
- (III) A finding of untruthfulness pursuant to § 24-31-305(2.5), C.R.S.
- (IV) Convicted of or pleads guilty or nolo contendere to a crime involving unlawful use of physical force, per § 24-31-904, C.R.S., or a crime involving the failure to intervene in the use of unlawful force, per § 24-31-904, C.R.S. and § 18-8-802(1.5)(a) and (d), C.R.S.
- (V) Found civilly liable for the use of unlawful physical force or the failure to intervene in the use of unlawful force, per § 24-31-904, C.R.S.
- (VI) An administrative law judge, hearing officer, or internal investigation finds that a peace officer used unlawful physical force, failed to intervene, or violated section 18-1-707, C.R.S. as described in §24-31-904, C.R.S.
- (VII) A court, administrative law judge, hearing officer, or a final decision in an internal investigation finds that a peace officer intentionally failed to activate a body-worn camera or dash camera or tampered with any body-worn or dash camera with the intent to conceal unlawful or inappropriate actions or obstruct justice, as described in § 24-31-902(1)(a)(IV), C.R.S.
- (VIII) Failure to satisfactorily complete peace officer training required by the POST Board, per § 24-31-305(2.7), C.R.S.
- (IX) Making materially false or misleading statements of omissions in the application for certification.
- (X) Knowingly or intentionally providing inaccurate data for the database created per § 24-31-303(1)(r), C.R.S.

- (XI) Otherwise failing to meet the certification requirements established by the Board.
- (XII) A finding by an administrative law judge, hearing officer, or internal investigation of a law enforcement agency that a peace officer violated section 18-8-805, C.R.S. regarding the prohibited use or direction of administration of ketamine.
- (p) "Enroll" means that a person has applied to and been accepted for admission into an academy and is physically present at the academy to receive instruction.
- (q) "Enrollment date" means the first day of instruction at an approved basic, refresher or reserve training academy, and shall be synonymous with the first day of instruction as reflected on the approved academy schedule.
- (r) Fingerprint-based criminal history record check: a search of a person's fingerprints, provided on a POST applicant fingerprint card or a Colorado bureau of investigation (CBI) authorized vendor, and processed by CBI and federal bureau of investigation (FBI) for the purpose of determining a person's eligibility for certification as a peace officer in the state of Colorado.
- (S) **"FOUND CIVILLY LIABLE" AS USED IN §24-31-903, C.R.S. MEANS A FINAL JUDGMENT OF CIVIL LIABILITY IS ENTERED AGAINST A CERTIFICATE HOLDER, OR A JUDGE OR JURY MAKES A FINDING OF FACT THAT THE CERTIFICATE HOLDER IS CIVILLY LIABLE, IN A COURT OF COMPETENT JURISDICTION.**
- (s)(T) "Full skills instructor" means an individual who has successfully completed the minimum qualifications required by these Rules and who may develop, implement and evaluate a skills training program at an approved basic, refresher or reserve training academy.
- (t)(U) "Incident" means a single, distinct event as determined by the POST Director or designee.
- (u)(V) "Lead skills instructor" means a full skills instructor at a basic, refresher or reserve training academy who may be designated by the academy director to oversee or coordinate the administration of a specific skills program for a particular academy class.

(v)(W) "Lesson plan" means a document that specifically describes the material presented during a course of instruction, as further described in POST RULE 21.

(w)(X) "Moving training" means training where the academy students are involved in movement with a loaded weapon. It is recognized that during square range drills, academy students may move 1-2 steps laterally or forward/backward. The 1:1 ratio is not required for this drill. For all other drills/exercises involving movement a 1:1 ratio is required.

(x)(Y) "Operable firearm" means a firearm that is capable of discharging a bullet if loaded. This does not include firearms designed or modified to discharge marking cartridges or airsoft projectiles during academy scenario/reality-based training.

(y)(Z) "Peace officer" means any person, AS recognized in § 16-2.5-102, C.R.S.

(z)(AA) "POST certified" means any person possessing a valid, numbered certificate issued by the Board authorizing such person to serve as a peace officer or reserve peace officer.

(aa)(BB) "POST fingerprint card" means a fingerprint card provided by POST.

(bb)(CC) "POST Identification" (PID) means a number assigned and unique to each active peace officer's certification record. All inquiries and correspondence to POST should contain this number.

(cc)(DD) "Practical Exercise" means role playing, table top exercises, or other scenario/reality-based training.

(dd)(EE) "Program director" means the person responsible for the administration and operation of a POST-approved training program.

(ee)(FF) "Provisional certification" means a signed instrument issued by the POST Board that grants interim certification for qualified out-of-state peace officers seeking Colorado certification that enables the provisional applicant to obtain appointment as a peace officer in Colorado while fulfilling the requirements for basic certification.

(ff)(GG) "Recognized disciplines for arrest control training" mean those arrest control/defensive tactics systems that have been reviewed and approved by the Board, or its designee, in consultation with the Arrest Control Subject Matter Expert Committee for use in an approved law enforcement academy. Such systems may include, but are not limited to, Federal Bureau of

Investigation (FBI) system, Koga system and Pressure Point Control Tactics (PPCT) system.

~~(gg)~~**(HH)** "Records management system" is an agency-wide system that provides for the storage, retrieval, retention, archiving, and viewing of information, records, documents, or files pertaining to POST operations.

~~(hh)~~**(II)** "Refresher academy" means an approved training program that consists of a minimum of 96 hours of instruction and includes POST Board approved academics, arrest control, law enforcement driving and firearms.

~~(ii)~~**(JJ)** "Relevant approved skills instructor training program" means a basic, not advanced, instructor training program that contains a minimum of forty (40) hours of instruction with instructional content that meets or exceeds the content of the respective instructor training programs for arrest control, law enforcement driving, or firearms, and has been formally accepted or authorized by the Board.

~~(jj)~~**(KK)** "Renewal applicant" means an applicant whose Colorado peace officer certificate has expired per § 24-31-305(1.7)(b), C.R.S., and who has applied to renew his/her Colorado peace officer certificate in accordance with § 24-31-305(1.7)(c), C.R.S. and POST Rule 13.

~~(kk)~~**(LL)** "Reserve peace officer" means any person described in § 16-2.5-110, C.R.S., and who has not been convicted of a felony or convicted on or after July 1, 2001, of any misdemeanor as described in section 24-31-305 (1.5), or released or discharged from the armed forces of the United States under dishonorable conditions.

~~(H)~~**(MM)** "Serious bodily injury" means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree, per § 18-1-901(3) (p), C.R.S.

~~(mm)~~**(NN)** "Skills examination" means the approved practical test of an applicant's proficiency in arrest control, law enforcement driving, or firearms.

~~(nn)~~**(OO)** "Skills training" means the required approved arrest control, law enforcement driving, and firearms courses.

~~(oo)~~**(PP)** "State" means any State in the United States, the District of Columbia, and any territory or possession of the United States.

~~(pp)~~**(QQ)** "Subject Matter Expert" (SME) means an individual formally recognized by the chair of the Board for his or her extensive knowledge, expertise and/or experience in one of the skills areas or in academics.

~~(qq)~~**(RR)** "Successful completion" means a score of seventy (70) percent or greater, or a grade of "C" or better, or a rating of pass, if offered as pass/fail, in a POST approved academy or program. For the certification examination passing score, see Rule 15.

~~(rr)~~**(SS)** "Termination for cause" means the certificate holder was terminated from a peace officer position for intentional wrongdoing or misconduct.

~~(ss)~~**(TT)** "Test out" means a POST-scheduled skills examination where proficiency is assessed by a POST Subject Matter Experts (SMEs) in all three perishable skills (Arrest Control, Law Enforcement Driving, and Firearms) and the written POST certification exam is administered.

~~(tt)~~**(UU)** "Training academy" means a POST-approved school, agency or other entity that provides POST-approved training programs.

~~(uu)~~**(VV)** "Training program" means a POST-approved course of instruction required by statute, or Rule, or for peace officer certification and other peace officer training programs as otherwise recognized and approved by the Board.

**(WW) "UNLAWFUL USE OF FORCE" AS USED IN §24-31-903, C.R.S.
MEANS THE USE OF PHYSICAL FORCE THAT VIOLATES TITLE
18, C.R.S.**

Notice of Proposed Rulemaking

Tracking number

2021-00702

Department

1000 - Department of Public Health and Environment

Agency

1006 - Center for Health and Environmental Data (1006, 1009 Series)

CCR number

5 CCR 1006-2

Rule title

MEDICAL USE OF MARIJUANA

Rulemaking Hearing**Date**

12/15/2021

Time

10:00 AM

Location

Via Zoom: https://us02web.zoom.us/meeting/register/tZYude2prjMsHtL_tElo1zx9GKfad_VOqhUe

Subjects and issues involved

The Department is requesting a \$4.50 fee increase to Medical Marijuana Registry application processing fee. The Medical Marijuana Registry does not have enough funds to implement House Bill 21-1317 while sustaining the program. The proposed change will bring the fee from \$25 to \$29.50 beginning in February 2022. The fee increase will not sustain the operations in the long term, but the Department is committed to exploring all options.

Statutory authority

Section 25-1.5-106, C.R.S.

Contact information**Name**

Mariah LaRue

Title

Media & Communications Specialist

Telephone

303-691-4013

Email

mariah.larue@state.co.us

**COLORADO**Department of Public
Health & Environment

To: Members of the State Board of Health

From: Natalie Riggins, Medical Marijuana Registry Program Manager, Center for Health and Environmental Data *NR*

Through: Chris Wells, Division Director, Center for Health and Environmental Data *CSW*

Date: October 21, 2021

Subject: Request for a Rulemaking Hearing concerning 5 CCR 1006-2, Medical Use of Marijuana

The Department is proposing changes to Regulation 7 and requesting a \$4.50 fee increase to the Medical Marijuana Registry application processing fee. Based on current budget projections, MMR does not have sufficient funds to implement House Bill 21-1317 while sustaining the program. This proposed change would bring the total fee to from \$25 to \$29.50 starting in February, 2022.

MMR originally proposed a \$10 fee increase to stakeholders, considered the stakeholder feedback, and has determined that a \$4.50 increase will allow MMR to implement the bill while minimizing the financial burden to customers and stakeholders as Colorado recovers from the COVID-19 pandemic.

As this fee request alone will not sustain operations long term, the Department is committed to continuing to explore all options. Therefore, an additional increase in fees may be necessary in the near future. The Department will continue to work with all stakeholders as it moves forward.

MMR continues to explore all possible strategies to implement the bill and sustain the program.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to 5 CCR 1006-2, Medical Use of Marijuana

Basis and Purpose.

Colorado Constitution, Article XVIII, Section 14, paragraph 9 directs the Board of Health (BOH) to enact rules for the administration of the program. Colorado Revised Statute §25-1.5-106 (16) authorizes the Board to set fees sufficient to meet the direct and indirect costs of administering the Medical Marijuana Registry (MMR). The Medical Use of Marijuana Regulations, 5 CCR 1006-2, Regulation 7.A requires MMR to annually evaluate the amount of the fees to be charged to applicants and to propose fee modifications to the Board as appropriate.

Proposed fee

The Department is proposing a registration fee increase of \$4.50. This will bring the application processing fee from \$25 to \$29.50. The Department regularly analyzes the fee, revenue, and expenses to determine if the fee meets the actual expenses of MMR and ensure that the program remains solvent. The Department proposes fee changes to the Board based on these regular projections.

Current projections indicate that at a minimum, a \$4.50 fee increase is necessary to cover the costs of implementing House Bill 21-1317 and the direct and indirect costs of administering MMR. This will bring the total fee to \$29.50 effective Feb. 14, 2022. However, current projections show that a \$29.50 application processing fee is not sufficient to sustain the program. An additional fee adjustment will likely be expected in the near future to maintain operation of the registry at its current capacity. If the fee increase is approved, MMR will continue to monitor the fee, revenue, and expenditures and will propose another fee increase if needed.

Additionally, MMR does not have adequate revenue to implement House Bill 21-1317, and is pursuing an extension for the appropriations outlined in the bill. An extension will delay implementation of the bill, allowing more time to develop the funding to implement bill requirements and update the Medical Marijuana Registry System (MMRS). Updating MMRS is a lengthy process, and full implementation of House Bill 21-1317 will not happen until these modifications are successfully completed. This fee increase coupled with the extension will allow the program to implement the bill while minimizing the financial burden to customers and stakeholders.

Fee history

A \$35 application processing fee was in place from Dec. 30, 2011 until Feb. 1, 2014. In 2014, The Board of Health reduced the Medical Marijuana Registry application fee from \$35 to \$15 to reduce a significant cash fund surplus in the Medical Marijuana Program Cash Fund.

The \$15 fee structure was in place until the cash fund surplus was reduced. In 2018, the fee was increased to \$25 as a result of the implementation MMRS in 2017. MMRS allows medical marijuana patients, caregivers and health care providers to complete all of their applications and certifications online instead of by mail. This resulted in faster application processing and

cost savings. After MMRS was implemented, there was a critical need for customer and technical support for the nearly 300,000 users. The fee increase in 2018 allowed MMR to sustain the direct and indirect costs of the program and support essential functions including customer and technical support services.

The most recent Department analysis demonstrates that the \$25 application processing fee will not provide sufficient revenue to cover the costs of implementing the requirements of House Bill 21-1317 and sustain the direct and indirect costs of administering MMR.

The proposed fee increase of \$4.50 would be consistent with previous fee rates over the past decade. The fee rate has been as high as \$140.

Cost to implement House Bill 21-1317 and use of funds under the fee increase

Funds generated by the increased application processing fee will be used for the implementation of House Bill 21-1317, which includes making changes to MMRS and securing additional staffing resources to support implementation. Additionally, fees will continue to be used to cover direct and indirect costs of administering MMR.

Updating the Medical Marijuana Registry System (MMRS)

MMRS must be updated in order to comply with requirements of House Bill 21-1317. Necessary updates include:

- Adding functionality to indicate whether or not a patient was on the registry before age 18. Individuals that obtained a medical marijuana registry identification card before age 18 do not have to provide the same amount of documentation as an individual that applies to the registry for the first time between ages 18 and 20.
- Adding functionality to collect newly required information and certifications for first-time applicants aged 18 to 20.
- Adding additional fields to the provider certification form. House Bill 21-1317 requires recommending providers list additional information on the certification form which includes but may not be limited to:
 - The date of issue and effective date.
 - The patient's address.
 - The physician's DEA number.
 - The maximum THC potency level being recommended.
 - The recommended product, if any.
 - The patient's daily authorized quantity, if any quantity exceeds the maximum statutorily allowed amount for the patient's age.
 - Directions for use.
- Any additional updates that may be required to comply with House Bill 21-1317.

Staffing resources

House Bill 21-1317 creates major changes for MMR stakeholders including patients and health care providers. MMR will need staffing resources to meet the additional needs of customers. Staffing resources will be provided to the customer support team and the systems integration team to address the increased workloads.

MMR is experiencing an increase in requests for information and guidance regarding House Bill 21-1317. Requests for information and technical support will continue to increase once the law is effective in Jan. 2022. MMR currently has a team of 5 staff dedicated to responding to in-system requests, emails, and taking and placing customer support phone calls. This small team currently handles approximately 2,000 calls, 3,000 emails, and 1,500 in-system requests per month. Despite being able to process 6,500 requests each month, feedback from the customer satisfaction survey indicates that customers would like more access to support services. Staffing resources will go to the customer support team to provide essential customer and technical support as the bill becomes effective.

MMR will also use staffing resources to support system changes in MMRS. Making changes to the functionality of MMRS requires new and updated business requirements, amending vendor contracts, conducting joint application design sessions with the developers, testing newly developed features and functionality prior to deployment, training staff to use the system and explain system changes to stakeholders, providing resources to end-users to assist them in adapting to the new changes, and maintaining the system.

Specific Statutory Authority.

Statutes that require or authorize rulemaking: These rules are promulgated pursuant to the following statutes: Section 25-1.5-106, C.R.S.

Is this rulemaking due to a change in state statute?

☒ Yes, the bill number is House Bill 21-1317. Rules are ☐ authorized
☒ required.
☐ No

Does this rulemaking include proposed rule language that incorporate materials by reference?

☐ Yes ☐ URL
☒ No

Does this rulemaking include proposed rule language to create or modify fines or fees?

☒ Yes
☐ No

Does the proposed rule language create (or increase) a state mandate on local government?

☒ No.

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

REGULATORY ANALYSIS
For Amendments to 5 CCR 1006-2, Medical Use of Marijuana

1. A description of the classes of persons affected by the proposed rule, including the classes that will bear the costs and the classes that will benefit from the proposed rule.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/CLG/S/B
Medical marijuana registry patients, prospective patients, and their parents or legal representatives	100,000 approximately	C, B,

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please use this relationship categorization key:

- C = individuals/entities that implement or apply the rule.
- S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.
- B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Economic outcomes

Summarize the financial costs and benefits, include a description of costs that must be incurred, costs that may be incurred, any Department measures taken to reduce or eliminate these costs, any financial benefits.

Medical marijuana registry patients, prospective patients, and their parents or legal representatives (C, B)

This group will experience a greater financial cost to apply for their medical marijuana registry identification card. The proposed changes will place an additional \$4.50 burden on individuals in this group. There is an option to apply for a fee waiver and tax exempt status if an applicant's household income is 185% or less than the Federal Poverty Guidelines.

Non-economic outcomes

Summarize the anticipated favorable and non-favorable non-economic outcomes (short-term and long-term), and, if known, the likelihood of the outcomes for each affected class of persons by the relationship category.

Medical marijuana registry patients and prospective patients.

This group will be able to continue to access the medical marijuana program. The updates to MMRS will provide clarity on what information they need to include with their application depending on their age and history applying to the program. They will also benefit from customer support resources that the revenue from the fee will fund.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

There will be a cost to implement House Bill 21-1317, which includes updating MMRS and securing adequate staffing. There is also a continued cost to cover the direct and indirect costs of administering MMR. Tables associated with the fee increase are available at the end of the Regulatory Analysis.

A. Anticipated CDPHE personal services, operating costs or other expenditures:

The passage of House Bill 21-1317 requires MMR to revise Board of Health rules and make changes to the functionality of MMRS which includes new and updated business requirements, amending vendor contracts, conducting joint application design sessions with the developers, testing newly developed features and functionality prior to deployment, training staff to use the system and explain system changes to stakeholders, providing resources to end-users to assist them in adapting to the new changes, and maintaining the system.

A breakout of the costs outlined in the Fiscal Note of HB 21-1317 is provided in the table below.

Type of Expenditure	Year 1	Year 2
<u>Personal Services</u> for the 2.1 additional staff needed for updates to Certification form, Stakeholder engagement, provider training, Board of Health Rule-making	\$110,935	\$34,306
<u>Operating Expenses</u> for contracting with current system vendor to update MMRS, capital outlay for 2.1 additional staff	\$165,235	\$1,080
Total	\$276,170	\$35,386

Anticipated CDPHE Revenues:

This rulemaking modifies the Medical Marijuana Registry application processing fee from the current fee level of \$25 per application, to \$29.50 per application. This represents a 18% increase.

Current Fee	Proposed Fee	% increase or decrease
\$25	\$4.50	18% increase

The table below illustrates a brief history of the recent MMR fee levels and adjustments

Fee Change Date	Original fee	New fee	\$ Increase or Decrease	% Increase or Decrease	Reason for Adjustment
December 2011	\$90	\$35	(\$55)	▼ 61%	Reduce revenues to spend down fund balance
February 2014	\$35	\$15	(\$20)	▼ 57%	Reduce revenues to spend down fund balance
May 2018	\$15	\$25	\$10	▲ 67%	Set fee to sustain program
Feb 2022 (proposed)	\$25	\$29.50	\$4.50	▲ 18%	Generate revenues to implement HB 21-1317

Anticipated CDPHE Revenues			
Projected Revenue	FY 2021-22	FY 2022-23	Future Year
Average Registry Patient Count (July 2020 - June 2021)	86,500	86,500	86,500
New Revenue generated by fee increase (effective date 2/15/2021)	\$145,969	\$389,250	\$389,250
Total Revenue projected from fee adjustment	\$145,969	\$389,250	\$389,250

- B. Anticipated personal services, operating costs or other expenditures by another state agency:
N/A

Anticipated Revenues for another state agency:

N/A

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

A failure to increase the fees at this time will result in the fund going into a deficit. The proposed increase will allow the program to generate revenue to implement House Bill 21-1317 while minimizing the financial burden to customers. Currently, MMR does not have adequate revenue to implement the bill, and is pursuing an extension for the appropriations outlined in House Bill 21-1317. An extension will allow more time to gain the funding to implement the changes necessary to update MMRS to fully implement House Bill 21-1317. Another fee increase will likely be needed in the near future to ensure that the program has enough funds to sustain operations.

Along with the costs and benefits discussed above, the proposed revisions:

- ☒ X Comply with a statutory mandate to promulgate rules.
- ☒ X Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.
- ☐ Maintain alignment with other states or national standards.
- ☐ Implement a Regulatory Efficiency Review (rule review) result
- ☐ Improve public and environmental health practice.
- ☐ Implement stakeholder feedback.

Advance the following CDPHE Strategic Plan priorities (select all that apply):

- | |
|---|
| <p>1. Reduce Greenhouse Gas (GHG) emissions economy-wide from 125.716 million metric tons of CO₂e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO₂e per year by June 30, 2020 and to 113.144 million metric tons of CO₂e by June 30, 2023.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Contributes to the blueprint for pollution reduction <input type="checkbox"/> Reduces carbon dioxide from transportation <input type="checkbox"/> Reduces methane emissions from oil and gas industry <input type="checkbox"/> Reduces carbon dioxide emissions from electricity sector |
| <p>2. Reduce ozone from 83 parts per billion (ppb) to 80 ppb by June 30, 2020 and 75 ppb by June 30, 2023.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reduces volatile organic compounds (VOC) and oxides of nitrogen (NO_x) from the oil and gas industry. <input type="checkbox"/> Supports local agencies and COGCC in oil and gas regulations. |

___	Reduces VOC and NOx emissions from non-oil and gas contributors
3.	Decrease the number of Colorado adults who have obesity by 2,838 by June 30, 2020 and by 12,207 by June 30, 2023.
___	Increases the consumption of healthy food and beverages through education, policy, practice and environmental changes.
___	Increases physical activity by promoting local and state policies to improve active transportation and access to recreation.
___	Increases the reach of the National Diabetes Prevention Program and Diabetes Self-Management Education and Support by collaborating with the Department of Health Care Policy and Financing.
4.	Decrease the number of Colorado children (age 2-4 years) who participate in the WIC Program and have obesity from 2120 to 2115 by June 30, 2020 and to 2100 by June 30, 2023.
___	Ensures access to breastfeeding-friendly environments.
5.	Reverse the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.
___	Reverses the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.
___	Performs targeted programming to increase immunization rates.
___	Supports legislation and policies that promote complete immunization and exemption data in the Colorado Immunization Information System (CIIS).
6.	Colorado will reduce the suicide death rate by 5% by June 30, 2020 and 15% by June 30, 2023.
___	Creates a roadmap to address suicide in Colorado.
___	Improves youth connections to school, positive peers and caring adults, and promotes healthy behaviors and positive school climate.
___	Decreases stigma associated with mental health and suicide, and increases help-seeking behaviors among working-age males, particularly within high-risk industries.
___	Saves health care costs by reducing reliance on emergency departments and connects to responsive community-based resources.
7.	The Office of Emergency Preparedness and Response (OEPR) will identify 100% of jurisdictional gaps to inform the required work of the Operational Readiness Review by June 30, 2020.
___	Conducts a gap assessment.
___	Updates existing plans to address identified gaps.
___	Develops and conducts various exercises to close gaps.
8.	For each identified threat, increase the competency rating from 0% to 54% for

<p>outbreak/incident investigation steps by June 30, 2020 and increase to 92% competency rating by June 30, 2023.</p> <p>___ Uses an assessment tool to measure competency for CDPHE's response to an outbreak or environmental incident.</p> <p>___ Works cross-departmentally to update and draft plans to address identified gaps noted in the assessment.</p> <p>___ Conducts exercises to measure and increase performance related to identified gaps in the outbreak or incident response plan.</p>
<p>9. 100% of new technology applications will be virtually available to customers, anytime and anywhere, by June 20, 2020 and 90 of the existing applications by June 30, 2023.</p> <p>_X_ Implements the CDPHE Digital Transformation Plan.</p> <p>_X_ Optimizes processes prior to digitizing them.</p> <p>_X_ Improves data dissemination and interoperability methods and timeliness.</p>
<p>10. Reduce CDPHE's Scope 1 & 2 Greenhouse Gas emissions (GHG) from 6,561 metric tons (in FY2015) to 5,249 metric tons (20% reduction) by June 30, 2020 and 4,593 tons (30% reduction) by June 30, 2023.</p> <p>___ Reduces emissions from employee commuting</p> <p>___ Reduces emissions from CDPHE operations</p>
<p>11. Fully implement the roadmap to create and pilot using a budget equity assessment by June 30, 2020 and increase the percent of selected budgets using the equity assessment from 0% to 50% by June 30, 2023.</p> <p>___ Used a budget equity assessment</p>

- _X_ Advance CDPHE Division-level strategic priorities.
- Optimize customer experience.

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

If the program maintains the \$25 application processing fee, the expenditure requirements under House Bill 21-1317 will exhaust the current fund balance and the Department would have to pursue significantly higher fee increases in the future. The fee increase is necessary to ensure the program has the funds to remain operational and the ability to implement House Bill 21-1317.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

There is no less costly or intrusive method. The Medical Marijuana Registry is a fee-based program. Therefore, increasing the fee is the only viable method to generate the revenue necessary to sustain the program.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

No other alternatives to rulemaking were considered as Colorado Revised Statute §25-1.5-106 (16) authorizes the Board to set fees sufficient to meet the direct and indirect costs of administering the Medical Marijuana Registry. The Medical Use of Marijuana Regulations, 5 CCR 1006-2, Regulation 7.A requires MMR to annually evaluate the amount of the fees to be charged to applicants and to propose fee modifications to the Board as appropriate. Further, the Medical Marijuana Registry cash fund is not eligible for a Cash Fund Solvency loan as outlined in Senate Bill 21-283 as MMR fund revenues are not generated on multi-year licensing and service periods.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The Department has determined that a fee increase will be required no later than March of 2022 to sustain the program at its current level of functionality and implement the requirements of House Bill 21-1317. MMR is pursuing an extension for the appropriations listed in House Bill 21-1317 into FY 2022-23. This will result in a delay of the full implementation of the bill while modifications of MMRS are completed. However, this strategy allows MMR to implement the bill while minimizing the financial impact to customers and stakeholders.

The Department utilized the FY 2022-23 Schedule 9 Cash Fund Report analysis in conjunction with a projection of current, average patient count of 86,500. Based on this analysis, a \$29.50 application processing fee alone is insufficient to sustain the program. The Department will continue to evaluate all options while working with stakeholders and may be requesting an additional fee increase in the near future.

Projection Calculations

Including Fee Increase			
Program Expenses	FY 2021-22	FY 2022-23	Future Year
Personal Services (18.6 FTE)	\$1,496,447	\$1,496,447	\$1,496,447
Division Administrative Expenses	\$61,108	\$61,108	\$61,108
Direct Operating Expenses	\$481,469	\$481,469	\$481,469
Implementation of HB 21-1317	\$0	\$276,170	\$35,386
CDPHE Indirect Costs (CDPHE Overhead)	\$369,063	\$419,050	\$375,468
Total Expenses	\$2,408,088	\$2,734,245	\$2,449,879
Program Revenue	FY 2021-22	FY 2022-23	Future Year
Fee Income - Current Fee, \$25	\$2,162,500	\$2,162,500	\$2,162,500
New Revenue generated by \$4.50 increase (effective date 2/15/2021)	\$145,969	\$389,250	\$389,250
Interest Income	\$7,000	\$7,000	\$7,000
Total Revenue	\$2,315,469	\$2,558,750	\$2,558,750
Net Cash Flow:	(\$92,619)*	(\$175,495)*	\$108,871
Year End Fund Balance	\$244,098	(\$29,397)*	(\$18,526)*

If Fee Increase is not approved			
Program Expenses	FY 2021-22	FY 2022-23	Future Year
Personal Services (18.6 FTE)	\$1,496,447	\$1,496,447	\$1,496,447
Division Administrative Expenses	\$61,108	\$61,108	\$61,108
Direct Operating Expenses	\$481,469	\$481,469	\$481,469
Implementation of HB 21-1317	\$0	\$276,170	\$35,386
CDPHE Indirect Costs (CDPHE Overhead)	\$369,063	\$419,050	\$410,004
Total Expenses	\$2,408,088	\$2,734,245	\$2,484,415
Program Revenue	FY 2021-22	FY 2022-23	Future Year
Fee Income - Current Fee, \$25	\$2,162,500	\$2,162,500	\$2,162,500
Interest Income	\$7,000	\$7,000	\$7,000
Total Revenue	\$2,169,500	\$2,169,500	\$2,169,500
Net Cash Flow:	(\$238,588)*	(\$564,745)*	(\$314,915)*
Year End Fund Balance	\$98,129	(\$564,615)*	(\$942,994)*

**The program has the responsibility to cover costs with appropriate fee revenue. The program will be out of compliance with statute if this fee is not approved and will not have the revenue necessary to sustain the Medical Marijuana Registry.*

The Department also reviewed the fee rates that other states currently charge to process medical marijuana registry applications. The fees range between zero dollars and \$350 dollars, with many states charging around \$50 to process an application for a medical marijuana registry card.

STAKEHOLDER ENGAGEMENT for Amendments to 5 CCR 1006-2, Medical Use of Marijuana

State law requires agencies to establish a representative group of participants when considering to adopt or modify new and existing rules. This is commonly referred to as a stakeholder group.

Early Stakeholder Engagement:

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

The Department distributed information about the proposed fee increase to the voluntary Medical Marijuana Registry Stakeholders lists on Sept. 7, 2021. MMR originally proposed a \$10 fee increase to stakeholders. The feedback the MMR received was in regards to a \$10 fee increase

Information about the proposed changes was also publicized on MMR's public website. Stakeholder feedback was collected through an online form. Stakeholders were also invited to share feedback through the mail.

Medical Marijuana Stakeholder groups:

- Medical Marijuana Registry Stakeholders (voluntary list serve open to anyone)
- Medical Marijuana Registry Physicians
- Medical Marijuana Registry Caregivers

Summary of the feedback

Approximately 2,500 individuals were notified of the opportunity to provide feedback through the stakeholder groups, but the Department received fewer than 10 responses.

Some feedback showed support for the increase so there will be funds to pay for the program. The majority of responses expressed opposition to the fee and respondents gave different reasons for why they do not support the change. One reason was that the fee is annual, so it should remain low. Another was that the Department is not efficient enough. A third reason was that it would harm patients and a fourth was that increasing a fee would negatively affect medical marijuana centers. It is important to note that MMR does not have any involvement or oversight over medical marijuana sales and centers.

After considering budget projections, stakeholder feedback, and the residual impacts of the COVID-19 pandemic on Medical Marijuana Registry customers, MMR has determined that a \$4.50 increase will allow MMR to implement the bill while minimizing the financial burden to customers and stakeholders as Colorado recovers from the COVID-19 pandemic. Individuals whose household incomes are 185% or less than the federal poverty guidelines are eligible to apply for an application fee waiver and tax exempt status.

Several individuals also expressed that they are not in favor of House Bill 21-1317 being implemented and shared concerns about the bill not supporting patients, making it more difficult for some patients to receive a registry identification card, and potential harm to medical marijuana businesses. This is outside the scope of the rulemaking. Further, the Department must comply with statute and implement House Bill 21-1317 as required by law.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

- ☒ Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking. This is selected for the request for rulemaking.
- ☐ Yes. This is selected for the rulemaking to document that timely division notification occurred.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

Please identify the determinants of health or other health equity and environmental justice considerations, values or outcomes related to this rulemaking.

Overall, after considering the benefits, risks and costs, the proposed rule:

Select all that apply.

	Improves behavioral health and mental health; or, reduces substance abuse or suicide risk.	Reduces or eliminates health care costs, improves access to health care or the system of care; stabilizes individual participation; or, improves the quality of care for unserved or underserved populations.
	Improves housing, land use, neighborhoods, local infrastructure, community services, built environment, safe physical spaces or transportation.	Reduces occupational hazards; improves an individual's ability to secure or maintain employment; or, increases stability in an employer's workforce.
	Improves access to food and healthy food options.	Reduces exposure to toxins, pollutants, contaminants or hazardous substances; or ensures the safe application of radioactive material or chemicals.
X	Improves access to public and environmental health information; improves the readability of the rule; or, increases the shared understanding of roles and responsibilities, or what occurs under a rule.	Supports community partnerships; community planning efforts; community needs for data to inform decisions; community needs to evaluate the effectiveness of its efforts and outcomes.

	Increases a child's ability to participate in early education and educational opportunities through prevention efforts that increase protective factors and decrease risk factors, or stabilizes individual participation in the opportunity.		Considers the value of different lived experiences and the increased opportunity to be effective when services are culturally responsive.
	Monitors, diagnoses and investigates health problems, and health or environmental hazards in the community.		Ensures a competent public and environmental health workforce or health care workforce.
	Other: _____ _____		Other: _____ _____

1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

2 **Center for Health and Environmental Data**

3 **MEDICAL USE OF MARIJUANA**

4 **5 CCR 1006-2**

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

6 _____
7 **Adopted by the Board of Health on _____, effective_____.**

8 *****

9 **Regulation 7: Determination of fees to pay for administrative costs of the medical use of**
10 **marijuana program**

11 A. Application fee. Effective ~~May-February 1514, 2018~~2022, the Department shall collect
12 twenty-~~five nine~~ dollars ~~and fifty cents~~ from each applicant at the time of application to
13 pay for the direct and indirect costs to administer the medical use of marijuana program,
14 unless the applicant meets the criteria set forth in section (b) of this Regulation (7)
15 establishing indigence. Such fee shall not be refundable to the applicant if the
16 application is denied or revoked or if the patient no longer has a debilitating or disabling
17 medical condition. The amount of the fee shall be evaluated annually by the department
18 to ensure compliance with the applicable statutes and the fee meets the actual Medical
19 Marijuana Registry expenses. The department shall propose modifications to the board,
20 as appropriate. If the patient provides updated information at any time during the
21 effective period of the registry identification card, the department shall not charge a fee
22 to modify the registry information concerning the patient.

23 *****



COLORADO

Board of Health

Department of Public Health & Environment

Notice of Public Rule-Making Hearing December 15, 2021

NOTICE is hereby given pursuant to the provisions of Section 24-4-103, C.R.S., that the Colorado Board of Health will conduct a public rule-making hearing on December 15, 2021 at 10 a.m. remotely via [Zoom](#), to consider the amendments to 5 CCR 1006-2, Medical Use of Marijuana. The amendments are proposed by the Center for Health and Environmental Data of the Colorado Department of Public Health and Environment pursuant to Section 25-1.5-106, C.R.S.

The agenda for the meeting and the proposed repeal will also be available on the Board's website, <https://cdphe.colorado.gov/board-of-health> at least seven (7) days prior to the meeting. The proposed rule, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available for inspection at the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South EDO-A5, Denver, Colorado 80246-1530 at least five working days prior to the hearing. Copies of the proposed rules may be obtained by contacting the Colorado Department of Public Health and Environment, Center for Health and Environmental Data, 4300 Cherry Creek Drive S., Denver, CO 80246, 303-691-4013.

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments. Written testimony is encouraged; oral testimony will be received only to the extent the Board finds it necessary. For those that are permitted to provide oral testimony, the time may be limited to 3 minutes or less. Testimony is limited to the scope of the rulemaking hearing. Pursuant to 6 CCR 1014-8, §3.02.1, written testimony must be submitted no later than five (5) calendar days prior to the rulemaking hearing. Written testimony must be received by 5:00 p.m., Thursday, December 9, 2021. Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Board of Health Program Assistant, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South EDO-A5, Denver, Colorado 80246-1530 or by e-mail at: cdphe.bohrequests@state.co.us

Dated this 25th day of October, 2021.

Alexandra S. Haas
Alexandra Haas
Board of Health Administrator

Notice of Proposed Rulemaking

Tracking number

2021-00701

Department

1000 - Department of Public Health and Environment

Agency

1009 - Disease Control and Public Health Response Division

CCR number

6 CCR 1009-2

Rule title

THE INFANT IMMUNIZATION PROGRAM AND IMMUNIZATION OF STUDENTS
ATTENDING SCHOOL

Rulemaking Hearing**Date**

12/15/2021

Time

10:00 AM

Location

Via Zoom: [https://us02web.zoom.us/meeting/register/tZYude2prjMsHtL_tElo1zx9GKfad_VOqhUe](https://us02web.zoom.us/join/https://us02web.zoom.us/meeting/register/tZYude2prjMsHtL_tElo1zx9GKfad_VOqhUe)

Subjects and issues involved

On November 18, 2020, the board adopted updates to this rule, which aligned the rule with new statutory requirements from Senate Bill 20-163 and improved the readability of the rule. After adoption, the Office of Legislative Legal Services reviewed the rules pursuant and identified one section of the rule where changes are needed to ensure the regulation is consistent with state law. The rule now suggests immunization records are only required to be submitted upon a request by a school district, institute charter school, or private school where the student attends. The proposed changes clarify that school superintendents have the authority to request immunization records in certain circumstances as outlined in Sections 25-33-104.5(3)(g) and 25-4-902(6), C.R.S.

Statutory authority

Sections 25-4-903 and 25-4-904, C.R.S.

Contact information**Name**

Shannon Rossiter

Title

Policy Advisor

Telephone

303-692-2358

Email

shannon.rossiter@state.co.us

**COLORADO**Department of Public
Health & Environment

To: Members of the State Board of Health

From: Diana Herrero, Deputy Director, Division of Disease Control and
Public Health Response (DCPHR)

Through: Scott Bookman, Director, DCPHR SB

Date: October 21, 2021

Subject: Request for a Rulemaking Hearing concerning 6 CCR 1009-2 The Infant
Immunization Program and Immunization of Students Attending School

Please find copies of the following documents: Statement of Basis and Purpose and Specific Statutory Authority, Regulatory Analysis, Stakeholder Engagement, and Proposed Amendments to 6 CCR 1009-2, The Infant Immunization Program and Immunization of Students Attending School.

The Colorado Department of Public Health and Environment (Department) has the legal authority, established in Colorado law, to protect students and the general population from vaccine-preventable disease. Child care facilities, schools, and colleges/universities are bound by law to ensure students meet the vaccine requirements as established by the Colorado Board of Health (Board). Colorado's vaccine requirements have contributed to higher vaccine coverage, lower levels of vaccine-preventable disease, and fewer disruptions to in-person learning.

On November 18, 2020, the Board adopted updates to 6 CCR 1009-2, The Infant Immunization Program and Immunization of Students Attending School. The updates presented to the Board at that time 1) aligned this rule with new statutory requirements resulting from Colorado Senate Bill 20-163 (SB 20-163), or 2) were technical in nature and intended to clarify existing rule language and provide better alignment with statute without significant policy change.

Post-adoption, the Office of Legislative Legal Services (OLLS), reviewed the rules pursuant to Section 24-4-103(8), C.R.S., identifying one section of the rule where changes are necessary to ensure these regulations are consistent with Colorado State Law. As adopted, the rule language in this section suggests that immunization records are only required to be submitted upon a request by a school district, institute charter school, or private school where the student attends for a portion of the day. This rule language as adopted is consistent with Section 25-4-902 (1.5)(b), C.R.S.

OLLS has requested amended language in Section III so that this section of the rule also aligns with Section 25-4-902 (1.5)(a), C.R.S. Thus, the Department is proposing language that clarifies that school superintendents have the authority to request immunization records in certain circumstances as outlined in Sections 25-33-104.5 (3)(g), C.R.S. and 25-4-902 (6), C.R.S.

In total, the proposed amendments are necessary to comply with the findings of the OLLS review.

Changes to rule language appear in ALL CAPS and strikethroughs.

STATEMENT OF BASIS AND PURPOSE AND SPECIFIC STATUTORY AUTHORITY
for Amendments to
6 CCR 1009-2 The Infant Immunization Program and Immunization of Students Attending
School

Basis and Purpose.

Colorado requires all students to be immunized per the vaccine schedule established by 6 CCR 1009-2 upon school entry unless an exemption is filed. The purpose of the immunization requirements for school entry is to protect students, staff, and the visiting public against vaccine-preventable diseases within schools and broader communities.

The proposed changes to this rule were brought about by a review of this rule by the Office of Legislative Legal Services (OLLS), as mandated by statute at Section 24-4-103(8), C.R.S., following the Board's adoption of revisions in November 2020. OLLS identified one section of the rule as needing revision to ensure these regulations are consistent with current state law.

To this end, the Department proposes amendments and additions to Section III. Proposed rule changes in this Section align with Section 25-4-902 (1.5)(a), C.R.S. Pursuant to the proposed language, school superintendents have the authority to request immunization records in certain circumstances as outlined in Sections 25-33-104.5 (3)(g), C.R.S. and 25-4-902 (6), C.R.S.

Specific Statutory Authority.

Statutes that require or authorize rulemaking:

§ 25-4-903, C.R.S. and § 25-4-904, C.R.S.

Is this rulemaking due to a change in state statute?

_____ Yes, the bill number is _____. Rules are ____ authorized ____ required.

☒ No

Does this rulemaking include proposed rule language that incorporate materials by reference?

_____ Yes _____ URL

☒ No

Does this rulemaking include proposed rule language to create or modify fines or fees?

_____ Yes

☒ No

Does the proposed rule language create (or increase) a state mandate on local government?

☒ No.

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

___ Yes.

This rule includes a new state mandate or increases the level of service required to comply with an existing state mandate, and local government will not be reimbursed for the costs associated with the new mandate or increase in service. The state mandate is categorized as:

___ Necessitated by federal law, state law, or a court order

___ Caused by the State's participation in an optional federal program

___ Imposed by the sole discretion of a Department

___ Other: _____

(i.e. requested by local governments and consensus was achieved)

Has an elected official or other representatives of local governments disagreed with this categorization of the mandate? ___Yes ___No. If "yes," please explain why there is disagreement in the categorization.

Please elaborate as to why a rule that contains a state mandate on local government is necessary.

REGULATORY ANALYSIS
for Amendments to
6 CCR 1009-2 The Infant Immunization Program and Immunization of Students Attending
School

1. A description of the classes of persons affected by the proposed rule, including the classes that will bear the costs and the classes that will benefit from the proposed rule.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/CLG/S/B
Approximately 2,150 public and private schools, approximately 2,100 licensed child cares, thousands of healthcare providers throughout the state, the Colorado Department of Education, the Colorado Department of Human Services, the Colorado Department of Higher Education, approximately 25 colleges/universities and 53 county, district or municipal public health agencies (LPHAs) rely on the rule to maintain their own businesses, agencies or operations.		C, CLG
Students enrolled in Colorado schools and, if under 18 years of age, their parents/legal guardians, and the public at large.		S, B

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please use this relationship categorization key:

C = individuals/entities that implement or apply the rule.

CLG = local governments that must implement the rule in order to remain in compliance with the law.

S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.

B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The Department does not foresee an economic impact to any affected persons. The proposed changes to this rule will result in clarification for consistent interpretation by end-users of the rule and better alignment with statute; both of which the Department expects will result in improved customer experience.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

A. Anticipated CDPHE personal services, operating costs or other expenditures:

The proposed amendments are cost-neutral.

Anticipated CDPHE Revenues: NA

B. Anticipated personal services, operating costs or other expenditures by another state agency: NA

Anticipated Revenues for another state agency: NA

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Along with the costs and benefits discussed above, the proposed revisions:

- ☐ Comply with a statutory mandate to promulgate rules.
- ☐ Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.
- ☐ Maintain alignment with other states or national standards.
- ☐ Implement a Regulatory Efficiency Review (rule review) result
- ☐ Improve public and environmental health practice.
- ☒ Implement stakeholder feedback.

Advance the following CDPHE Strategic Plan priorities (select all that apply):

- | |
|---|
| 1. Reduce Greenhouse Gas (GHG) emissions economy-wide from 125.716 million metric |
|---|

<p>tons of CO₂e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO₂e per year by June 30, 2020 and to 113.144 million metric tons of CO₂e by June 30, 2023.</p> <p>___ Contributes to the blueprint for pollution reduction</p> <p>___ Reduces carbon dioxide from transportation</p> <p>___ Reduces methane emissions from oil and gas industry</p> <p>___ Reduces carbon dioxide emissions from electricity sector</p>
<p>2. Reduce ozone from 83 parts per billion (ppb) to 80 ppb by June 30, 2020 and 75 ppb by June 30, 2023.</p> <p>___ Reduces volatile organic compounds (VOC) and oxides of nitrogen (NO_x) from the oil and gas industry.</p> <p>___ Supports local agencies and COGCC in oil and gas regulations.</p> <p>___ Reduces VOC and NO_x emissions from non-oil and gas contributors</p>
<p>3. Decrease the number of Colorado adults who have obesity by 2,838 by June 30, 2020 and by 12,207 by June 30, 2023.</p> <p>___ Increases the consumption of healthy food and beverages through education, policy, practice and environmental changes.</p> <p>___ Increases physical activity by promoting local and state policies to improve active transportation and access to recreation.</p> <p>___ Increases the reach of the National Diabetes Prevention Program and Diabetes Self-Management Education and Support by collaborating with the Department of Health Care Policy and Financing.</p>
<p>4. Decrease the number of Colorado children (age 2-4 years) who participate in the WIC Program and have obesity from 2120 to 2115 by June 30, 2020 and to 2100 by June 30, 2023.</p> <p>___ Ensures access to breastfeeding-friendly environments.</p>
<p>5. Reverse the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.</p> <p>___ Reverses the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.</p> <p>___ Performs targeted programming to increase immunization rates.</p> <p>___ Supports legislation and policies that promote complete immunization and exemption data in the Colorado Immunization Information System (CIIS).</p>
<p>6. Colorado will reduce the suicide death rate by 5% by June 30, 2020 and 15% by June 30, 2023.</p> <p>___ Creates a roadmap to address suicide in Colorado.</p> <p>___ Improves youth connections to school, positive peers and caring adults, and</p>

<p>promotes healthy behaviors and positive school climate.</p> <p>___ Decreases stigma associated with mental health and suicide, and increases help-seeking behaviors among working-age males, particularly within high-risk industries.</p> <p>___ Saves health care costs by reducing reliance on emergency departments and connects to responsive community-based resources.</p>
<p>7. The Office of Emergency Preparedness and Response (OEPR) will identify 100% of jurisdictional gaps to inform the required work of the Operational Readiness Review by June 30, 2020.</p> <p>___ Conducts a gap assessment.</p> <p>___ Updates existing plans to address identified gaps.</p> <p>___ Develops and conducts various exercises to close gaps.</p>
<p>8. For each identified threat, increase the competency rating from 0% to 54% for outbreak/incident investigation steps by June 30, 2020 and increase to 92% competency rating by June 30, 2023.</p> <p>___ Uses an assessment tool to measure competency for CDPHE's response to an outbreak or environmental incident.</p> <p>___ Works cross-departmentally to update and draft plans to address identified gaps noted in the assessment.</p> <p>___ Conducts exercises to measure and increase performance related to identified gaps in the outbreak or incident response plan.</p>
<p>9. 100% of new technology applications will be virtually available to customers, anytime and anywhere, by June 20, 2020 and 90 of the existing applications by June 30, 2023.</p> <p>___ Implements the CDPHE Digital Transformation Plan.</p> <p>___ Optimizes processes prior to digitizing them.</p> <p>___ Improves data dissemination and interoperability methods and timeliness.</p>
<p>10. Reduce CDPHE's Scope 1 & 2 Greenhouse Gas emissions (GHG) from 6,561 metric tons (in FY2015) to 5,249 metric tons (20% reduction) by June 30, 2020 and 4,593 tons (30% reduction) by June 30, 2023.</p> <p>___ Reduces emissions from employee commuting</p> <p>___ Reduces emissions from CDPHE operations</p>
<p>11. Fully implement the roadmap to create and pilot using a budget equity assessment by June 30, 2020 and increase the percent of selected budgets using the equity assessment from 0% to 50% by June 30, 2023.</p> <p>___ Used a budget equity assessment</p>

___ Advance CDPHE Division-level strategic priorities.

- Identify division strategic plan item or strategic priority

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

NA. Inaction has neither monetary cost nor benefit; however, inaction results in non-compliance with statute, and the potential to invalidate these rules.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The proposed changes are neither costly nor intrusive, and, as the purpose is compliance with statute, no alternative method was considered.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

No alternatives to this rulemaking were considered. Failure to implement requirements that are consistent with Colorado state law, as identified by the Office of Legislative Legal Services (OLLS), may result in the rule being negated or invalidated by the state legislature.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The proposed changes did not require a data-based evaluation or analysis.

STAKEHOLDER ENGAGEMENT
for Amendments to
6 CCR 1009-2 The Infant Immunization Program and Immunization of Students Attending
School

State law requires agencies to establish a representative group of participants when considering to adopt or modify new and existing rules. This is commonly referred to as a stakeholder group.

Early Stakeholder Engagement:

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

The proposed revisions correct technical deficiencies to ensure compliance with the Colorado Revised Statutes. Due to the minor nature of the changes, no stakeholder processes or stakeholder meetings were conducted prior to the request for rulemaking. Stakeholders will be notified of the proposed changes prior to the rulemaking hearing, if scheduled.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

XX Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking.

 Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

No major factual or policy issues were encountered. The proposed changes are minor and are proposed to ensure the regulations are consistent with Colorado state law.

Please identify the determinants of health or other health equity and environmental justice considerations, values or outcomes related to this rulemaking.

The proposed rule continues to hold all persons to the same requirements regarding immunizations necessary for school attendance in Colorado.

Overall, after considering the benefits, risks and costs, the proposed rule:

Select all that apply.

	Improves behavioral health and mental health; or, reduces substance abuse or suicide risk.	Reduces or eliminates health care costs, improves access to health care or the system of care; stabilizes individual participation; or, improves the quality of care for unserved or underserved populations.
	Improves housing, land use, neighborhoods, local infrastructure, community services, built environment, safe physical spaces or transportation.	Reduces occupational hazards; improves an individual's ability to secure or maintain employment; or, increases stability in an employer's workforce.
	Improves access to food and healthy food options.	Reduces exposure to toxins, pollutants, contaminants or hazardous substances; or ensures the safe application of radioactive material or chemicals.
X X	Improves access to public and environmental health information; improves the readability of the rule; or, increases the shared understanding of roles and responsibilities, or what occurs under a rule.	Supports community partnerships; community planning efforts; community needs for data to inform decisions; community needs to evaluate the effectiveness of its efforts and outcomes.
	Increases a child's ability to participate in early education and educational opportunities through prevention efforts that increase protective factors and decrease risk factors, or stabilizes individual participation in the opportunity.	Considers the value of different lived experiences and the increased opportunity to be effective when services are culturally responsive.
	Monitors, diagnoses and investigates health problems, and health or environmental hazards in the community.	Ensures a competent public and environmental health workforce or health care workforce.
X X	Other: Complies with the Department's obligation to ensure all regulations are consistent with state law. _____ _____	Other: _____ _____

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Disease Control and Public Health Response Division

THE INFANT IMMUNIZATION PROGRAM AND IMMUNIZATION OF STUDENTS
ATTENDING SCHOOL6 CCR 1009-2

III. Exemptions from Immunization

B. ***

~~4. Immunization records shall be maintained by the parent or adult relative designated by the parent of students who participate in a nonpublic home-based education program pursuant to Section 22-33-104.5, C.R.S., and are only required to be submitted upon request by a school district, institute charter school, or private school which the student attends for a portion of the school day.~~

D.

1. IMMUNIZATION RECORDS SHALL BE MAINTAINED BY THE PARENT OR ADULT RELATIVE DESIGNATED BY THE PARENT OF STUDENTS WHO PARTICIPATE IN A NONPUBLIC HOME-BASED EDUCATION PROGRAM PURSUANT TO SECTION 22-33-104.5, C.R.S., AND ARE REQUIRED TO BE SUBMITTED:
 - a. WHEN A SCHOOL DISTRICT REQUIRES COMPLIANCE WITH SECTION 25-4-902, C.R.S. PURSUANT TO SECTION 22-33-104.5 (3)(G), C.R.S.
 - b. WHEN REQUESTED BY A SCHOOL DISTRICT, INSTITUTE CHARTER SCHOOL, OR PRIVATE SCHOOL WHICH THE STUDENT ATTENDS FOR A PORTION OF THE SCHOOL DAY.
2. A SCHOOL DISTRICT THAT IS EXERCISING ITS AUTHORITY PURSUANT TO SECTION 22-33-104.5(3)(G) IS ENTITLED TO ONLY:
 - a. A STUDENT'S IMMUNIZATION RECORDS, AS PROVIDED BY THE PARENT OR LEGAL GUARDIAN; OR

- b. A STATEMENT SIGNED BY A PARENT OR LEGAL GUARDIAN THAT THE STUDENT IS EXEMPT FROM IMMUNIZATION.

DE. All information distributed to parent(s) by school districts regarding immunizations shall inform them of their rights in section III (A-GD).



COLORADO

Board of Health

Department of Public Health & Environment

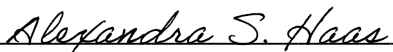
Notice of Public Rule-Making Hearing December 15, 2021

NOTICE is hereby given pursuant to the provisions of Section 24-4-103, C.R.S., that the Colorado Board of Health will conduct a public rule-making hearing on December 15, 2021 at 10 a.m. remotely via [Zoom](#), to consider the amendments to 6 CCR 1009-2, The Infant Immunization Program and Immunization of Students Attending School. The amendments are proposed by the Division of Disease Control and Public Health Response of the Colorado Department of Public Health and Environment pursuant to Sections 25-4-903 and 25-4-904, C.R.S.

The agenda for the meeting and the proposed repeal will also be available on the Board's website, <https://cdphe.colorado.gov/board-of-health> at least seven (7) days prior to the meeting. The proposed rule, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available for inspection at the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South EDO-A5, Denver, Colorado 80246-1530 at least five working days prior to the hearing. Copies of the proposed rules may be obtained by contacting the Colorado Department of Public Health and Environment, Division of Disease Control and Public Health Response, 4300 Cherry Creek Drive S., Denver, CO 80246, 303-692-2358.

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments. Written testimony is encouraged; oral testimony will be received only to the extent the Board finds it necessary. For those that are permitted to provide oral testimony, the time may be limited to 3 minutes or less. Testimony is limited to the scope of the rulemaking hearing. Pursuant to 6 CCR 1014-8, §3.02.1, written testimony must be submitted no later than five (5) calendar days prior to the rulemaking hearing. Written testimony must be received by 5:00 p.m., Thursday, December 9, 2021. Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Board of Health Program Assistant, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South EDO-A5, Denver, Colorado 80246-1530 or by e-mail at: cdphe.bohrequests@state.co.us

Dated this 25th day of October, 2021.



Alexandra Haas
Board of Health Administrator

Notice of Proposed Rulemaking

Tracking number

2021-00699

Department

1000 - Department of Public Health and Environment

Agency

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

CCR number

6 CCR 1011-1 Chapter 26

Rule title

CHAPTER 26 - HOME CARE AGENCIES

Rulemaking Hearing

Date

12/15/2021

Time

10:00 AM

Location

Via Zoom: https://us02web.zoom.us/meeting/register/tZYude2prjMsHtL_tElo1zx9GKfad_VOqhUe

Subjects and issues involved

The requested amendments are needed to update and clarify the rules, reduce duplicative language, support current industry standards and future training programs, streamline the organization and flow of the chapter, and lessen the implementation burden for providers.

Statutory authority

Sections 25-1.5-103, 25-3-101, and 25-27.5-101, et seq., C.R.S.

Contact information

Name

Monica Billig

Title

Policy Advisor

Telephone

303-692-2292

Email

monica.billig@state.co.us



To: Members of the State Board of Health

From: Elaine McManis, Deputy Division Director, and Cheryl McMahon, Home and Community Facilities Branch Chief, Health Facilities & Emergency Medical Services Division

Through: D. Randy Kuykendall, Director, Health Facilities & Emergency Medical Services Division (DRK)

Date: October 21, 2021

Subject: Request for a Rulemaking Hearing concerning 6 CCR 1011-1, Chapter 26 - Home Care Agencies

The Colorado Department of Public Health and Environment (Department), through regulations promulgated by the State Board of Health, is granted the statutory authority to set minimum standards for the operation of Home Care Agencies and Home Care Placement Agencies, which are codified at 6 CCR 1011-1, Chapter 26 (Home Care Agencies). The purpose of these standards is to ensure the health, safety, and welfare of home care consumers who receive care in their temporary or permanent home or place of residence.

The Department first established standards for Home Care Agencies and Home Care Placement Agencies in 2009, and although there have been a few isolated substantive changes since that time, there has been no comprehensive review of the entire regulatory set. As such, the Department, through the Health Facilities and Emergency Medical Services Division (Division), began a comprehensive review of these regulations in October 2020, in order to modernize the language, respond to changes in industry standards and practices, and ultimately ensure that these standards continue to protect the health, safety, and welfare of Coloradans utilizing home care services. The Division hosted monthly stakeholder meetings from October 2020 through September 2021 that were attended by an average of over 150 people each month.

This rulemaking is needed to update and clarify the rules, reduce duplication to Chapter 2 - General Licensure Standards, support current industry standards and future training programs, streamline the organization and flow of the chapter, and ultimately lessen the burden of implementation for providers.

The Division is requesting that the Board schedule a public rulemaking hearing on the proposed revisions to 6 CCR 1011-1, Chapter 26 - Home Care Agencies.

**STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY**

for Amendments to
6 CCR 1011-1, Standards for Hospitals and Health Facilities
Chapter 26 - Home Care Agencies

Basis and Purpose.

The Colorado Department of Public Health and Environment (Department) first established standards for Home Care Agencies and Home Care Placement Agencies in 2009, and although there have been a few isolated substantive changes since that time, there has been no comprehensive review of the entire regulatory set. As such, substantial updates to the rules were needed to ensure they continue to protect the health, safety, and welfare of Coloradans utilizing home care services, and specifically modernize the language and respond to changes in industry standards and practices. Additionally, non-substantive changes were made throughout the chapter to reduce duplication, streamline the organization and flow, and lessen the burden of implementation.

Prior to the initial adoption of the regulations in 2009, home care agencies were not subject to regulation by the State. As such, it was necessary to duplicate some portions of Chapter 2 - General Licensure Standards, to ensure newly licensed agencies understood the requirements and could achieve compliance. After many years of licensure with the Department, the redundancy and duplication with Chapter 2 is no longer needed. This change is found primarily in proposed Part 3 (Home Care Placement Agencies) and proposed Part 4 (Department Oversight), where much of the duplication was removed except when stakeholders requested to keep the language for extra clarity. In many places in the chapter, cross references to Chapter 2 were added in place of the current language, all of which is denoted in comments in the rule.

The biggest areas of change are found in proposed Part 7 (Non-medical/Personal Care), specifically related to the requirements for training of homemakers and personal care workers. The Colorado Department of Healthcare Policy and Financing (HCPF) approached the Department early on in the stakeholder engagement process to discuss creating a new structure to train and oversee these types of workers, based on recommendations developed by the Training Advisory Committee, which was established in response to Senate Bill 19-238 in order to gather stakeholder feedback and develop specific and actionable recommendations related to home care worker minimum training, notification of pay increases, and training enforcement. The Health Facilities and Emergency Medical Services Division (Division) met with HCPF outside of stakeholder meetings several times to work through proposed language, as well as engaged HCPF in the broader stakeholder meetings in order to reach consensus that this new structure supports where the industry is headed and will provide greater worker protections.

There were many instances where additional guidance was requested by stakeholders in order to more fully understand the intent of the Division's rule language. In the cases where the language is better suited in guidance rather than rule, that is noted and tracked in comments. The Division will develop this guidance during the implementation of these regulations, should the Board adopt them.

Changes are proposed in almost every area of the chapter, ranging from minor re-organizations and removing redundancy to substantive changes. The following list outlines the changes proposed in each major part of the chapter:

Part 1 - Statutory Authority and Applicability (previously Section 1)

- Additional language was added to ensure consistency among the health facility chapters and standardization of Division practices.

Removed existing Section 2 - General Provisions

- When these rules were first promulgated, additional context and language was provided in the chapter to support newly licensed agencies. This language is no longer needed and does not align with practices across other health facility rule chapters, and has thus been removed.

Part 2 - Definitions (previously Section 3)

- The existing definitions were updated to reflect changes in the chapter, including removing any terms no longer used in the chapter as well as adding new definitions to reflect the need for a clear understanding of those terms as they are used throughout the chapter.

Part 3 - Placement Agencies (previously Section 4)

- Few substantive changes are proposed. Primarily, obsolete language was removed and minimal language was reorganized.
- Language duplicative to Chapter 2 was removed and cross references to Chapter 2 were added instead.

Part 4 - Department Oversight (previously Section 5)

- Language was updated to reflect current program structures in other state agencies, updated internal Division processes, and statutory changes that have been made since the language was first written.
- Language duplicative to Chapter 2 was removed and cross referenced where necessary.

Part 5 - General Requirements for all License Categories (previously Section 6)

- This entire part was reorganized to provide clarity and a more natural flow in the regulations, reducing the burden of provider implementation.
- Language was modified in places to reflect statutory changes, to support current industry practices, and to address issues with consumers receiving adequate care.
- The section addressing Emergency Preparedness was rewritten with the assistance of a small workgroup (solicited from membership of the larger stakeholder group) that met in April and May 2021. The updated language adds a risk assessment component as part of developing an emergency preparedness plan, modernizes outdated language, and bolsters the existing requirements in order to support current industry standards and practices, and ensure the safety of consumers and personnel. The language developed by the small workgroup was presented to the larger stakeholder group where consensus was gained.

Part 6 - Skilled Care (previously Section 7)

- Language was modified to clarify the requirements and responsibilities of personnel in a skilled home care agency.
- The requirement for a Professional Advisory Committee was removed as it is no longer a Centers for Medicare and Medicaid Services (CMS) requirement and was identified as an onerous requirement for agencies.
- The written summary report requirement in Plan of Care was modified after extensive stakeholder feedback. A written summary used to be required every 60 days for all

consumers, and stakeholders indicated that this was often duplicated or carried over from the month prior, with no change, and represented very little value-added. Under the new requirements, a summary will only be required for consumers who experienced a change in status or needs that necessitated a change in the plan of care.

- The inclusion of a section on Telehealth Supervisory Visits is new to this chapter, and was prompted by Senate Bill 20-212 and the rapid expansion of healthcare delivery through telehealth during the COVID-19 pandemic and beyond. The proposed revisions allow for nurse aide supervision to be conducted via telehealth under certain circumstances, specified in the regulations. The Division used language from an existing waiver program, which has been in place throughout the pandemic, as a model for this new language.
- The section on Clinical Records is new to this part, and was added due to the need for skilled home care agencies to have additional record requirements that are not appropriate for inclusion in the general requirements for all home care agencies.

Part 7 - Non-medical/Personal Care (previously Section 8)

- This entire part was reorganized to provide clarity and a more natural flow to the regulations. Additionally, modifications were made in the Governing Body, Administration, and Agency Manager sections to provide more flexibility in meeting regulations and to create a system of greater accountability through evaluation and analysis.
- The current Personal Care Worker requirements were entirely restructured in order to more closely align with the training program being developed by HCPF, in response to the recommendations of the Training Advisory Committee. The purpose of these changes ultimately is to ensure worker safety, proper training, and retention, and to move towards a structure in the rules that provides greater transferability and flexibility for home care agencies and the workforce into the future. The new language creates a stacked model where “homemaker” is now the base requirement and a “personal care worker” must meet all of the homemaker requirements plus additional requirements specific to their training needs and responsibilities. This does not alter the current way of doing things so much as it provides a more streamlined and adaptable structure that will align with the future of the industry.
- The language on Telehealth Supervisory Visits was also added to this part, and allows for supervision of homemakers and personal care workers to be conducted via telehealth under certain circumstances specified in the regulations.

Specific Statutory Authority.

Statutes that require or authorize rulemaking:

Section 25-1.5-103, C.R.S.

Section 25-3-101, C.R.S.

Section 25-27.5-101, et seq., C.R.S.

Is this rulemaking due to a change in state statute?

☐ Yes, the bill number is _____. Rules are ☐ authorized ☐ required.

☒ No

Does this rulemaking include proposed rule language that incorporate materials by reference?

☐ Yes ☐ URL

☒ No

Does this rulemaking include proposed rule language to create or modify fines or fees?

☐ Yes

☒ No

Does the proposed rule language create (or increase) a state mandate on local government?

☒ No

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

REGULATORY ANALYSIS

For Amendments to 6 CCR 1011-1, Standards for Hospitals and Health Facilities Chapter 26 - Home Care Agencies

1. A description of the classes of persons affected by the proposed rule, including the classes that will bear the costs and the classes that will benefit from the proposed rule.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/S/B
Licensed Home Care Agencies	794	C
Home Care Agencies pending initial license (as of 9/1/21)	17	C
Registered Home Care Placement Agencies	8	
Consumers receiving care by a licensed home care agency	Unknown	B
Alliance Colorado	Unknown	S
Alzheimer's Association	Unknown	S
Aspen Healthcare Consulting	Unknown	S
Center for People with Disabilities	Unknown	S
Colorado Care Workers Unite	Unknown	S
Colorado Health Care Training	Unknown	S
Colorado Physical Therapy Association	2,455 physical therapists, physical therapist assistants, and physical therapist assistant students	S
Colorado Visiting Nurse Association	Unknown	S
Consultants for Children Inc.	Unknown	S
Developmental Disabilities Resource Center	Unknown	S
Home Care & Hospice Association of Colorado	Unknown	S
Mountain View Consulting	Unknown	S
Nursing and Therapy Services of Colorado	Unknown	S
Personal Assistance Services of Colorado	Unknown	S
The Crag Business Group	Unknown	S

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please use this relationship categorization key:

- C = individuals/entities that implement or apply the rule.
- S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.
- B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Economic outcomes

Summarize the financial costs and benefits, include a description of costs that must be incurred, costs that may be incurred, any Department measures taken to reduce or eliminate these costs, any financial benefits.

C: The Colorado Department of Public Health and Environment (Department) does not foresee an economic impact to home care agencies and home care placement agencies, as the intent of the rule is to bring the language up to current industry standard and ensure the rules support the agencies in meeting consumers' needs in an effective, safe, and reliable manner. The substance of the rules has not been altered in such a way that would create an economic impact to licensed home care agencies. It is the Department's intent that clearer regulations will result in improved health, safety, and welfare for Colorado consumers who utilize home care services.

Non-economic outcomes

Summarize the anticipated favorable and non-favorable non-economic outcomes (short-term and long-term), and, if known, the likelihood of the outcomes for each affected class of persons by the relationship category.

C: The proposed rule changes increase the readability, organization, and clarity of the rules, and should lessen the burden of implementation for providers, many of whom expressed confusion about certain requirements during stakeholder meetings. The Department worked extensively with stakeholders to ensure the proposed rules are easier to understand and ultimately easier to implement. This may have a positive long-term economic impact on agencies, but is considered cost-neutral and a non-economic, administrative impact in the short-term.

C&B: Creating a more robust Emergency Preparedness section will allow home care agencies to be better equipped to respond to emergencies, and will result in greater protection and safety to agency staff and their consumers.

B: The proposed rule changes increase protections for consumers who will benefit from the changes made to consumer's rights and worker training with improved care and improved health outcomes.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

A. Anticipated CDPHE personal services, operating costs or other expenditures:

The proposed amendments are cost neutral.

Anticipated CDPHE Revenues:

The proposed amendments are revenue neutral.

B. Anticipated personal services, operating costs or other expenditures by another state agency:

N/A

Anticipated Revenues for another state agency:

N/A

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Along with the costs and benefits discussed above, the proposed revisions:

- ☐ Comply with a statutory mandate to promulgate rules.
- ☒ Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.
- ☒ Maintain alignment with other states or national standards.
- ☒ Implement a Regulatory Efficiency Review (rule review) result.
- ☒ Improve public and environmental health practice.
- ☒ Implement stakeholder feedback.

Advance the following CDPHE Strategic Plan priorities (select all that apply):

Reduce Greenhouse Gas (GHG) emissions economy-wide from 125.716 million metric tons of CO₂e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO₂e per year by June 30, 2020 and to 113.144 million metric tons of CO₂e by June 30, 2023.

- ☐ Contributes to the blueprint for pollution reduction
- ☐ Reduces carbon dioxide from transportation
- ☐ Reduces methane emissions from oil and gas industry
- ☐ Reduces carbon dioxide emissions from electricity sector

Reduce ozone from 83 parts per billion (ppb) to 80 ppb by June 30, 2020 and 75 ppb by June 30, 2023.

- ☐ Reduces volatile organic compounds (VOC) and oxides of nitrogen (NO_x) from the oil and gas industry.
- ☐ Supports local agencies and COGCC in oil and gas regulations.
- ☐ Reduces VOC and NO_x emissions from non-oil and gas contributors

Decrease the number of Colorado adults who have obesity by 2,838 by June 30, 2020 and by 12,207 by June 30, 2023.

- ☐ Increases the consumption of healthy food and beverages through education, policy, practice and environmental changes.
- ☐ Increases physical activity by promoting local and state policies to improve active transportation and access to recreation.
- ☐ Increases the reach of the National Diabetes Prevention Program and Diabetes Self-Management Education and Support by collaborating with the Department of Health Care Policy and Financing.

Decrease the number of Colorado children (age 2-4 years) who participate in the WIC Program

and have obesity from 2120 to 2115 by June 30, 2020 and to 2100 by June 30, 2023.
___ Ensures access to breastfeeding-friendly environments.
Reverse the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.
___ Reverses the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.
___ Performs targeted programming to increase immunization rates.
___ Supports legislation and policies that promote complete immunization and exemption data in the Colorado Immunization Information System (CIIS).
Colorado will reduce the suicide death rate by 5% by June 30, 2020 and 15% by June 30, 2023.
___ Creates a roadmap to address suicide in Colorado.
___ Improves youth connections to school, positive peers and caring adults, and promotes healthy behaviors and positive school climate.
___ Decreases stigma associated with mental health and suicide, and increases help-seeking behaviors among working-age males, particularly within high-risk industries.
___ Saves health care costs by reducing reliance on emergency departments and connects to responsive community-based resources.
The Office of Emergency Preparedness and Response (OEPR) will identify 100% of jurisdictional gaps to inform the required work of the Operational Readiness Review by June 30, 2020.
___ Conducts a gap assessment.
___ Updates existing plans to address identified gaps.
___ Develops and conducts various exercises to close gaps.
For each identified threat, increase the competency rating from 0% to 54% for outbreak/incident investigation steps by June 30, 2020 and increase to 92% competency rating by June 30, 2023.
___ Uses an assessment tool to measure competency for CDPHE's response to an outbreak or environmental incident.
___ Works cross-departmentally to update and draft plans to address identified gaps noted in the assessment.
___ Conducts exercises to measure and increase performance related to identified gaps in the outbreak or incident response plan.
100% of new technology applications will be virtually available to customers, anytime and anywhere, by June 20, 2020 and 90 of the existing applications by June 30, 2023.
___ Implements the CDPHE Digital Transformation Plan.
___ Optimizes processes prior to digitizing them.
___ Improves data dissemination and interoperability methods and timeliness.
10. Reduce CDPHE's Scope 1 & 2 Greenhouse Gas emissions (GHG) from 6,561

metric tons (in FY2015) to 5,249 metric tons (20% reduction) by June 30, 2020 and 4,593 tons (30% reduction) by June 30, 2023.

- ☐ Reduces emissions from employee commuting
- ☐ Reduces emissions from CDPHE operations

11. Fully implement the roadmap to create and pilot using a budget equity assessment by June 30, 2020 and increase the percent of selected budgets using the equity assessment from 0% to 50% by June 30, 2023.

- ☐ Used a budget equity assessment

☒ Advance CDPHE Division-level strategic priorities.

- Regulatory Review

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

Inaction has neither monetary cost nor benefit; however, inaction will result in a regulatory framework for home care agencies that is outdated and increasingly obsolete in today's healthcare landscape.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The Department worked closely with stakeholders to ensure that there would not be substantial economic costs to the proposed regulations. During the process, none of the proposed revisions were identified by stakeholders as being overly costly or intrusive, therefore alternatives were not explored.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

The Colorado Department of Healthcare Policy and Financing (HCPF) approached the Department with draft language that substantially altered the approach to homemaker and personal care worker requirements for non-medical home care agencies. The Department met with HCPF outside of stakeholder meetings several times to work through HCPF's proposed language, as well as engaged HCPF in the broader stakeholder meetings in order to reach consensus on the language. All agreed that this new structure supports where the industry is headed and will provide greater agency and worker protections.

Based on recommendations that came from the Training Advisory Committee, created as a result of Senate Bill 19-238, HCPF, and some stakeholders, also wanted the Department to include language that allowed homemakers and personal care workers to complete their mandatory training through the use of a portable, statewide curriculum. However, this curriculum has not yet been developed, and does not have a projected launch date. While the Department supports HCPF in the development of a statewide, reputable, portable curriculum, and commits to modifying Chapter 26 language in the future to incorporate this curriculum, the Department was unable to add language in rule for a program that does not yet exist and is unenforceable at this

RA 5

time. HCPF and the stakeholders understood this decision and ultimately consensus was reached.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The Department reviewed several sources of information in the writing of these rules, including: the CMS State Operations Manual, which contain the regulations and explanatory guidance for the federal conditions of participation; Department of Health Care Policy and Financing laws and regulations; internal Division data on all licensed home care agencies and home care placement agencies; and deficiency information from past state licensure surveys. These sources, as well as the wealth of information and experience received through extensive stakeholder engagement, informed the Department's determination of best practices to incorporate into the proposed revisions.

STAKEHOLDER ENGAGEMENT
for Amendments to
6 CCR 1011-1, Standards for Hospitals and Health Facilities
Chapter 26 - Home Care Agencies

State law requires agencies to establish a representative group of participants when considering to adopt or modify new and existing rules. This is commonly referred to as a stakeholder group.

Early Stakeholder Engagement:

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

Organization	Representative Name and Title (if known)
24/7 Home Health Care	Tatyana Akhmetova
A Caring Heart Home Health	Felicia Stockstill
A Circle of Care Colorado	Cate Baze
	Joaire Giordano
A to Z Homecare	Leo Bekker
AAA Personal Care Services	Guadalupe Lugo
Abama Home Care, Inc.	Danielle Golovan, Manager
Abby Senior Care	Jeni Winslow, Executive Director
ABC Home Health Care Personal Services	Jeanette Ortiz
Accredo Nurse Practice	Lisa Albert Farrens
Alamosa County Public Health Department	Lena Martinez
Alfa Best Home Care	Marci Miller
All For Kids Home Health	Andrea Cunningham, RN, BSN
Alliance (IDD providers and CCBs)	Ellen Jensby
Alliance Colorado	Josh Rael
Alliance of Therapy Specialists	John Cady
Alpine PT Home Care	Amy Zurcher
	Chuck Philipp
	Suzanne Phillips
Always Best Care	Erin Nichols
Alzheimer's Association	Coral Cosway
Amazing Care Home Health	Katherine Mataev, Administrator
	Sonja Scott
Amity Healthcare Group	Irina Gorovaya
Angel Heart Homecare	Sarah Alshaeli
Angel's Advocate Home Care	Danna Molleda
	Debi
Angels of Care Pediatric Home Health	Jennifer Rahrer
Angels Services LLC	Renee
Argus Home Health Care	Angela Valdez, Director of Nursing
	Iva Lou Bailey, President
	Marilyn Grandberg

Organization	Representative Name and Title (if known)
	Michele Guttman, Controller
	Sandy Martin
	Patti DeGeorge
	Rosalie Garbiso
Argus Home Health Care/Ark Valley Home Care	Danny Manzanares
Ark Valley Home Care	Chrissie Valencia
Aspen Healthcare Consulting	Tammy Lindgren
AvaRe Healthcare	Cara Light, BSN RN DCS
Aveanna Healthcare	Charles McAleer
	Chelby Jackson, Director
Azin Home Care	Marzieh Ghavi
Bayada Home Health Care	Bethany Beets
	Bonali Barua Kautz, Director of Clinical Operations
	Paula Lopez
	Stephanie Ortiz-Grabe
Beacon Home Care	Marina Gougouliau
Berkeley Home Care	Kristen Kail, Director of Clinical Services
BMH Corp, LLC	Yuliya Gostishcheva
Boulder Community Health	Julie Blakie
	Lisa Allen
Bridges Homecare and Hospice	Vanessa Boyd
Briggs Home Care/ Abby Senior Care	Syblil Romley
BrightStar Care Home Care	Donny Sepin
BrightStar Care Home Health	Jasmine Green
	Nancy Hicks
Brightstar Care of Greeley	Shantay Marcos
Capital Home Health Care Inc.	Ali Said
Caregivers Village Colorado	Dave Bunch, Administrator
Castle Rock Home Care	Nicole Kopecky
Center for People with Disabilities	Lisa Nelson
Centura Health	Erica MacDonald
	Stacy Ragona
Centura Health at Home	Cassandra Pratt (Penrose St. Francis Health Services)
	Jen Litowkin (Bristlecone Home Health)
	Patricia Vertun
	Tina Gallegos (Mercy Home Care and Hospice)
Circle of Life Home Care	Martha Sparks
Colorado Care Workers Unite	Cecil Crudo
	Melissa Benjamin
Colorado Department of Healthcare Policy and Financing	Alicia Ethredge
	Candace Bailey
	Erin Thatcher

Organization	Representative Name and Title (if known)
	John Lentz
	Kristine Dos Santos
	Matt Colussi
	Todd Coffey
Colorado Department of Public Health and Environment	Beck Furniss, Policy Advisor
	Cassie Lowery
	Cheryl McMahon, Home and Community Facilities Branch Chief
	Christine McGroarty, Fiscal and Administrative Services Branch Chief
	Elaine McManis, Deputy Director
	Jane Flournoy, IDD Community Services Section Manager
	Karen Harvey
	Kristi Uitich, Home Care Services Supervisor
	Michelle Reese, Senior Policy Advisor
	Steve Cox, Home Care Services Section Manager
Colorado Family Caregivers	Darryl Perkins
Colorado Health Care Training	Connie McWilliams
Colorado Physical Therapy Association	Kasey Baker
Colorado Visiting Nurse Association	Cindi Pursley
	Tanya McAllister, Educator
Columbine Caregivers	David Audino
ComForCare Home Care	Chris Wining (Northern CO)
	Mike Stanley
	Shannon Ralph (Denver West)
Comfort Keepers	Brent Eggeman (Denver)
	Erin Youngblood (Durango)
	Hollie Contreareas (Denver)
	Trina Crow (Durango)
ComfortCare at Home	Sola Oyelakin
Community Connections Inc.	Julie Ferguson
Complete Home Health Care	Cathy Kaufman
Conifer Historical Society and Museum	
Consultants for Children Inc.	Angela Ely
	Robyn Tharp
Continuum of Colorado	Josabeth Way
	Shelly Wilson
Cowboy Home Care	Melissa Kamm
Craft Health	Kaitlin Stanton
Denver Home Care Solutions, LLC	Sue Grounds
Developmental Disabilities Resource Center	Diana Patty
Developmental Pathways Home Health Agency	Kelly Waanders
Dominican Home Health Agency	Audri Wesseln

Organization	Representative Name and Title (if known)
	Leeanne Super, CFO
DRCOG's Long Term Care and PACE Ombudsman Program	Shannon Gimbel
Eben Ezer Lutheran Care Center	Dakota Luark, In-Home Care Manager Lynelle Phillips
EDsy Home Care	Samsara Botica
Elderlink Home Care, Inc.	Karen Moorehead
Envida Home Care	Megan Madigan
Evergreen & Compassion Home Care, LLC	Dorcas Okhihan
Excellent Personal Home Care Health Inc.	Maria Lares
FirstLight HomeCare	Jenna Fieser (Boulder) Susan Dellinger (Denver West)
Foothills Gateway, Inc.	Cynthia Hansford John DeVos
Front Range Pediatric Therapies	Julie Herndon
Frontier Home Health	Cassy Schilling
Gateway Home Health and Hospice	Jan Arnott
Giving Home Health	Carol Cook
Golden Harmony Inc.	Michael Goldman
Golden Time Personal Care	Narine Gazarian Olga Gurkovskaya
Good Golden Home Care Agency	Irina Iksanova
Heart of the Rockies Home Health and Hospice	Kelly Dunavin Tambra Stutes Vonnice Fox
High Priority Inc. Home Health Care	Alla Khachaturova, RN, Administrator
Higher Living Home Care	Carlos Alcatraz
Hildebrand Home Care	Kimberly Diodosio
Hilltop Brain Injury Services	Rachel Moore, Non-Residential Coordinator
Home Care & Hospice Association of Colorado	Alan Morse Eliza Schultz, Lobbyist Elisabeth Rosen, Contract Lobby Team
Home Care Assistance	Deanna Spicher, Employee Care Manager
Home Care Assistance, Centennial	Amy Lane
Home Instead Senior Care	Curt Foust Jayna Connolly Sullivan Kelly Murphy (Colorado Springs) Kristin Goluska, DSW Mike Lammers
Homewatch CareGivers	Rick Grimes (Lakewood) Roger Rhodes, Owner and Managing Director
Homewell Care Services of Colorado	Thomas Mangas
HopeWest	Tierney Gallagher Torrey Anderson

Organization	Representative Name and Title (if known)
HopeWest PACE Home Care	Crystal Morris
Horizon Home Care	Jill McCormick
	Shannon Ashley
Imagine!	Jenna Sallee
	Victoria Thorne
InnovAge	Courtney Despos
Interim Health Care	Catherine Konaszewski
	Cynthia Ringling, RN (Southeastern CO)
	Erika Upchurch
	Jimmy Trujillo III, Administrator (Pueblo)
	Monica Garzan
	Rhonda Goodwin (Pueblo)
JJN Home Health Agency, Inc.	Jennifer Nelson
	Aubrey Johns
Klarus Home Care	Erin Mansbridge
Lenka's Loving Care	Lenka
Liberty Home Care, LLC	Administrator
Life Care, Inc.	Brenda Valdez
	Savannah McIntosh, Care Supervisor
	Trish Martin
LT Therapy Services dba First Steps Pediatric Therapy, Inc	Lisa Tarr, Owner
	Priscilla DeCianne, Alternate Administrator
Lucky You Home Care Services, LLC	Sayera Kamilova, Administrator
Maxim Healthcare Services	Brittany Legleiter
	John Howell
	Tina Marquez
	Virginia Emme
Maxim Home Health Care	Ashleigh Biegel, RN
McLellan Homecare, Boulder	Dan McLellan
Mental Health Center of Aurora	Eugene Medina
MGA Homecare	Alex Koloskus
Mina Home Care	Mina
	Muhiba Birashk
Mission HCS	Feri Rahgozar
Mountain Valley Developmental Services	Adam Juul
	John Klausz
	Sara Sims
Mountain View Consulting	Leslie Rothman
Mountain View Home Care	Alyssa Bogstad
	Misha Ash
Mt. Evans Home Health Care & Hospice	Suzanne Feroldi
Nursing and Therapy Services of Colorado	Crystal Smartt, RN
	Danielle Guthrie

Organization	Representative Name and Title (if known)
	Jennifer Martarano
	Kristin Waldrop
	Shawn Brooks
	Traci Turchin
Nuclear Care Partners	Stacey Mueller
NurseCore	Cassandra Goldbach, Branch Director
	Miranda Erisman, Clinical Director
Nurture Home Health Care, Inc.	Marshea Freant-Vitt
OASIS/Front Range Therapists	Lacy Hoyer-Helms
Optio Health Services/ The Denver Hospice	Bobbi Tadwalt
	Leilani Smith, Clinical Manager
Optum Infusion	Raven Starr
Paragon Health	Patrick Emrich, RN
Paragon Infusion Care	Danielle Jenkins
	Maria Salazar, RN, Director of Nursing/Administrator
	Pamela McIntyre
Parker Personal Care Homes	Lindsay Menough
Parkview Medical Center/Parkview Homecare	Kelea Nardini
Personal Assistance Services of Colorado/SW Home Health	Bernadette Munoz-Conklin
	Evelyn Quigley
	Tiffany Hill
	Yvette Tanner, CEO
Peaks Home Health, LLC/ Brookdale at Home	Giftly Opare
Pediatric Therapy of Colorado	Rick Affolter
Pentec Health Inc.	Jamie Schultz
	Tim Herrera
PeopleCare Health Services	Lorin Chevalier
	Sarah Engels
Personal Assistance Services of Colorado	Denise Hodgert
Personal Touch Senior Services Colorado	Rosemarie Romano
Professional Home Health Care	Merrill Pilot
Prowers Medical Center Home Health	Micaela Aguilera
Rain Home Care	Arah Hof
	Carol
Rhythms Home Care	Jamie Davis
	Janice Crowley
Right at Home Grand Junction	David McKendry
	Sarah Kelley
Rocky Mountain PACE	Anita Pope
Sand and Sage Personal Care Agency	Jackie Hiner
Sangre de Cristo Community Care	Carlos Samora

Organization	Representative Name and Title (if known)
SCL Home Health	Sonya Neumann, Executive Director
Seniors Helping Seniors	Joanne Thompson (Northern CO)
	Stacy Newman-Roolf
Seniors Home Care	John Tong
Sevens Home Care	Jessica Johnson
Shifo Home Health Inc.	Nika
	Shahnoz
Snowy Peak Community Services	Jayme
Solace Healthcare	Lindsay Miller
Southeast Colorado Home Health and Hospice	Crystal Rush, RN
Spark Home Health	Jenny Vail-Stencel, Administrator
	Teresa Hakar
Strive	Taylor Leonard
Summit West Care	Shelley Thiel
Supreme Health Care, LLC	Anar Badamkhand
Synergy HomeCare	Benjamin Budraitis, President
	Leighton Boyce (Longmont)
T Wisdom, LLC	Tiffany Turner
Talem Home Care	Marcy Kowalski
	Rachel Wilson (Broomfield)
Team Select Home Care	Carla Persson, Director of Clinical Operations
	Colby Kostur
	Heather Hale
Tender Care Pediatric Services	Cierra Tracy
	Heidi Dailey
	Sarah Reinman
Tender Hearts Home Health Care	Heather Robles
The Academy Boulder	Kim Mortensen
The Business of Senior Care	Lucas Carroll
The Coach Home Care	Teresa Barnett
The Crag Business Group	Donna Floyd
The Independence Center	Indy Frazee
	June Johnston, RN, Home Health Clinical Manager
Thrive Skilled Pediatric Care	Ann Martin
	Tania Hansen
Touch of Care Montrose	Tyler Martinez
Touching Hearts at Home	Lindsay Strong, Adminstrator
Transitions Home Health Care	Alaina Page
True Care, LLC	Hang Duong
Trusted Ally Home Care	Whitney Brown
Visions 4 You Home Care	Sarah Bibb
Visiting Angels	Maggie Blake, RN
	Debbie Harrison (Grand Junction)

Organization	Representative Name and Title (if known)
	Greg Elliott (Denver, Westminster, and Boulder)
	Michelle Johnson (Southwest CO)
	Terry Ruch (Aurora)
Volunteers of America Home Health	Tara Wilson
Voyager Home Health Care	Anna McLain
	Crystal
	Jordan Jaquin
	Ryan Thompson
We Care Home Health, Firestone	Lori Palmisano
Western Slope In-Home Care	Dehlia Dodd
White Horse Health and Wellness Centers	Amy Rodriguez
	Sharla Norris
Wind Crest Home Support Services	Terri Dankelman, Home Support Manager
Windhorse Community Services	Judy Halloran
	Polly Banerjee Gallagher
Windhorse Elder Care Inc.	Chrystal Nelthropp
	Jyoti Sharp, Owner
	Stephanie Kindberg
World of Wellness Home Care	Mary Davis
	AJ Geist
	Amanda Doty
	Amanda Ferigan
	Angie DeVries
	April Garcia
	Ashley Grant
	BB Angels
	Bee Angels
	Besrat Bejiga
	Bethany Farrell
	Bette Dejanovich
	Brion Neill
	Carmella Stevens
	Carol Riggerbach
	Carolyn Shockley
	Carrie Owens
	Cecilia Rosadia
	Celine Juteau
	Dan Roda
	Dan Zalk
	Danele Velasquez
	David Geras
	Denise Thacker
	Devin Myers

Organization	Representative Name and Title (if known)
	Elizabeth Fritz
	Ellen Caruso
	Eric Walton
	Erick Hendrick
	Gabrielle Deuth
	Gary Ruvin
	Heather Brozek
	Herman Ortiz
	Jackson Lambert
	Jamie Donovan
	Janet Beiriger
	Janet Pasterkamp
	Jennifer Perez
	Jenny Albertson
	Jeny Knight
	Jesica Hauck
	Jody Dufour
	Jody Vigil-Namoca
	Joe Giauque
	Josabeth Mejia
	Joseph Leach
	Joshua Shipman
	Julian Eighmy
	June Haskin, Administrator
	Katie Spindle
	Kim Ivy
	Kitty Vradenburg
	Kristie Braaten
	Kristin Ceriani
	Kristy Miller
	Lacey Bean
	Latisha Jackson
	Laura Neill
	Lindsey Combs
	Lindy Rucker
	Lisa Olsen
	Lynn Hendricks
	Lynnette Jones
	Maria Whetsel
	Mariah Colangelo
	Mary Alice
	Matt Payne
	Meghan Skovran

Organization	Representative Name and Title (if known)
	Melanie Sims
	Melissa Pelkey
	Michael Pierce
	Michelle Tenorio
	Mickey Aguilera
	Nancy Lederhos
	Natalie Grace
	Nika Jumaeva
	Patti Von Riesen
	Renee Worthington
	Sabe Kemer
	Sako Bagramyan
	Sandi McCann
	Sarah Canosa
	Sarah Roberts
	Scott Harper
	Shanae Zion
	Shellie Finn
	Sheryl Bellinger
	Sue Mergen
	Susanne Anderson
	Tara Bogle
	Tim Evans
	Tim Thornton
	Todd Chambers
	Tracie Dominguez
	Tracy Hiester
	Tsetsegmaa Ganbayar
	Tyson Morgan

The Health Facilities and Emergency Medical Services Division (Division) held twelve (12) monthly meetings between October 2020 and September 2021. 657 unique participants attended the monthly meetings over the course of the process.

All stakeholder meetings were open to the public, and there was substantial interest and attendance, as documented in the table above. All licensed home care agencies, home care placement agencies, and interested stakeholders were provided notice of meetings and of alternate methods of providing feedback. The Division sent meeting information through its portal messaging system to impacted agencies and directly emailed 339 unique stakeholders that signed up to receive such emails as “interested parties.” Meeting information and documents were posted to a Colorado Department of Public Health and Environment (Department) google drive in advance of each meeting, including the draft rules for discussion.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

- ☒ Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking.
- ☐ Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

The major policy issue encountered during the stakeholder process was the request from the Colorado Department of Healthcare Policy and Financing (HCPF) to include exemptions for training for homemakers and personal care workers if they utilize a statewide, portable training curriculum that does not currently exist. This training program is one of the key recommendations from the Training Advisory Committee, which was formed in response to Senate Bill 19-238 in order to gather stakeholder feedback and develop specific and actionable recommendations related to minimum training, worker notification of pay increases, and training enforcement.

The Department met with HCPF outside of stakeholder meetings several times to work through HCPF's proposed language, as well as engaged HCPF in the broader stakeholder meetings. HCPF attended the stakeholder meetings with representatives from home care agencies and Colorado Care Workers Unite to speak on behalf of a statewide, portable training curriculum. While the Department supports HCPF in the development of a statewide, reputable, portable training curriculum, and plans to modify Chapter 26 language in the future to accommodate this change, the Department was unable to add language in rule for a curriculum that does not yet exist and is unenforceable. HCPF and stakeholders understood this decision and consensus was reached with the agreement that the Department will open the chapter when the curriculum is developed and widely-available, which will result in long-term benefits for the entire home care industry.

Please identify the determinants of health or other health equity and environmental justice considerations, values or outcomes related to this rulemaking:

Overall, the proposed rule continues to hold all licensed facilities to the same standards, regardless of location or population served. Language was updated in personal care worker tasks to reflect cultural sensitivity around product use and consumer care, as well as language and guidance to support translator services for consumers and their families, both of which may currently be a barrier to accessing services.

Overall, after considering the benefits, risks and costs, the proposed rule:

Select all that apply.

	Improves behavioral health and mental health; or, reduces substance abuse or suicide risk.	X	Reduces or eliminates health care costs, improves access to health care or the system of care; stabilizes individual participation; or, improves the quality of care for unserved or underserved populations.
	Improves housing, land use, neighborhoods, local infrastructure, community services, built environment, safe physical spaces or transportation.	X	Reduces occupational hazards; improves an individual's ability to secure or maintain employment; or, increases stability in an employer's workforce.
	Improves access to food and healthy food options.		Reduces exposure to toxins, pollutants, contaminants or hazardous substances; or ensures the safe application of radioactive material or chemicals.
X	Improves access to public and environmental health information; improves the readability of the rule; or, increases the shared understanding of roles and responsibilities, or what occurs under a rule.		Supports community partnerships; community planning efforts; community needs for data to inform decisions; community needs to evaluate the effectiveness of its efforts and outcomes.
	Increases a child's ability to participate in early education and educational opportunities through prevention efforts that increase protective factors and decrease risk factors, or stabilizes individual participation in the opportunity.	X	Considers the value of different lived experiences and the increased opportunity to be effective when services are culturally responsive.
	Monitors, diagnoses and investigates health problems, and health or environmental hazards in the community.	X	Ensures a competent public and environmental health workforce or health care workforce.
X	Other: Complies with Department's obligation to ensure all regulations are consistent with state law.		Other: _____ _____

An Act

SENATE BILL 20-212

BY SENATOR(S) Winter and Tate, Crowder, Bridges, Cooke, Coram, Danielson, Donovan, Fenberg, Fields, Gardner, Ginal, Gonzales, Hansen, Hisey, Holbert, Lee, Lundeen, Moreno, Pettersen, Priola, Rankin, Sonnenberg, Story, Todd, Williams A., Woodward, Zenzinger, Garcia; also REPRESENTATIVE(S) Lontine and Soper, Landgraf, Will, Arndt, Bird, Bockenfeld, Buckner, Buentello, Caraveo, Carver, Coleman, Cutter, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Pelton, Rich, Roberts, Sandridge, Singer, Sirota, Snyder, Sullivan, Titone, Valdez A., Valdez D., Van Winkle, Weissman, Woodrow, Young.

CONCERNING REIMBURSEMENT FOR HEALTH CARE SERVICES PROVIDED THROUGH TELEHEALTH, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds that:

(a) On March 27, 2020, the federal government enacted the

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

"Coronavirus Aid, Relief, and Economic Security Act" ("CARES Act"), Pub.L. 116-136, Stat. 281 (2020), pursuant to which Colorado received approximately \$1,674,000,000 from the federal coronavirus relief fund to use for necessary expenditures incurred due to the current COVID-19 public health emergency;

(b) On May 18, 2020, the Colorado governor issued Executive Order 2020 D 070, transferring \$70,000,000 from the state "CARES Act" fund to the state general fund for eligible expenditures;

(c) The expenditures in this bill are considered an allowable use under the federal "CARES Act" and are necessary to respond to the COVID-19 public health emergency; and

(d) The expenditures in this bill were not accounted for in the Colorado state budget most recently approved as of March 27, 2020, and all of the expenses will be incurred on or before December 30, 2020.

(2) The general assembly further finds and declares that:

(a) The expenditures in this bill will be used to protect the health and safety of both caregivers and patients by ensuring that access to telehealth services are available to all Coloradans;

(b) Due to the unanticipated effects of COVID-19, many patients have been unable or unwilling to seek out care through in-person settings;

(c) The need to access health care services is compounded by the challenges associated with COVID-19, as Coloradans are experiencing the negative effects the pandemic has on physical, mental, and emotional health that will extend into future years; and

(d) Access to telehealth is vital to ensuring the continuity of physical, mental, and behavioral health care for Coloradans during the COVID-19 pandemic and responding to any future outbreaks of the virus.

SECTION 2. In Colorado Revised Statutes, 10-16-123, **amend** (2)(e) and (4)(e); **repeal** (4)(d); and **add** (4)(b.5) as follows:

10-16-123. Telehealth - definitions. (2) (e) A carrier shall not:

(I) Impose an annual dollar maximum on coverage for health care services covered under the health benefit plan that are delivered through telehealth, other than an annual dollar maximum that applies to the same services when performed by the same provider through in-person care;

(II) IMPOSE SPECIFIC REQUIREMENTS OR LIMITATIONS ON THE HIPAA-COMPLIANT TECHNOLOGIES THAT A PROVIDER USES TO DELIVER TELEHEALTH SERVICES, INCLUDING LIMITATIONS ON AUDIO OR LIVE VIDEO TECHNOLOGIES;

(III) REQUIRE A COVERED PERSON TO HAVE A PREVIOUSLY ESTABLISHED PATIENT-PROVIDER RELATIONSHIP WITH A SPECIFIC PROVIDER IN ORDER FOR THE COVERED PERSON TO RECEIVE MEDICALLY NECESSARY TELEHEALTH SERVICES FROM THE PROVIDER; OR

(IV) IMPOSE ADDITIONAL CERTIFICATION, LOCATION, OR TRAINING REQUIREMENTS ON A PROVIDER AS A CONDITION OF REIMBURSING THE PROVIDER FOR PROVIDING HEALTH CARE SERVICES THROUGH TELEHEALTH.

(4) As used in this section:

(b.5) "REMOTE MONITORING" MEANS THE USE OF SYNCHRONOUS OR ASYNCHRONOUS TECHNOLOGIES TO COLLECT OR MONITOR MEDICAL AND OTHER FORMS OF HEALTH DATA FOR INDIVIDUALS AT AN ORIGINATING SITE AND ELECTRONICALLY TRANSMIT THAT INFORMATION TO PROVIDERS AT A DISTANT SITE SO PROVIDERS CAN ASSESS, DIAGNOSE, CONSULT, TREAT, EDUCATE, PROVIDE CARE MANAGEMENT, SUGGEST SELF-MANAGEMENT, OR MAKE RECOMMENDATIONS REGARDING A COVERED PERSON'S HEALTH CARE.

(d) "Synchronous interaction" means a real-time interaction between a patient located at the originating site and a provider located at a distant site.

(e) (f) "Telehealth" means a mode of delivery of health care services through HIPAA-COMPLIANT telecommunications systems, including information, electronic, and communication technologies, REMOTE MONITORING TECHNOLOGIES, AND STORE-AND-FORWARD TRANSFERS, 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 term includes:

- (A) Synchronous interactions;
- (B) Store-and-forward transfers; and
- (C) ~~Services provided through IHPAA-compliant interactive audio-visual communication or the use of a IHPAA-compliant application via a cellular telephone.~~
- (H) ~~"Telehealth" does not include the delivery of health care services via:~~
 - (A) ~~Voice-only telephone communication or text messaging;~~
 - (B) ~~Facsimile machine; or~~
 - (C) ~~Electronic mail systems.~~

SECTION 3. In Colorado Revised Statutes, 25-27.5-104, add (1.5) as follows:

25-27.5-104. Minimum standards for home care agencies and home care placement agencies - rules - advisory committee. (1.5) TO THE EXTENT THE STATE BOARD RULES ADOPTED PURSUANT TO SUBSECTION (1) OF THIS SECTION ADDRESS SUPERVISION REQUIREMENTS FOR HOME CARE AGENCIES, THE RULES MUST ALLOW FOR SUPERVISION IN PERSON OR BY TELEMEDICINE OR TELEHEALTH. ANY RULES ADOPTED BY THE STATE BOARD PURSUANT TO THIS SUBSECTION (1.5) SHALL BE IN CONFORMITY WITH APPLICABLE FEDERAL LAW AND MUST TAKE INTO CONSIDERATION THE APPROPRIATENESS, SUITABILITY, AND NECESSITY OF THE METHOD OF SUPERVISION PERMITTED.

SECTION 4. In Colorado Revised Statutes, 25-54-102, amend (2)(a) as follows:

25-54-102. Statewide system for advance directives created - rules. (2) (a) Upon the request of an individual, or authorized surrogate decision-maker, a qualified provider that has an agreement with the health information organization network as required under the federal "Health

Insurance Portability and Accountability Act of 1996", Pub.L. 104-191, as amended, may upload the individual's advance health care directive to the system. The advance health care directive shall only be uploaded to the system by a qualified provider after the individual or authorized surrogate decision-maker has consulted with the qualified provider in person or through telehealth, as defined in ~~section 10-16-123 (4)(e)(f)~~ SECTION 10-16-123 (4)(e). A qualified provider who THAT uploads an advance health care directive to the system is not subject to civil or criminal liability or regulatory sanction for action taken in accordance with this subsection (2).

SECTION 5. In Colorado Revised Statutes, 25.5-5-320, **amend** (1) introductory portion; and **add** (2.1), (2.5), (6), and (7) as follows:

25.5-5-320. Telemedicine - reimbursement - disclosure statement - definition - repeal. (1) On or after July 1, 2006, in-person contact between a health care or mental health care provider and a patient ~~shall~~ is not ~~be~~ required under the state's medical assistance program for health care or mental health care services delivered through telemedicine that are otherwise eligible for reimbursement under the program. ANY HEALTH CARE OR MENTAL HEALTH CARE SERVICE DELIVERED THROUGH TELEMEDICINE MUST MEET THE SAME STANDARD OF CARE AS AN IN-PERSON VISIT. TELEMEDICINE MAY BE PROVIDED THROUGH INTERACTIVE AUDIO, INTERACTIVE VIDEO, OR INTERACTIVE DATA COMMUNICATION, INCLUDING BUT NOT LIMITED TO TELEPHONE, RELAY CALLS, INTERACTIVE AUDIOVISUAL MODALITIES, AND LIVE CHAT, AS LONG AS THE TECHNOLOGIES ARE COMPLIANT WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996" PUB.L. 104-191, AS AMENDED. The HEALTH CARE OR MENTAL HEALTH CARE services ~~shall be~~ ARE subject to reimbursement policies developed pursuant to the medical assistance program. This section also applies to managed care organizations that contract with the state department pursuant to the statewide managed care system only to the extent that:

(2.1) FOR THE PURPOSES OF REIMBURSEMENT FOR SERVICES PROVIDED BY HOME CARE AGENCIES, AS DEFINED IN SECTION 25-27.5-102 (3), THE SERVICES MAY BE SUPERVISED THROUGH TELEMEDICINE OR TELEHEALTH.

(2.5) (a) A TELEMEDICINE SERVICE MEETS THE DEFINITION OF A FACE-TO-FACE ENCOUNTER FOR A RURAL HEALTH CLINIC, AS DEFINED IN THE

FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1395x (aa)(2). THE REIMBURSEMENT RATE FOR A TELEMEDICINE SERVICE PROVIDED BY A RURAL HEALTH CLINIC MUST BE SET AT A RATE THAT IS NO LESS THAN THE MEDICAL ASSISTANCE PROGRAM RATE FOR A COMPARABLE FACE-TO-FACE ENCOUNTER OR VISIT.

(b) A TELEMEDICINE SERVICE MEETS THE DEFINITION OF A FACE-TO-FACE ENCOUNTER FOR A MEDICAL CARE PROGRAM OF THE FEDERAL INDIAN HEALTH SERVICE. THE REIMBURSEMENT RATE FOR A TELEMEDICINE SERVICE PROVIDED BY A MEDICAL CARE PROGRAM OF THE FEDERAL INDIAN HEALTH SERVICE MUST BE SET AT A RATE THAT IS NO LESS THAN THE MEDICAL ASSISTANCE PROGRAM RATE FOR A COMPARABLE FACE-TO-FACE ENCOUNTER OR VISIT.

(c) A TELEMEDICINE SERVICE MEETS THE DEFINITION OF A FACE-TO-FACE ENCOUNTER FOR A FEDERALLY QUALIFIED HEALTH CENTER, AS DEFINED IN THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1395x (aa)(4). THE REIMBURSEMENT RATE FOR A TELEMEDICINE SERVICE PROVIDED BY A FEDERALLY QUALIFIED HEALTH CENTER MUST BE SET AT A RATE THAT IS NO LESS THAN THE MEDICAL ASSISTANCE PROGRAM RATE FOR A COMPARABLE FACE-TO-FACE ENCOUNTER OR VISIT.

(6) (a) THE STATE DEPARTMENT SHALL POST TELEMEDICINE UTILIZATION DATA TO THE STATE DEPARTMENT'S WEBSITE NO LATER THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (6) AND SHALL UPDATE THE DATA EVERY OTHER MONTH THROUGH STATE FISCAL YEAR 2021-22. FOR STATE FISCAL YEARS 2020-21 AND 2021-22, THE STATE DEPARTMENT SHALL COMPILE, SUMMARIZE, AND REPORT ON THE UTILIZATION DATA TO THE PUBLIC THROUGH THE ANNUAL HEARING, PURSUANT TO THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

(b) THIS SUBSECTION (6) IS REPEALED JULY 1, 2022.

(7) AS USED IN THIS SECTION, "HEALTH CARE OR MENTAL HEALTH CARE SERVICES" INCLUDES SPEECH THERAPY, PHYSICAL THERAPY, OCCUPATIONAL THERAPY, HOSPICE CARE, HOME HEALTH CARE, AND PEDIATRIC BEHAVIORAL HEALTH CARE.

SECTION 6. Appropriation. For the period from July 1, 2020, through December 30, 2020, \$5,068,381 is appropriated to the department of health care policy and financing. This appropriation is from the care subfund in the general fund. To implement this act, the department may use this appropriation for telemedicine expansion services. This appropriation must not be used for the state-share of medicaid services.

SECTION 7. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



Leroy M. Garcia
PRESIDENT OF
THE SENATE



KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

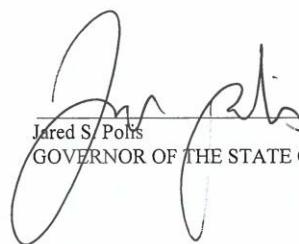


Cindi L. Markwell
SECRETARY OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED July 6, 2020 at 11:57am
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities and Emergency Medical Services Division

STANDARDS FOR HOSPITALS AND HEALTH FACILITIES: CHAPTER 26 - HOME CARE AGENCIES

6 CCR 1011-1 Chapter 26

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

INDEX

PART 1 – STATUTORY AUTHORITY AND APPLICABILITY

PART 2 – DEFINITIONS

PART 3 – PLACEMENT AGENCIES

PART 4 – DEPARTMENT OVERSIGHT

PART 5 – GENERAL REQUIREMENTS FOR ALL LICENSE CATEGORIES

PART 6 – SKILLED CARE

PART 7 – NON-MEDICAL/PERSONAL CARE

PART Section 1. STATUTORY AUTHORITY AND APPLICABILITY

1.1 Statutory Authority

The statutory authority for the promulgation of these rules is set forth in Sections 25-1.5-103 and 25-27.5-101, et seq., C.R.S.

1.2 APPLICABILITY

(A) A home care agency, as defined herein, shall comply with all applicable federal, and state, AND LOCAL LAWS statutes and regulations, including but not limited to, the following:

(1a) This Chapter 26 as it applies to the type of services provided.

(2b) 6 CCR 1011-1, Chapter 2, General Licensure Standards, unless otherwise modified herein.

(B) CONTRACTED SERVICES PERFORMED ON BEHALF OF THE HOME CARE AGENCY SHALL MEET THE STANDARDS ESTABLISHED HEREIN.

Section 2. GENERAL PROVISIONS

The purpose of these rules is to implement Title 25, Article 27.5 of the Colorado Revised Statutes and to protect and promote the health and welfare of home care consumers through the establishment and enforcement of regulations setting minimum standards for home care services that do not infringe on accessibility or affordability while maintaining accountability to help ensure the safety and well-being of home care consumers.

PART Section 32. DEFINITIONS

32.1 "Authorized representative" means an individual responsible for the private payment of home care services or an individual who possesses written authorization from the consumer to represent his or her THEIR interests regarding care, treatment, and services provided by the HOME CARE

Commented [BM1]: Striking this section as is it not necessary for licensure and not part of our other health facility rule chapters. Originally put in as introductory rule language when first promulgated.

37 ~~AGENCY~~HCA. The authorized representative shall not be the home care consumer's service
38 provider except as allowed by state Medicaid programs.

39 3.22.2 "Branch office" means a location or site from which a home care agency provides services within
40 a portion of the total geographic area served by the parent agency. The branch office is part of
41 the home care agency and is located sufficiently close to share administration, supervision,
42 PERSONNEL, and services in a manner that renders it unnecessary for the branch TO
43 independently to meet the requirements of this chapter.

44 3.32.3 "Bylaws" means a set of rules adopted by a home care agency for governing the agency's
45 operation. FOR PURPOSES OF THIS CHAPTER 26, "GOVERNING DOCUMENTS" IS SYNONYMOUS WITH
46 "BYLAWS".

47 3.42.4 "Certified home care agency" means an agency that is certified by either the federal Centers for
48 Medicare and Medicaid Services (CMS) or the state Department of Health Care Policy and
49 Financing (HCPF) to provide skilled home health or personal care services.

50 3.52.5 "Clinical note" means a written notation of a healthcare contact with a consumer that is signed,
51 with date and time, by an employee PERSONNEL of the home care agency that describes signs and
52 symptoms; treatment; education; drugs administered and the consumer's reaction; and any
53 changes in physical or emotional condition.

54 3.62.6 "Community Centered Board" means a community-centered board, as defined in Ssection 25.5-
55 10-202, C.R.S., that is designated pursuant to Ssection 25.5-10-209, C.R.S., by the Department
56 of Health Care Policy and Financing.

57 3.7 "Consumer" means a person who receives skilled home health services or personal care services
58 in his or her temporary or permanent home or place of residence from a home care agency or a
59 provider referred by a home care placement agency.

Commented [BM2]: We define "consumer" and "home care consumer" using the same definition. Striking here.

60 3.82.7 "Department" means the Colorado Department of Public Health and Environment.

61 3.9 "Employee" means any person providing home care and services on behalf of the agency.

62 3.102.8 "Geographic area" means an area of land, for which the agency shall be licensed surrounding the
63 home care agency's primary location. There is no restriction as to the number of agencies that
64 may provide services in a particular geographic area.

65 2.9 "GOVERNING BODY" MEANS THE BOARD OF TRUSTEES, DIRECTORS, OR OTHER GOVERNING ENTITY IN
66 WHOM THE ULTIMATE AUTHORITY AND RESPONSIBILITY FOR THE CONDUCT OF THE HOME CARE AGENCY IS
67 VESTED.

Commented [BM3]: Language modified from FSED and other health facility chapters.

68 3.112.10 "Home care agency" means any sole proprietorship, partnership, association,
69 corporation, government, or governmental subdivision or agency subject to the restrictions in
70 Section 25-1.5-103(1)(a)(II), C.R.S., not-for-profit agency, or any other legal or commercial entity
71 that manages and offers, directly or by contract, skilled home health services or personal care
72 services to a home care consumer in the home care consumer's temporary or permanent home
73 or place of residence. Home care agency is also referred to in this chapter as "HCA" or
74 "agency."

75 (A) A residential facility that delivers skilled home health or personal care services which the
76 facility is not licensed to otherwise provide, shall either be licensed as a home care
77 agency or require the skilled home health or personal care services to be delivered by a
78 licensed home care agency.

(B) "Home care agency" does not include:

- (1) Organizations that provide only housekeeping services;
- (2) Community and rural health networks that furnish home visits for the purpose of public health monitoring and disease tracking;
- (3) An individual who is not employed by or affiliated with a home care agency and who acts alone, without employees or contractors;
- (4) Outpatient rehabilitation agencies and comprehensive outpatient rehabilitation facilities certified pursuant to Title 18 or 19 of the "Social Security Act," as amended;
- (5) Consumer-directed attendant programs administered by the Colorado Department of Health Care Policy and Financing;
- (6) Licensed dialysis centers that provide in-home dialysis services, supplies, and equipment;
- (7) Subject to the requirements of Section 25-27.5-103(3), C.R.S., a facility otherwise licensed by the dDepartment;
- (8) A home care placement agency as defined in this section ~~section~~ **PART**;
- (9) Services provided by a qualified early intervention service provider and overseen jointly by the Department of Education and the Department of Human Services; or
- (10) A program of all-inclusive care for the elderly (PACE) established in sSection 25.5-5-412, C.R.S., and regulated by the Department of Health Care Policy and Financing and the CMS, except that PACE home care services are subject to regulation in accordance with sSection 25-27.5-104(4).

~~3.12.11~~ "Home care consumer" means a person who receives skilled home health services or personal care services in his or her ~~his or her~~ **THEIR** temporary or permanent home or place of residence from a home care agency or from a provider referred by a home care placement agency. **A HOME CARE CONSUMER IS ALSO REFERRED TO IN THIS CHAPTER AS "CONSUMER".**

~~3.13.12~~ "Home care placement agency" means an organization that, for a fee, provides only referrals of providers to home care consumers seeking services. A home care placement agency does not provide skilled home health services or personal care services, **DIRECTLY OR BY CONTRACT**, to a home care consumer in the home care consumer's temporary or permanent home or place of residence ~~directly or by contract~~. Such organizations shall follow the requirements of sSections 25-27.5-101, et seq., C.R.S., that pertain to home care placement agencies and ~~section 4~~ **PART 3** of this chapter 26.

~~3.14.13~~ "Informal caregiver" means a person who provides care to the consumer **WITHOUT PAYMENT AND WHO IS NOT AN EMPLOYEE OF THE AGENCY** ~~when the paid caregiver is not in the home.~~

~~3.15~~ ~~"Intermediate care provider" means a nurse practitioner or physician assistant.~~

2.14 "LICENSED INDEPENDENT PRACTITIONER" MEANS AN INDIVIDUAL PERMITTED BY LAW AND THE HCA TO INDEPENDENTLY DIAGNOSE, INITIATE, ALTER, OR TERMINATE HEALTH CARE TREATMENT WITHIN THE

118 SCOPE OF THEIR LICENSE, AND INCLUDES ADVANCED PRACTICE REGISTERED NURSES (APRN) AND
 119 PHYSICIAN ASSISTANTS.

120 3.16 "Life-limiting illness" means a medical condition that, in the opinion of the medical specialist
 121 involved, has a prognosis of death that is highly probable before a child reaches adulthood at age
 122 19.

123 3.17 2.15 "Manager" or "administrator" means any person who controls IS RESPONSIBLE FOR and
 124 supervises or offers or attempts to OVERSEE control and supervise the day-to-day operations of a
 125 home care agency or home care placement agency.

126 3.18 2.16 "Nurse aide" means a nurse aide certified by the Colorado Department of Regulatory
 127 Agencies (DORA) or a nurse aide who has completed the requisite training and is within four (4)
 128 months of achieving certification.

129 3.19 2.17 "Owner" means a shareholder in a for-profit or nonprofit corporation, a partner in a
 130 partnership or limited partnership, member in a limited liability company, a sole proprietor, or a
 131 person with a similar interest in an entity, who has at least a fifty-percent (50%) ownership
 132 interest in the business entity.

133 3.20 2.18 "PACE home care services" means skilled home health services or personal care
 134 services:

135 (A) Offered as part of a comprehensive set of medical and nonmedical benefits, including
 136 primary care, day services, and interdisciplinary team care planning and management, by
 137 PACE providers to an enrolled participant in the program of all-inclusive care for the
 138 elderly established in sSection 25.5-5-412, C.R.S., and regulated by the Department of
 139 Health Care Policy and Financing and the CMS; and

140 (B) Provided in the enrolled participant's temporary or permanent place of residence.

141 3.21 2.19 "Parent home care agency" means the agency that develops and maintains
 142 administrative control of branch offices.

143 3.22 2.20 "Personal care services" means assistance with activities of daily living, including but not
 144 limited to: bathing, dressing, eating, transferring, walking or mobility, toileting, and continence
 145 care. It also includes housekeeping, personal laundry, medication reminders, and companionship
 146 services, furnished to a home care consumer in the home care consumer's temporary or
 147 permanent home or place of residence, and those normal daily routines that the home care
 148 consumer could perform for himself or herself THEMSELVES were he or she THEY physically capable,
 149 which are intended to enable that individual to remain safely and comfortably in the home care
 150 consumer's temporary or permanent home or place of residence.

151 2.21 "PERSONNEL" MEANS INDIVIDUALS EMPLOYED BY AND/OR PROVIDING SERVICES UNDER THE DIRECTION
 152 OF THE HCA, INCLUDING BUT NOT LIMITED TO MANAGERS, ADMINISTRATORS, STAFF, EMPLOYEES,
 153 CONTRACTORS, STUDENTS, INTERNS, OR VOLUNTEERS.

154 2.22 "PLAN OF CARE" MEANS A PLAN DEVELOPED IN CONSULTATION WITH THE LICENSED INDEPENDENT
 155 PRACTITIONER AND AGENCY STAFF THAT COVERS ALL PERTINENT DIAGNOSES, INCLUDING MENTAL
 156 STATUS, TYPES OF SERVICES AND EQUIPMENT REQUIRED, FREQUENCY OF VISITS, PROGNOSIS,
 157 REHABILITATION POTENTIAL, FUNCTIONAL LIMITATIONS, ACTIVITIES PERMITTED, INSTRUCTIONS FOR
 158 TIMELY DISCHARGE OR REFERRAL, AND ANY OTHER APPROPRIATE ITEMS.

Commented [BM4]: We do not use this term in the chapter.
Propose to strike.

Commented [BM5]: Statutory definition with minor changes to
make clearer; confirm with BOH

Commented [BM6]: Consistently use the term "parent agency"
so striking home care

Commented [BM7]: Modified from Federal COP §484.18
Acceptance of patients, plan of care, and medical supervision.

- 159 3.23 ~~2.23~~ "Plan of correction" means a written plan prepared by the home care agency or home
 160 care placement agency and submitted to the ~~d~~Department for approval that specifies the
 161 measures the agency shall take to correct all cited deficiencies.
- 162 3.24 ~~"Primary agency" means the agency responsible for the consumer's direct care coordination~~
 163 ~~when a secondary or subcontracted agency is also providing care and services.~~
- 164 2.24 "PSEUDO-PATIENT" MEANS A PERSON TRAINED TO PARTICIPATE IN A ROLE-PLAY SITUATION, OR A
 165 COMPUTER-BASED MANNEQUIN DEVICE. A PSEUDO-PATIENT MUST BE CAPABLE OF RESPONDING TO AND
 166 INTERACTING WITH THE NURSE AIDE, AND MUST DEMONSTRATE THE GENERAL CHARACTERISTICS OF THE
 167 PRIMARY CONSUMER POPULATION SERVED BY THE HCA IN KEY AREAS SUCH AS AGE, FRAILTY,
 168 FUNCTIONAL STATUS, AND COGNITIVE ~~STATUS~~.
- 169 3.25 ~~2.25~~ "Qualified Early Intervention Service Provider" has the same meaning set forth in section
 170 27-10.5-702, C.R.S.
- 171 3.26 ~~2.26~~ "Respite care" means services provided to a consumer who is unable to care for himself
 172 or herself ~~THEMSELVES~~ on a short term basis because of the absence or need for relief of those
 173 persons normally providing care.
- 174 3.27 ~~2.27~~ "Service Agency" means a service agency, as defined in ~~s~~Section 25.5-10-202, C.R.S.,
 175 that has received certification from the Department of Health Care Policy and Financing as a
 176 developmental disabilities service agency under rules promulgated by the medical service board
 177 and is providing services pursuant to the supported living services waiver or the children's
 178 extensive service support waiver or the home and community-based services waivers
 179 administered by the Department of Health ~~e~~Care Policy and Financing under Part 4 of Article 6 of
 180 Title 25.5, C.R.S.
- 181 3.28 ~~2.28~~ "Service note" means a written notation that is signed, with date and time, by an
 182 employee ~~PERSONNEL~~ of the home care agency furnishing the non-medical services.
- 183 3.29 ~~2.29~~ "Skilled home health services" means health and medical services furnished in the
 184 consumer's temporary or permanent ~~HOME OR~~ place of residence that include wound care
 185 services; use of medical supplies including drugs and biologicals prescribed by a physician; in-
 186 home infusion services; nursing services; or certified nurse aide services that require the
 187 supervision of a licensed or certified health care professional acting within the scope of his or
 188 her ~~THEIR~~ license or certificate; occupational therapy; physical therapy; respiratory care services;
 189 dietetics and nutrition counseling services; medication administration; medical social services;
 190 and speech-language pathology services. "Skilled home health services" does not include the
 191 delivery of either durable medical equipment or medical supplies.
- 192 3.30 ~~2.30~~ "Subdivision" means a component of a multi-function health agency, such as the home
 193 care department of a hospital or the nursing division of a health department, which independently
 194 meets the licensure requirements for HCAs. A subdivision that has branch offices is considered a
 195 parent agency.
- 196 3.34 ~~2.31~~ "Summary report" means the compilation of the pertinent factors of a home care
 197 consumer's clinical notes that is submitted to the consumer's physician by the skilled home health
 198 care agency.
- 199 3.32 ~~2.32~~ "Supervision" means authoritative procedural guidance by a qualified person for the
 200 accomplishment of a function or activity.
- 201 2.33 "WORKSTATION" MEANS A LOCATION SEPARATE FROM THE PARENT AGENCY THAT OPERATES SOLELY FOR
 202 THE CONVENIENCE OF DIRECT CARE STAFF. ANY AGENCY, NON-MEDICAL, MEDICAL, STATE, OR FEDERALLY

Commented [BM8]: We struck where this is used. Suggest striking.

Commented [BM9]: From SOM; new term used in Skilled Care

Commented [BM10]: Definition modified from CDPHE's Workstation Request Form

CERTIFIED, MAY ESTABLISH A WORKSTATION WITHIN THE AGENCY'S GEOGRAPHIC SERVICE AREA. THE SITE PROVIDES A PLACE TO WORK SO THAT DIRECT CARE STAFF CAN DECREASE TRAVEL. CONSUMER CHARTS ARE NOT TO BE KEPT AT A WORKSTATION, BUT THE SITE MAY CONTAIN PHONES, FAXES, OFFICE SUPPLIES, WOUND CARE SUPPLIES, POLICIES, PROCEDURES, FORMS, ETC. THE WORKSTATION MAY NOT BE USED TO ACCEPT REFERRALS; CONDUCT MARKETING, ADMINISTRATIVE ACTIVITIES, OR PERSONNEL TRAINING; OR STORE CONSUMER RECORDS. THE WORKSTATION MAY NOT BE STAFFED TO SERVE THE PUBLIC AND SIGNAGE AT THE WORKSTATION SHOULD NOT BE POSTED TO INVITE THE PUBLIC INSIDE TO CONDUCT BUSINESS.

PART Section 43. PLACEMENT AGENCIES

43.1 Registration

(A) On or after June 1, 2015, it is unlawful for a person to conduct or maintain a home care placement agency unless the person has submitted a completed application for registration as a home care placement agency.

Commented [SA11]: Recommend striking as it's obsolete, and is covered under (B) below

(AB) On or after January 1, 2016, it is unlawful for a person to conduct or maintain a home care placement agency without a valid, current home care placement agency registration issued by the Department.

(BC) As a condition of obtaining an initial or renewal home care placement agency registration, the placement agency shall:

(1) Submit, in the form and manner required by the Department, proof that it has obtained and is maintaining general liability insurance coverage that covers the home care placement agency and the providers it refers to home care consumer clients in the amount specified in the registration procedure at section PART 43.8, and

Commented [BM12]: We state this in Part 3.8 Registration Procedure for HCPAs.

(2) Maintain proof that before referring a provider to a home care consumer client, it is providing that home care consumer client with a written disclosure in the form and manner prescribed by the Department.

Commented [BM13]: Strike here and moved to Disclosures below 3.3(C)

(BD) A person who violates any part of this section is:

Commented [BM14]: Suggest striking as it is duplicative

(1) Guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$50, nor more than \$500; and

(2) May be subject to a civil penalty assessed by the Department of up to \$10,000 for each violation. The penalty shall be assessed, enforced, and collected in accordance with Article 4 of Title 24, C.R.S., and any penalties collected by the Department shall be transferred to the state treasurer for deposit in the GENERAL FUND. home care agency cash fund created in section 25-27.5-105, C.R.S.

Commented [SA15]: See Section 25-27.5-103(2)(c)(II), C.R.S.

43.2 Criminal History Record Check

(A) Effective June 1, 2015, the home care placement agency shall require any provider seeking placement to submit to a criminal history record check to ascertain whether the provider applying has been convicted of a felony or misdemeanor, which felony or misdemeanor involves conduct that the agency determines could pose a risk to the health, safety, or welfare of home care consumers.

Commented [SA16]: This is all consistent with statutory requirements at 25-27.5-107, C.R.S.

243 (B) The criminal history record check shall, at a minimum, include a search of criminal history
 244 in the State of Colorado and be conducted not more than **NINETY (90)** days prior to
 245 placement of the provider.

246 (C) The cost of such inquiry shall be paid by either the home care placement agency or the
 247 individual seeking placement.

248 (D) In assessing whether to refer a provider with a felony or misdemeanor conviction, the
 249 home care placement agency shall consider the following factors:

250 (1) The history of convictions, pleas of guilty or no contest;

251 (2) The nature and seriousness of the crimes;

252 (3) The time that has elapsed since the conviction(s);

253 (4) Whether there are any mitigating circumstances; and

254 (5) The nature of the position for which the provider would be referred.

255 (E) The home care placement agency shall develop and implement policies and procedures
 256 regarding the referral of any provider who is convicted of a felony or misdemeanor to
 257 ensure that the provider being referred does not pose a risk to the health, safety, and
 258 welfare of the home care consumer-client.

259 **43.3** Disclosures

260 (A) The **HOME CARE** placement agency shall provide a written disclosure notice to the home
 261 care consumer concerning the duties and employment status of the individual(s)
 262 providing services.

263 (B) The disclosure notice, in the form and manner prescribed by the **dDepartment**, shall be
 264 signed by the consumer or authorized representative before the start of services and
 265 shall include, at a minimum, the following information:

266 (1) That the home care placement agency is not the employer of any provider it
 267 refers to a home care consumer; and

268 (2) That the home care placement agency does not direct, control, schedule, or train
 269 any provider it refers.

270 (C) **THE HOME CARE PLACEMENT AGENCY SHALL MAINTAIN PROOF THAT DISCLOSURES ARE**
 271 **PROVIDED BEFORE REFERRING A PROVIDER TO A HOME CARE CONSUMER.**

Commented [BM17]: Not new language. Moved from above.

272 **43.4** Inspections

273 (A) The **dDepartment** may inspect, as it deems necessary, a home care placement agency's
 274 records on weekdays between 9 a.m. and 5 p.m. to ensure that the home care placement
 275 agency is in compliance with the criminal history record check, general liability insurance,
 276 and disclosure requirements.

277 (1) The home care placement agency shall retain its records for a period of seven
 278 (7) years and those records shall be readily available to the **dDepartment** during
 279 inspections.

- (B) The dDepartment shall make inspections as it deems necessary to ensure that the health, safety, and welfare of a home care placement agency's home care consumers are being protected. Inspections of a home care consumer's home are subject to the consent of the consumer to access the property.

43.5 Plan of Correction

FOR PURPOSES OF THIS CHAPTER, A PLAN OF CORRECTION AGAINST A REGISTERED HOME CARE PLACEMENT AGENCY SHALL BE COMPLETED IN ACCORDANCE WITH 6 CCR 1011-1, CHAPTER 2, PART 2.10.4(B).

- (A) ~~A home care placement agency shall submit to the dDepartment a written plan of correction detailing measures that will be taken by the agency to correct deficiencies found as a result of inspections and shall be submitted in the form and manner required by the dDepartment.~~
- (B) ~~Plans of correction shall be:~~
- ~~(1) Submitted within ten (10) calendar days after the date of the dDepartment's written notice of deficiencies, and~~
 - ~~(2) Signed by the agency manager.~~
- (C) ~~Corrective actions shall be implemented within 45 calendar days of the exit date or as determined by the dDepartment.~~
- (D) ~~The dDepartment has the discretion to approve, modify, or reject plans of correction.~~
- ~~(1) If the plan of correction is acceptable, the dDepartment shall notify the agency.~~
 - ~~(2) If the plan of correction is unacceptable, the dDepartment shall notify the agency in writing and the agency shall re-submit changes to the dDepartment within the time frame specified by the dDepartment.~~
 - ~~(3) If the agency fails to comply with the requirements or deadlines for submission of a plan or fails to submit requested changes to the plan, the department may reject the plan of correction and impose intermediate restrictions or other disciplinary sanctions as set forth below.~~
 - ~~(4) If the agency fails to timely implement the actions agreed to in the plan of correction, the department may impose intermediate restrictions or other disciplinary sanctions as set forth below.~~

Commented [BM18]: Same language that we are proposing to strike in Department Oversight section - duplicative to Chapter 2.

43.6 Intermediate Restrictions or Conditions

- (A) The dDepartment may impose intermediate restrictions or conditions on a HOME CARE placement agency that may include at least one of the following:
- (1) Retaining a consultant to address corrective measures;
 - (2) Monitoring by the dDepartment for a specific period;
 - (3) Providing additional training to employees PERSONNEL, owners, or operators of the home care placement agency;
 - (4) Complying with a directed written plan to correct the violation; or

(5) Paying a civil fine not to exceed \$10,000 per calendar year for all violations.

(B) If the dDepartment imposes an intermediate restriction or condition that is not the result of a serious and immediate threat to health, SAFETY, or welfare, the dDepartment shall provide the HOME CARE PLACEMENT agency with written notice of the restriction or condition. No later than ten (10) calendar days after receipt of the notice, the HOME CARE PLACEMENT agency shall submit a written plan that includes the time frame for completing the directed plan that addresses the restriction or condition specified.

(C) If the dDepartment imposes an intermediate restriction or condition that is the result of a serious and immediate threat to health, safety, or welfare, the dDepartment shall notify the HOME CARE PLACEMENT agency in writing, by telephone, or in person during an on-site visit.

(1) The HOME CARE PLACEMENT agency shall remedy the circumstances creating the harm or potential harm immediately upon receiving notice of the restriction or condition.

(2) If the dDepartment provides notice of a restriction or condition by telephone or in person, the dDepartment shall send written confirmation of the restriction or condition to the HOME CARE PLACEMENT agency within two (2) business days.

(D) After submission of an approved written plan, the HOME CARE PLACEMENT agency may appeal any intermediate restriction or condition to the dDepartment through an informal review process as specified by the dDepartment.

(E) If the dDepartment imposes an intermediate restriction or condition that requires payment of a civil fine, the HOME CARE PLACEMENT agency may request and the dDepartment shall grant a stay in payment of the fine until final disposition of the restriction or condition.

(F) If a HOME CARE placement agency is not satisfied with the result of the informal review or chooses not to seek informal review, no intermediate restriction or condition shall be imposed until after the opportunity for a hearing has been afforded the HOME CARE placement agency pursuant to Ssection 24-4-105, C.R.S.

4.3.7 Enforcement and Disciplinary Sanctions

(A) FOR PURPOSES OF THIS CHAPTER, ENFORCEMENT ACTIVITIES AGAINST A REGISTERED HOME CARE PLACEMENT AGENCY SHALL BE COMPLETED IN ACCORDANCE WITH 6 CCR 1011-1, CHAPTER 2, PART 2.11.

~~(A) The dDepartment may deny an application for an initial or renewal home care placement agency registration that is not in compliance with the requirements of Ssection 26-27-5-401, et seq., C.R.S. or these regulations. The dDepartment shall not issue a registration if the owner, manager, or administrator of the home care placement agency has been convicted of a felony or of a misdemeanor which felony or misdemeanor involves conduct that the dDepartment determines could pose a risk to the health, safety, or welfare of the home care consumers of the home care placement agency.~~

~~(1) If the dDepartment denies an application for an initial or renewal home care placement agency registration, the dDepartment shall notify the applicant in writing of such denial by mailing a notice to the applicant at the address shown on the application.~~

Commented [BM19]: This language refers back to Chapter 2, which covers all language below. Propose to strike below as it is duplicative to Chapter 2.

Commented [BM20]: Covered by 2.11.1

359 (2) Any applicant th~~AT~~e believes it has been aggrieved by such denial may seek
 360 review of the decision if the applicant, within ~~SIXTY~~ (60) calendar days after
 361 receiving the written notice of denial, petitions the ~~d~~D~~e~~partment to set a hearing.

362 (3) All hearings on registration denials shall be conducted in accordance with the
 363 Colorado Administrative Procedure Act, section 24-4-101, et seq., C.R.S.

364 (B) The ~~d~~D~~e~~partment may revoke or suspend the registration of a home care placement
 365 agency that is out of compliance with the requirements of section 25-27.5-101, et seq.,
 366 C.R.S. or these regulations.

367 (1) Appeals of departmental revocations or suspensions shall be conducted in
 368 accordance with the Colorado Administrative Procedure Act, section 24-4-101, et
 369 seq., C.R.S.

370 (C) The ~~d~~D~~e~~partment may summarily suspend an agency's registration if it finds, after
 371 investigation, that the agency has engaged in a deliberate and willful violation of these
 372 regulations or that the public health, safety or welfare requires immediate action.

373 (1) If the ~~d~~D~~e~~partment summarily suspends an agency's registration, it shall provide
 374 the agency with a notice explaining the basis for the summary suspension. The
 375 notice shall also inform the agency of its right to appeal and that it is entitled to a
 376 prompt hearing on the matter.

377 (2) Appeals of summary suspensions shall be conducted in accordance with the
 378 Colorado Administrative Procedure Act, section 24-4-101, et seq., C.R.S.

379 (B~~D~~) If the ~~d~~D~~e~~partment suspends, revokes, or refuses to renew a home care placement
 380 agency registration, the home care placement agency shall be removed from the registry
 381 maintained by the ~~d~~D~~e~~partment pursuant to ~~S~~section 25-27.5-103(2)(a)(I), C.R.S.

382 43.8 Registration p~~P~~rocedure

383 (A) An applicant for an initial or renewal home care placement agency registration shall
 384 provide the ~~d~~D~~e~~partment with a complete application including all information and
 385 attachments specified in the application form and any additional information requested by
 386 the ~~d~~D~~e~~partment. Each application shall include, at a minimum, the following:

387 (1) A non-refundable annual registration fee of \$870. Registrations will be valid for
 388 one-year from the date of issue.

389 (2) Evidence of general liability insurance coverage that covers the home care
 390 placement agency and the providers it refers to home care consumers. Such
 391 coverage shall be maintained for the duration of the license period. The minimum
 392 amount of coverage is \$100,000 per occurrence and \$300,000 aggregate.

393 (3) The legal name of the entity and all other names used by it to provide home care
 394 placement services. The applicant has a continuing duty to notify the
 395 ~~d~~D~~e~~partment of all name changes at least thirty (30) calendar days prior to the
 396 effective date of the change.

397 (4) Contact information for the entity including mailing address, telephone and
 398 facsimile numbers, e-mail address, and, if applicable, website address, ~~AS~~
 399 ~~APPLICABLE~~.

Commented [BM21]: Covered by APA and Chapter 2 reference to APA

Commented [BM22]: Covered by 2.11.2

Commented [BM23]: Covered by 2.11.3

(5) The identity of all persons and business entities with a controlling interest in the home care placement agency, including administrators, directors, and managers. A sole proprietor shall ~~include~~ **PROVIDE** proof of lawful presence in the United States in compliance with ~~S~~section 24-76.5-103(4), C.R.S.

(B) With the submission of an application for registration or within ten (10) calendar days after a change in the owner, manager, or administrator, each owner of a home care placement agency and each manager or administrator of a home care placement agency shall submit a complete set of ~~his or her~~ **THEIR** fingerprints to the Colorado Bureau of Investigation for the purpose of conducting a state and national fingerprint-based criminal history record check.

(1) Each owner, manager, or administrator is responsible for paying the fee established by the Colorado Bureau of Investigation for conducting the criminal history record check.

(12) If the owner, manager, or administrator of the home care placement agency has been convicted of a felony or of a misdemeanor which felony or misdemeanor involves conduct that the ~~D~~department determines could pose a risk to the health, safety, or welfare of the home care placement agency's consumers, the ~~D~~department will not approve the application for registration.

PARTSection 54. DEPARTMENT OVERSIGHT

54.1 License ~~e~~Classification

(A) ~~An home care agency~~ **HCA** shall be issued a license consistent with the type and extent of services provided.

(1) Unless otherwise specified, each licensed ~~home care agency~~ **HCA** shall meet the requirements in ~~PART~~section 65 of this chapter as well as ~~PART~~sections 67 and/or 78 depending upon the services provided.

Class A – a home care agency that provides any skilled healthcare service. Agencies with a Class A license may also provide personal care services.

Class B – a home care agency that provides only personal care services. An agency with a Class B license shall not provide any skilled healthcare service.

(B) An ~~agency~~ **HCA** providing home care services that are regulated by the Colorado Department of Health Care Policy and Financing (HCPF), excluding certified agencies defined in ~~PART~~section 32.4 of this chapter, shall be licensed as a Class B agency unless otherwise specified below.

(1) Any ~~agency~~ **HCA** providing services regulated by HCPF or the ~~Department of Human Services~~ that also provides skilled care or services delivered by a licensed professional shall be licensed as a Class A ~~agency~~ **HCA**.

(a) In reviewing compliance with the requirements of this chapter by the Program of All-Inclusive Care for the Elderly (PACE) established in Section 25.5-5-412, C.R.S., the ~~D~~department shall coordinate with HCPF in regulatory interpretation of both license and certification requirements to ensure the intent of similar regulations is congruently met.

(b) Any agency~~HCA~~ participating in the In-Home Support Service program; the Supported Living Services program or the Children's Extensive Support Services program administered by HCPF, may be licensed as a Class A or B agency~~HCA~~ and shall comply with both HCPF's regulations concerning those programs and the applicable portions of this chapter. The Department shall coordinate with HCPF in regulatory interpretation of both license and certification requirements to ensure the intent of similar regulations is congruently met.

Commented [BM24]: Propose to strike SLS and CES based on conversation with HCPF

(2) ~~If an agency's governing body, after consultation with the advisory committee, administrator, or agency manager, determines a home care regulation substantially impedes its ability to provide appropriate and effective services to the consumer or substantially impedes the appropriate and effective services of the total program, the Department may approve an alternate plan as long as the health, safety, welfare and rights of the consumer are assured.~~

Commented [BM25]: Cross reference to waiver process added at License Procedures, Part 4.2, below

(C) Residential facilities

(1) Any residential facility that delivers skilled home health or personal care services that the facility is not ~~OTHERWISE~~ licensed or certified to ~~otherwise~~ provide, shall either become licensed as a home care agency or require the skilled home health or personal care services to be delivered by a licensed home care agency.

(a) Consumer services shall be provided only upon individual service contracts. The resident or consumer requiring services not covered under the primary license shall be given the opportunity to contract with the home care agency of choice and shall not be restricted to the use of the residential facility home care agency.

(b) A residential facility may not contract for nor provide skilled home health or personal care services on a facility-wide basis under this license. Each residential facility providing facility-wide services shall be licensed according to the appropriate provider type.

(c) The home care records shall be easily identifiable and separated in the consumer record from the residential care records.

(2) The requirements contained in ~~PARTS~~ sections 65 through 87 of this chapter shall apply only to processes, policies, and procedures that address those consumers receiving skilled home health or personal care services in their temporary or permanent ~~HOME OR~~ place of residence.

(a) The requirements apply to all residential facilities providing skilled home health services not covered under the primary residential care license or certification.

(b) The requirements for governing body, professional advisory committee, complaints, occurrences, and quality assurance activities may be met, in whole or in part, in conjunction with like activities of the primary license. However, there shall be documented oversight of the home care portion of the services provided distinct from that of the primary license.

(D) ~~Services provided to the developmentally disabled~~

- 484 (1) On or after September 1, 2011, a community centered board that is directly
 485 providing home care services shall be licensed as either a Class A or B home
 486 care agency HCA depending on the services being provided.
- 487 (2) On or after September 1, 2011, a service agency that IS CERTIFIED BY HCPF has
 488 received program approval from the Department of Human Services (DHS) as a
 489 developmental disabilities service agency under rules promulgated by DHS that
 490 is providing services pursuant to the supported living services waiver or the
 491 children's extensive support waiver shall be licensed as either a Class A or B
 492 home care agency HCA depending on the services being provided.
- 493 (3D) Pursuant to Section 25.5-10-202(22) 27-10-5-109(2), C.R.S., Independent Residential
 494 Support Services provided by the Colorado Department of Human Services (DHS) do not
 495 require licensure by the Department.
- 496 (4E) Nothing in this section relieves an entity that contracts or arranges with a community
 497 centered board or service agency, and that meets the definition of a "home care agency"
 498 under section 25-17-5-102, C.R.S., SECTION 25-27.5-102, C.R.S., from the entity's
 499 obligation to apply for, and operate under, a license in accordance with these regulations.
- 500 54.2 License pProcedure
- 501 (A) The HCA shall comply with the requirements of 6 CCR 1011-1, Chapter 2, regarding
 502 license application procedures, the process for change of ownership, and the continuing
 503 obligations of a licensee.
- 504 (B) When submitting an application for an initial or renewal license, the HCA shall include
 505 evidence of either liability insurance coverage or a surety bond in lieu of liability insurance
 506 coverage. Such coverage shall be maintained for the duration of the license period. The
 507 minimum amount of coverage is:
- 508 (1) Class A – \$500,000 per occurrence and \$3,000,000 aggregate.
- 509 (2) Class B – \$100,000 per occurrence and \$300,000 aggregate.
- 510 (C) The agency shall submit to the Department a list of the contiguous counties that it plans
 511 to serve, and assure adequate staffing, supervision, consumer care, and services are
 512 provided within the declared geographical area.
- 513 (D) With the submission of an application for licensure or within ten (10) calendar days after a
 514 change in the owner, manager, or administrator, each owner and each manager or
 515 administrator of a home care agency shall submit a complete set of his or her THEIR
 516 fingerprints to the Colorado Bureau of Investigation for the purpose of conducting a state
 517 and national fingerprint-based criminal history record check. Each owner, manager, or
 518 administrator is responsible for paying the fee established by the Colorado Bureau of
 519 Investigation for conducting the criminal history record check.
- 520 (1) THE DEPARTMENT MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD CHECK
 521 FOR AN APPLICANT WHO HAS TWICE SUBMITTED TO A FINGER-PRINT BASED CRIMINAL
 522 HISTORY RECORD CHECK AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE.
- 523 (2) WHEN THE RESULTS OF A FINGER-PRINT BASED CRIMINAL HISTORY RECORD CHECK OF
 524 AN APPLICANT REVEAL A RECORD OF ARREST WITHOUT A DISPOSITION, THE
 525 DEPARTMENT SHALL REQUIRE THAT PERSON TO SUBMIT TO A NAME-BASED CRIMINAL
 526 HISTORY RECORD CHECK.

Commented [BM26]: Propose to strike all of (D)(1) and (2) based on conversation with HCPF

Commented [BM27]: Move (3) and (4) out to new (D) and (E)

Commented [SA28]: Corrected an incorrect statutory reference

Commented [SA29]: (D)(1)-(3) all come directly from statute at 25-27.5-106(3), and (4)

527 (1)(3) No license shall be issued or renewed by the Ddepartment if the owner,
 528 applicant, or licensee of the home care agency has been convicted of a felony or
 529 of a misdemeanor, which felony or misdemeanor involves CONSTITUTES A CRIME
 530 OF moral turpitude or involves conduct that the Ddepartment determines could
 531 pose a risk to the health, safety, or welfare of HCA consumers.

532 (2)(4) Each HCA owner, applicant, or licensee is under an affirmative obligation to
 533 inform the Ddepartment if he or she is THEY ARE convicted of a felony or of a
 534 misdemeanor that involves moral turpitude or conduct that the Ddepartment
 535 determines could pose a risk to the health, safety, or welfare of HCA consumers.
 536 Failure to advise the Ddepartment of a conviction may result in non-renewal, or
 537 other appropriate sanctions, as set forth in PARTSsections 54.7; AND 54.8 and 5.9
 538 of this chapter.

539 (E) Except as otherwise specified herein, the Ddepartment shall issue or renew a license
 540 when it is satisfied that the applicant or licensee is in compliance with these rules. A
 541 license issued or renewed pursuant to this PARTsection 5.2 shall expire one (1) year after
 542 the date of issuance or renewal.

Commented [BM30]: Duplicative of Chapter 2; suggest striking

543 (FE) No license shall be transferred from one location to another without prior notice to the
 544 Ddepartment as provided in this subsection. If an agency is considering moving or
 545 changing the licensed physical address, the agency shall notify the Ddepartment THIRTY
 546 (30) days prior to the intended relocation.

547 (1) To retain the current license, the new physical location shall be relocated within
 548 the existing geographic service area and retain the same governing body and
 549 administrator.

550 (2) If the change in physical address does not meet the requirements listed above,
 551 the HCA shall submit an application for a new license.

552 (F) AN HCA SHALL NOTIFY THE DEPARTMENT THIRTY (30) DAYS PRIOR TO MAKING ANY CHANGES TO
 553 THE BRANCH OFFICE PHYSICAL ADDRESS OR ORGANIZATION.

554 (G) AN HCA SEEKING A WAIVER OF THESE REGULATIONS, OR ANY OTHER DEPARTMENT
 555 REGULATIONS, SHALL COMPLY WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PART
 556 5.

557 (G) The Ddepartment may refuse to renew the license of a home care agency that is out of
 558 compliance with the requirements of Section 25-27.5-101, et seq., C.R.S. or these rules.

559 (H) If the Ddepartment denies an application for an HCA initial or renewal license, the
 560 Ddepartment shall notify the applicant in writing of such denial by mailing a notice to the
 561 applicant at the address shown on the application.

562 (I) Any applicant believing himself or herself aggrieved by such denial may seek review of
 563 the decision if the applicant, within 60 days after receiving the written notice of denial,
 564 petitions the Ddepartment to set a hearing.

565 (J) All hearings on license denials shall be conducted in accordance with the state
 566 Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.

Commented [BM31]: Duplicative of Chapter 2; suggest striking

Cross reference to Denials portion of Chapter 2 is added at Part 4.8 below.

567 54.3 Provisional Llicenses

(A) — The ~~D~~department may issue a provisional license to any applicant for the purpose of operating a home care agency for a period of 90 days if the applicant is temporarily unable to conform to all of the minimum standards required by this chapter, except that no license shall be issued to an applicant if the operation of the applicant's home care agency will adversely affect the health, safety, or welfare of the home care consumers of such home care agency.

Commented [BM32]: Duplicative of Chapter 2; suggest striking

(A) THE HCA SHALL COMPLY WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PART 2.4 REGARDING PROVISIONAL LICENSES, WITH THE FOLLOWING ADDITIONS:

(1B) If requested by ~~HCPF~~ the Colorado Department of Health Care Policy and Financing, the ~~D~~department may issue a provisional license for a period of 90 days to an agency that has applied to be a certified home care agency as defined herein.

(C) — As a condition of obtaining a provisional license, the applicant shall show proof to the ~~D~~department that attempts are being made to conform and comply with applicable standards.

Commented [BM33]: Duplicative of Chapter 2; suggest striking

(2D) No provisional license shall be granted before completion of a criminal background check and finding in accordance with ~~PART~~section 54.2 of this chapter.

(E) — A second provisional license may be issued, for a like term and fee, to effect compliance. No further provisional licenses may be issued for the current year after the second issuance.

Commented [BM34]: Duplicative of Chapter 2; suggest striking

5.4.4 License ~~F~~ Fees

(A) Unless otherwise specified in this chapter, all license fees paid to the ~~D~~department shall be deemed non-refundable.

(B) The appropriate fee total shall accompany an ~~HCA~~agency's initial or renewal license application. The fee total shall include any applicable branch and workstation fees as set forth in this section.

5.4.4.1 (C) Initial licensure

(A1) Each ~~HCA LICENSE~~ applicant for a home care agency license shall specify the type and extent of services to be provided and request the appropriate license category based upon the criteria set forth in ~~section~~PART 54.1 of this chapter. The initial license fee shall be:

(A) Class A - \$3,000

(B) Class B - \$2,200

(B2) Any currently licensed Class B agency ~~HCA~~ that desires to change its license category to a Class A agency ~~HCA~~ shall submit an initial license application and initial license fee for a Class A license.

5.4.4.2 (D) Provisional licensure

- 606 (A1) Any agencyHCA approved by the Ddepartment for a provisional license, shall
 607 submit a fee equal to FIFTEEN PERCENT (15%) percent of the applicable initial
 608 license fee for each provisional license term.
- 609 (B2) The appropriate fee shall be submitted before issuance of the provisional license.
- 610 (C3) If the Ddepartment finds reasonable compliance by an applicant holding a
 611 provisional license, it shall issue an initial license upon receipt of the license
 612 application and total fee FOR INITIAL LICENSURE AND ANY ADDITIONAL APPROPRIATE
 613 FEES SPECIFIED IN PART 4.4 specified in sections 5.4 and 5.4.1 of this chapter.
- 614 5.4.3 (E) Renewal licensure
- 615 (A1) Base Fee. There shall be a base fee that is determined by the license category
 616 as defined in sectionPART 54.1 of this Cchapter. The renewal license base fee
 617 shall be:
- 618 (A) Class A - \$1,550
- 619 (B) Class B - \$1,325
- 620 (B2) Additional volume fee. Each agencyHCA shall report its annual admissions for
 621 the previous year on its license renewal application. If the number of annual
 622 admissions is FIFTY (50) or more, the agencyHCA shall add the following amount
 623 to its base fee:
- 624 (A) 50 to 99 admissions - \$100
- 625 (B) 100 or more admissions - \$200
- 626 (C3) Medicare or Medicaid service discount. Each agencyHCA that is currently
 627 certified to provide Medicaid or Medicare services shall deduct \$100 from its
 628 base fee.
- 629 (D4) Deeming discount. For licenses that expire on or after September 1, 2014, aA
 630 license applicant that is accredited by an accrediting organization recognized by
 631 the Centers for Medicare and Medicaid Services-CMS as having deeming
 632 authority may be eligible for a TEN PERCENT (10%) percent discount off the base
 633 renewal license fee. In order to be eligible for this discount, the license applicant
 634 shall SUBMIT authorize its accrediting organization to submit directly to the
 635 Department copies of ITS MOST RECENT RECERTIFICATION all survey(s), and ANY
 636 plan(s) of correction for the previous license year, along with the most recent
 637 letter of accreditation showing the license applicant has full accreditation status IN
 638 ADDITION TO A COMPLETED RENEWAL APPLICATION.
- 639 5.4.4 (F) Branch and workstation fees
- 640 (A1) In addition to any other licensure fees, the following fees shall apply to the
 641 circumstances described. The fees shall be submitted with the license application
 642 or as otherwise specified.
- 643 (1A) An HCA shall submit a \$200 fee for each branch office as defined in
 644 sectionPART 3.22.2 of this chapter.

Commented [BM35]: Updated language to make more clear; confirmed with CLR that this works.

Commented [BM36]: Modified deeming discount to match the updates we made in Chapter 4, Hospitals

645 (a) For existing branches, the fee shall be submitted with the license
646 application.

647 (b) For new branches, the fee shall accompany the notice of the
648 agency's intent to open a branch office pursuant to
649 section PART 65.2 of this chapter.

650 (2B) An HCA that operates one or more satellite-work stations solely for the
651 convenience of direct care staff shall pay a fee of \$50 per workstation.

652 5.4.5 (G) Revisit fee

653 (A1) An agency's annual license fee may be increased as the result of a
654 licensure inspection or substantiated complaint investigation where a deficient
655 practice is cited that has either caused harm or has the potential to cause harm
656 to a consumer and the agency has failed to demonstrate appropriate
657 correction of the cited deficiencies at the first on-site revisit.

658 (B2) The fee shall be ONE HUNDRED PERCENT (100%) percent of the agency's
659 initial or renewal license fee and shall be assessed for the second on-site
660 inspection and each subsequent on-site inspection pertaining to the same
661 deficiency.

662 5.4.6 (H) Change of ownership fee

663 (A1) Any agency meeting the criteria set forth in 6 CCR 1011-1, Chapter 2, Part
664 2.6 shall pay a change of ownership fee. The fee shall be determined according
665 to the license classifications set forth in section PART 54.1 of this chapter and
666 submitted with the change of ownership notice. The fee shall be:

667 (A) Class A - \$3,000

668 (B) Class B - \$2,200

669 5.4.7 (I) Change of name and change of address fees

670 (A1) A licensed HCA shall conform with the notification requirements of 6 CCR 1011-
671 1, Chapter 2, Part 2.9.6 regarding any change in the agency's name or
672 business address.

673 (B2) A fee of \$75 shall accompany each notice of a change in agency's name or
674 business address.

675 5.4.5 Inspections

676 (A) THE HCA SHALL COMPLY WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PARTS
677 2.9.4, 2.10.1, AND 2.10.2 REGARDING INSPECTIONS, WITH THE FOLLOWING ADDITIONS:

678 (A) ~~A certified home care agency that applies for a license by June 1, 2009, shall be exempt~~
679 ~~from licensure inspection prior to issuance of the initial license.~~

680 (B) ~~The Department shall investigate and review each initial and renewal license application~~
681 ~~in order to determine an applicant's compliance with this chapter. This determination shall~~
682 ~~be based on one or more of the following:~~

Commented [BM37]: Deadline for implementation has passed.
Striking as obsolete.

Commented [BM38]: Covered by Chapter 2; suggest striking

- 683 (1) — An on-site investigation of the agency;
- 684 (2) — A review of the application and associated documents;
- 685 (3) — A review of the agency's compliance history, including the results of complaint
686 investigations;
- 687 (4) — A review of occurrence reports;
- 688 (5) — A review of material provided by the agency pursuant to a ~~D~~department request;
- 689 (6) — Interviews of agency staff and/or consumers;
- 690 (7) — A review of information available from national accreditation organizations, CMS,
691 HCPE, and
- 692 (8) — Any other information the ~~D~~department determines is appropriate to ascertain
693 such compliance.
- 694 (C1) The ~~D~~department shall make such inspections as it deems necessary to ensure
695 that the health, safety, and welfare of home care consumers are being protected.
696 In addition to licensure inspections, the ~~D~~department may conduct supplemental
697 inspections at any time in response to complaints alleging noncompliance with
698 the regulations contained in this chapter.
- 699 (A4) Consumer records kept in the home or individual consumer documents
700 not included in the HCA's permanent record shall be made available to
701 the ~~D~~department within two (2) hours of request if the last visit occurred
702 FOURTEEN (14) or more days prior to the request. The time for production
703 may be extended at the ~~D~~department's discretion.
- 704 (B2) The consumer file and administrative records, including, but not limited
705 to, census and demographic information, complaint and incident reports,
706 meeting minutes, quality assurance, and annual program review
707 documents shall be provided to the inspector commencing within THIRTY
708 (30) minutes of request. The time for production may be extended at the
709 ~~D~~department's discretion.
- 710 (B2) Inspections shall not be conducted in a home care consumer's home without the
711 consumer's consent.
- 712 (E) — The HCA shall provide accurate and truthful information to the ~~D~~department during
713 inspections, investigations, and licensing activities. Failure to provide information
714 requested by the ~~D~~department and known to the agency shall be grounds for action
715 against a license.
- 716 54.6 Plan of ~~e~~Correction
- 717 THE HCA SHALL COMPLY WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PART 2.10.4(B) REGARDING
718 A PLAN OF CORRECTION.
- 719 (A) — An HCA shall submit to the ~~D~~department a written plan of correction detailing measures
720 that will be taken by the agency to correct deficiencies found as a result of inspections
721 and shall be submitted in the form and manner required by the ~~D~~department.

Commented [BM39]: Duplicative to Chapter 2; suggest striking

(B) Plans of correction shall be:

(1) Submitted within ten (10) calendar days after the date of the Ddepartment's written notice of deficiencies, and

(2) Signed by the agency administrator.

(C) Corrective actions shall be implemented within 45 days of the exit date or as determined by the Ddepartment.

(D) The Ddepartment has the discretion to approve, modify or reject plans of correction.

(1) If the plan of correction is acceptable, the Ddepartment shall notify the agency.

(2) If the plan of correction is unacceptable, the Ddepartment shall notify the agency in writing and the agency shall re-submit changes to the department within the time frame specified by the Ddepartment.

(3) If the agency fails to comply with the requirements or deadlines for submission of a plan or fails to submit requested changes to the plan, the Ddepartment may reject the plan of correction and impose intermediate restrictions or other disciplinary sanctions as set forth below.

(4) If the agency fails to timely implement the actions agreed to in the plan of correction, the Ddepartment may impose intermediate restrictions or other disciplinary sanctions as set forth below.

Commented [BM40]: Covered under Chapter 2; suggest striking

54.7 Intermediate Restrictions or Conditions

(A) The Ddepartment may impose intermediate restrictions or conditions on a license, that WHICH may include at least one of the following:

(1) Retaining a consultant to address corrective measures;

(2) Monitoring by the Ddepartment for a specific period;

(3) Providing additional training to employeesPERSONNEL, owners, or operators of the home care agency;

(4) Complying with a directed written plan to correct the violation; or

(5) Paying a civil fine not to exceed \$10,000 per calendar year for all violations.

(B) If the Ddepartment imposes an intermediate restriction or condition that is not the result of a serious and immediate threat to health or welfare, the Ddepartment shall provide the agency with written notice of the restriction or condition. No later than ten (10) days after receipt of the notice, the agency shall submit a written plan that includes the time frame for completing the directed plan that addresses the restriction or condition specified.

(C) If the Ddepartment imposes an intermediate restriction or condition that is the result of a serious and immediate threat to health, safety, or welfare, the Ddepartment shall notify the agency in writing, by telephone, or in person during an on-site visit.

(1) The agency shall remedy the circumstances creating the harm or potential harm immediately upon receiving notice of the restriction or condition.

759 (2) If the Ddepartment provides notice of a restriction or condition by telephone or in
 760 person, the Ddepartment shall send written confirmation of the restriction or
 761 condition to the agency within two (2) business days.

762 (D) After submission of an approved written plan, the agency may appeal any intermediate
 763 restriction or condition to the Ddepartment through an informal review process as
 764 specified by the Ddepartment.

765 (E) If the Ddepartment imposes an intermediate restriction or condition that requires payment
 766 of a civil fine, the agency may request, and the Ddepartment shall grant, a stay in
 767 payment of the fine until final disposition of the restriction or condition.

768 (F) If an agency is not satisfied with the result of the informal review, or chooses not to seek
 769 informal review, no intermediate restriction or condition shall be imposed until after the
 770 opportunity for a hearing has been afforded the licensee pursuant to Section 24-4-105,
 771 C.R.S.

772 4.8 ENFORCEMENT AND DISCIPLINARY SANCTIONS

773 THE PROVISIONS OF 6 CCR 1011-1, CHAPTER 2, PART 2.11, REGARDING ENFORCEMENT AND DISCIPLINARY
 774 SANCTIONS, SHALL APPLY.

775 5.8 — Revocation or suspension

776 (A) — The department may revoke or suspend the license of a home care agency that is out of
 777 compliance with the requirements of Section 25-27.5-101, et seq., C.R.S. or these rules.

778 (B) — The department shall revoke or suspend the license of a home care agency where the
 779 owner or licensee has been convicted of a felony or misdemeanor involving moral
 780 turpitude or conduct that the department determines could pose a risk to the health,
 781 safety or welfare of the consumer of such agency.

782 (C) — Appeals of departmental revocations or suspensions shall be conducted in accordance
 783 with the state Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.

784 5.9 — Summary suspension

785 (A) — The department may summarily suspend an agency's license if it finds, after
 786 investigation, that an agency has engaged in a deliberate and willful violation of these
 787 regulations or that the public health, safety, or welfare requires immediate action.

788 (B) — If the department summarily suspends an agency's license, it shall provide the agency
 789 with a notice explaining the basis for the summary suspension. The notice shall also
 790 inform the agency of its right to appeal and that it is entitled to a prompt hearing on the
 791 matter.

792 (C) — Appeals of summary suspensions shall be conducted in accordance with the state
 793 Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.

794 5.10 4.9 Civil Fines

795 (A) If the Ddepartment assesses a civil fine pursuant to PART section 54.7 of this chapter, the money
 796 received by the Ddepartment shall be transmitted to the state treasurer, who shall credit the same to the
 797 GENERAL FUND home care agency cash fund created in Section 25-27.5-105, C.R.S.

Commented [BM41]: Suggest striking 5.8 and 5.9 and replacing with 4.8 Chapter 2 reference

Commented [BM42]: Covered at Chapter 2, Part 2.11.2

Commented [BM43]: Covered at Chapter 2, Part 2.11.3

Commented [BM44]: Statutory language

- 798 ~~(B) Civil fines collected pursuant to this section shall be used for expenses related to:~~
- 799 ~~(1) Continuing monitoring required by this section;~~
- 800 ~~(2) Education for agencies to avoid restrictions or conditions or facilitate the~~
- 801 ~~processes for application or change of ownership;~~
- 802 ~~(3) Education for consumers and their families about resolving problems with an~~
- 803 ~~agency, rights of consumers and responsibilities of agencies;~~
- 804 ~~(4) Providing technical assistance to any home care agency for the purpose of~~
- 805 ~~complying with changes in rules or state or federal law;~~
- 806 ~~(5) Monitoring and assisting in the transition of consumers to other agencies, when~~
- 807 ~~the transition is the result of the revocation of a license, or other appropriate~~
- 808 ~~medical services; or~~
- 809 ~~(6) Maintaining the operation of an agency pending correction of violations, as~~
- 810 ~~determined necessary by the department.~~

811 **PART** ~~Section 65.~~ GENERAL REQUIREMENTS FOR ALL LICENSE CATEGORIES

812 **65.1** Out of ~~S~~state ~~E~~ntities

813 Every HCA providing services within the state, shall have a physical business office capable of

814 conducting day-to-day business as ~~a~~ **home care agency HCA** within Colorado, and shall be licensed

815 according to the services rendered.

816 **65.2** Branch ~~O~~ffices

817 (A) An HCA shall notify the ~~D~~epartment in advance of its plan to establish a branch office.

818 Notification shall include, **AT A MINIMUM:**

- 819 (1) A description of the services to be provided,
- 820 (2) The geographic area to be served by the branch office **THAT IS WITHIN A PORTION**
- 821 **OF THE TOTAL GEOGRAPHIC AREA SERVED BY THE PARENT AGENCY,** and
- 822 (3) A description of how the parent agency will supervise the branch office **ON A DAILY**
- 823 **BASIS.**

824 (B) A branch office, as an extension of the parent **AGENCY**HCA, may not offer services that

825 are different than those offered by the parent **AGENCY**HCA.

826 (C) **THE LOCATION OF THE BRANCH, IN RELATION TO THE PARENT AGENCY, SHALL BE SUCH THAT THE**

827 **PARENT AGENCY IS ABLE TO ENSURE ADEQUATE SUPERVISION AT ALL TIMES.**

- 828 (1) **THE PARENT AGENCY SHALL BE PHYSICALLY LOCATED SO THAT SHARING OF**
- 829 **ADMINISTRATION, SUPERVISION, PERSONNEL, AND SERVICES WITH THE BRANCH CAN**
- 830 **OCCUR ON A DAILY BASIS, AND TO ENSURE THAT THE BRANCH OFFICE HAS BACK-UP**
- 831 **COVERAGE READY AND AVAILABLE TO SERVE ALL CONSUMERS WHEN THEY ARE**
- 832 **SCHEDULED TO RECEIVE SERVICES.**

Commented [BM45]: Statute was amended, and this information was removed from statute in 2019 as a result of SB19-146.

Commented [BM46]: Language from Ch 2 SOM "Branch offices"

Commented [BM47]: Language from Ch 2 SOM "Branch offices"

Commented [BM48]: (C) is not new language, moved from original (E) below. (C)(1) and (2) are new.

- 833 (2) IN THE EVENT THE BRANCH OFFICE IS UNABLE TO MEET THE CONSUMER'S NEEDS, THE
834 PARENT AGENCY SHALL ENSURE ALL CONSUMERS CONTINUE TO RECEIVE SERVICES
835 WHEN SCHEDULED, IN ACCORDANCE WITH THE CONSUMER'S CARE PLAN.
- 836 (GD) The parent agency administrator, manager, or supervisor shall conduct an on-site visit of
837 the branch office in accordance with agency policy.
- 838 (DE) One or more health professionals who possess the experience, education, and
839 qualifications to oversee all care and services provided by the branch shall be available
840 during all operating hours.
- 841 (1) If only personal care services are provided, an employee PERSONNEL that meets
842 the qualifications of A supervisor shall be available during all operating hours.
- 843 (E) The location of the branch, in relation to the parent, shall be such that the parent is able
844 to assure adequate supervision at all times.
- 845 (F) The branch office shall have a copy of all agency policies available and readily accessible
846 to staff.
- 847 (G) The PARENT agency shall ensure that consumer records are readily accessible to all staff
848 providing care and services.
- 849 (H) THE PARENT AGENCY SHALL BE AWARE OF THE STAFFING, CENSUS, AND ANY ISSUES/MATTERS
850 AFFECTING THE OPERATION OF THE BRANCH OFFICE AT ALL TIMES.
- 851 6.3 Criminal history record checks
- 852 (A) Effective June 1, 2015, the HCA shall require any individual seeking employment with the
853 agency to submit to a criminal history record check to ascertain whether the individual
854 seeking employment has been convicted of a felony or misdemeanor, which felony or
855 misdemeanor involves conduct that the agency determines could pose a risk to the
856 health, safety, or welfare of home care consumers.
- 857 (B) The criminal history record check shall, at a minimum, include a search of criminal history
858 in the State of Colorado and be conducted not more than 90 days prior to employment of
859 the individual.
- 860 (C) The cost of such inquiry shall be paid by either the home care agency or the individual
861 seeking employment.
- 862 (D) In assessing whether to employ an applicant with a felony or misdemeanor conviction,
863 the HCA shall consider the following factors:
- 864 (1) The history of convictions, pleas of guilty or no contest,
- 865 (2) The nature and seriousness of the crimes;
- 866 (3) The time that has elapsed since the conviction(s);
- 867 (4) Whether there are any mitigating circumstances; and
- 868 (5) The nature of the position for which the applicant would be employed.

Commented [BM49]: Moved up to new (C).

Commented [BM50]: Language modified from Ch 2 SOM "2182.4B - SA Review of Request for Branch Determination"

Commented [BM51]: Moved to Personnel below and put comments in new language.

869 (E) — The HCA shall develop and implement policies and procedures regarding the
 870 employment of any individual who is convicted of a felony or misdemeanor to ensure that
 871 the individual does not pose a risk to the health, safety and welfare of the consumer.

872 6.45.3 Consumer Rights

873 (A) THE PROVISIONS OF 6 CCR 1011-1, CHAPTER 2, PART 7, SHALL APPLY, WITH THE FOLLOWING
 874 ADDITIONS:

875 (A1) Assurance of rights

876 (1A) The HCA shall establish and implement written policies and procedures
 877 regarding the rights of consumers and the implementation of these
 878 rights. A complete statement of these rights, including the right to file a
 879 complaint with the Department, shall be distributed to all employees
 880 and contracted personnel upon hire.

881 (2B) At a minimum, the HCA's policies and procedures shall specify that:

882 (a) The consumer or authorized representative has the right to be
 883 informed of the consumer's rights through an effective means of
 884 communication.

885 (bii) The consumer has the right to be assured that the HCA shall not
 886 condition the provision of care, or otherwise discriminate against
 887 a consumer, based upon personal, cultural, or ethnic preference,
 888 disabilities, or whether the consumer has an advance directive.

889 (ciii) The HCA shall protect and promote the exercise of these rights.

890 (B) Notice of rights

891 (1) Within one (1) business day of the start of services, the HCA shall
 892 provide the consumer or authorized representative with a notice of the
 893 consumer's rights in a manner that the consumer understands. The
 894 notice shall include information about the consumer's options if rights are
 895 violated, including how to contact an individual employed with the HCA
 896 who is responsible for the complaint intake and problem resolution
 897 process.

898 (G2) Exercise of rights and respect for property and person

899 (4A) The rights of the consumer may be exercised by the consumer or
 900 authorized representative without fear of retribution or retaliation.

901 (2B) The consumer has the right to have THEIR his or her person and property
 902 treated with respect. The consumer has the right to be free from neglect,
 903 financial exploitation, verbal, physical, and psychological abuse including
 904 humiliation, intimidation, or punishment.

905 (C) THE CONSUMER HAS THE RIGHT TO BE FREE FROM NEGLIGENCE; FINANCIAL
 906 EXPLOITATION; AND VERBAL, PHYSICAL, AND PSYCHOLOGICAL ABUSE,
 907 INCLUDING HUMILIATION, INTIMIDATION, OR PUNISHMENT.

Commented [BM52]: First sentence duplicative of Chapter 2, suggest striking. Keep second sentence.

Commented [BM53]: It is not 1 for 1 reference with Chapter 2, suggest keeping.

Commented [BM54]: Moved to Disclosure Notices - put all notices in one subpart.

Commented [BM55]: There is a lot of overlap with Ch 2 but it is not 1 for 1. Some of this is from the SOM.

Suggest keeping this as is.

Commented [BM56]: Not new language. Broken out from bullet above.

- 908 (3D) The consumer or authorized representative, upon request to the HCA,
 909 has the right to be informed of the full name, licensure status, staff
 910 position, and employer of all persons with whom the consumer has
 911 contact, and who is supplying, staffing, or supervising care or services.
 912 ~~The consumer has the right to be served by agency staff that is properly~~
 913 ~~trained and competent to perform their duties.~~
- 914 (E) ~~THE CONSUMER HAS THE RIGHT TO BE SERVED BY AGENCY STAFF WHO ARE~~
 915 ~~PROPERLY TRAINED AND COMPETENT TO PERFORM THEIR DUTIES.~~
- 916 (4F) The consumer has the right to live free from involuntary confinement,
 917 and to be free from physical or chemical restraints as defined in 6 CCR
 918 1011-1, Chapter 2, Part 8.
- 919 (5G) The consumer or authorized representative has the right to express
 920 complaints verbally, or in writing, about services or care that is or is not
 921 furnished, or about the lack of respect for the consumer's person or
 922 property by anyone who is furnishing services on behalf of the HCA.
- 923 (6H) The consumer ~~shall have~~~~HAS~~ the right to confidentiality of all records,
 924 communications, and personal information. ~~The HCA shall advise the~~
 925 ~~consumer of the agency's policies and procedures regarding disclosure~~
 926 ~~of clinical information and records.~~
- 927 (I) ~~THE HCA SHALL ADVISE THE CONSUMER OF THE AGENCY'S POLICIES~~
 928 ~~AND PROCEDURES REGARDING DISCLOSURE OF CLINICAL~~
 929 ~~INFORMATION AND RECORDS.~~
- 930 (D3) Right to be informed and to participate in planning care and ~~services~~
- 931 (4A) The HCA shall inform the consumer or authorized representative, in
 932 advance, about the care, ~~METHOD OF DELIVERY~~, and services to be
 933 furnished, and of any changes in the care, ~~METHOD OF DELIVERY~~, and
 934 services to be furnished, to enable the consumer to give informed
 935 consent.
- 936 (a) The consumer has the right to refuse treatment, within the
 937 confines of the law, to be informed of the consequences of such
 938 action, and to be involved in experimental research only upon
 939 the consumer's voluntary written consent.
- 940 (b) The consumer has the right to be told, in advance of receiving
 941 care, about the services that will be provided, the disciplines that
 942 will be utilized to furnish care, the frequency of visits proposed to
 943 be furnished, ~~THE METHOD OF DELIVERY OF SERVICES AND ANY~~
 944 ~~CHANGES IN THE METHOD OF DELIVERY OF SERVICES~~, and the
 945 consequences of refusing care or services.
- 946 (iii) ~~THE CONSUMER HAS THE RIGHT TO REFUSE TO CHANGE FROM AN IN-~~
 947 ~~PERSON METHOD OF DELIVERY OF SERVICES TO A TELEHEALTH~~
 948 ~~METHOD OF DELIVERY. IF THE CONSUMER REFUSES, THEIR SERVICES~~
 949 ~~SHALL CONTINUE IN PERSON.~~

Commented [BM57]: Not new language. Broken out from bullet above.

Commented [BM58]: Not new language. Broken out from bullet above.

Commented [BM59]: More specific than Ch 2; suggest keeping

- 950 (2B) The HCA shall offer the consumer, or authorized representative, the right
 951 to participate in developing the plan of care, and receive instruction and
 952 education regarding the plan.
- 953 (a) The HCA shall advise the consumer, in advance, of the right to
 954 participate in planning the care or treatment, and in planning
 955 changes in the care or treatment.
- 956 (b) ~~Within one (1) business day of the start of services, the HCA~~
 957 ~~shall inform the consumer concerning the agency's policies on~~
 958 ~~advance directives, including a description of applicable state~~
 959 ~~law. The HCA may furnish advance directives information to a~~
 960 ~~consumer at the time of the first home visit, as long as the~~
 961 ~~information is furnished before care is provided.~~
- 962 (E) ~~The consumer or authorized representative has the right to be advised orally and~~
 963 ~~in writing within one (1) business day of the start of services of the extent to~~
 964 ~~which payment for the HCA services may be expected from insurance or other~~
 965 ~~sources, and the extent to which payment may be required from the consumer.~~
- 966 (4) THE CONSUMER HAS THE RIGHT TO RECEIVE PROMPT CARE IN ACCORDANCE WITH THE
 967 CARE PLAN.
- 968 (F5) The consumer or authorized representative has the right to be advised of any
 969 changes in billing or payment procedures before implementation.
- 970 (4A) If an ~~agency~~HCA is implementing a scheduled rate increase to all
 971 ~~clients~~CONSUMERS, the ~~agency~~HCA shall provide a written notice to each
 972 affected consumer at least THIRTY (30) days before implementation.
- 973 (2B) The HCA shall advise the consumer of any individual changes, orally and
 974 in writing, as soon as possible, but no later than five (5) business days
 975 from the date that the HCA becomes aware of a change.
- 976 (3C) An HCA shall not assume power of attorney or guardianship over a
 977 consumer utilizing the services of the HCA, require a consumer to
 978 endorse checks over to the HCA, or require a consumer to execute or
 979 assign a loan, advance, financial interest, mortgage, or other property in
 980 exchange for future services.
- 981 (G6) The consumer or authorized representative has the right to be advised of the
 982 availability of the state's toll-free HCA hotline. ~~When the agency accepts the~~
 983 ~~consumer for treatment or care, the HCA shall advise the consumer in writing of~~
 984 ~~the telephone number of the home health hotline established by the state, the~~
 985 ~~hours of its operation, and that the purpose of the hotline is to receive complaints~~
 986 ~~or questions about local HCAs. The consumer also has the right to use this~~
 987 ~~hotline to lodge complaints regarding care received or not received including~~
 988 ~~implementation of the advance directives requirements.~~
- 989 (A) THE CONSUMER ALSO HAS THE RIGHT TO USE THIS HOTLINE TO LODGE
 990 COMPLAINTS REGARDING CARE RECEIVED OR NOT RECEIVED, INCLUDING
 991 IMPLEMENTATION OF THE ADVANCE DIRECTIVES REQUIREMENTS.

Commented [BM60]: Propose to strike here and move to Disclosure Notices below.

Commented [BM61]: Some of (5) and (6) from SOM. Propose to keep as is.

Commented [BM62]: Moved sentence to Disclosure Notices.

Commented [BM63]: Not new language. Broken out from (6) above.

992 (H7) The HCA shall make available to the consumer or authorized representative,
 993 upon request, a written notice listing all individuals or other legal entities having
 994 ownership or controlling interest in the agency.

995 (A) WHEN A CHANGE OF OWNERSHIP OCCURS, THE NEW OWNER SHALL SEND A
 996 WRITTEN NOTICE TO ALL OF THE HCA'S CONSUMERS LISTING ALL OF THE NEW
 997 OWNERS, AND GIVE THE CONSUMER THE OPPORTUNITY TO CONTINUE
 998 SERVICES WITH THE HCA OR RECEIVE ASSISTANCE IN TRANSFERRING CARE
 999 AND SERVICES TO A DIFFERENT HCA.

1000 (I8) The HCA shall maintain documentation showing that it has complied with the
 1001 requirements of this section.

1002 6.55.4 Admissions

1003 (A) Agencies shall only accept consumers for care or services on the basis of a reasonable
 1004 assurance that the needs of the consumer can be met adequately by the agency in the
 1005 individual's temporary or permanent home or place of residence.

1006 (1) There shall be initial documentation of the agreed upon days and times of
 1007 services to be provided, based upon the consumer's needs, that is updated at
 1008 least annually.

1009 (B) If an agency receives a referral of a consumer who requires care or services that are not
 1010 available at the time of referral, the agency shall advise the consumer's primary care
 1011 provider, if applicable, and the consumer or authorized representative of that fact.

1012 (1) The agency shall only admit the consumer if the primary care provider and the
 1013 consumer or consumer's representative agree the ordered services can be
 1014 delayed or discontinued.

1015 6.65.5 Discharge Planning

1016 (A) There shall be a specific plan for discharge in the consumer record, and there shall be
 1017 ongoing discharge planning with the consumer.

1018 (B) If no improvement or no discharge is expected, the agency shall document THIS FINDING in
 1019 the consumer record ~~this assessment~~.

1020 (C) The HCA shall assist each consumer or authorized representative to find an appropriate
 1021 placement with another agency if the consumer continues to require care and/or services
 1022 upon discharge. The HCA shall document due diligence in ensuring continuity of care
 1023 upon discharge, as necessary, to protect the consumer's safety and welfare.

1024 (D) Once admitted, an HCA shall not discontinue or refuse services to a consumer unless
 1025 documented efforts have been made to resolve the situation that triggered such
 1026 discontinuation or refusal to provide services.

1027 (1) The consumer or authorized representative shall be notified, verbally and in
 1028 writing, of the agency's intent to discharge and the reasons for the discharge.

1029 (E) AN HCA SHALL NOTIFY THE DEPARTMENT BEFORE IT INITIATES DISCHARGE OF ANY CONSUMER
 1030 WHO REQUIRES AND DESIRES CONTINUING PAID CARE OR SERVICES WHERE THERE ARE NO
 1031 KNOWN TRANSFER ARRANGEMENTS TO PROTECT THE CONSUMER'S HEALTH, SAFETY, OR
 1032 WELFARE.

Commented [BM64]: Modified from ALR language

Additional guidance language on who needs to be listed.

1033 (1) EMERGENCY DISCHARGES NECESSARY TO PROTECT THE SAFETY AND WELFARE OF
 1034 STAFF SHALL BE REPORTED TO THE DEPARTMENT WITHIN FORTY- EIGHT (48) HOURS OF
 1035 THE OCCURRENCE.

Commented [BM65]: Not new language. Moved from Agency Reporting Requirements.

1036 6.7.5.6 Disclosure Notices

1037 (A) AGENCY DISCLOSURE NOTICE

1038 (A1) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA shall provide a
 1039 written disclosure notice to the consumer, or authorized representative, ~~within~~
 1040 ~~one (1) business day of the start of services~~ that specifies the service provided
 1041 by the HCA and the consumer's obligation regarding the home care worker.

1042 (B2) The disclosure notice, in the form and manner prescribed by the Department,
 1043 shall be signed by the consumer or authorized representative, and shall include
 1044 information as to who is responsible for the following items:

1045 (4A) Employment of the home care worker,

1046 (2B) Liability for the home care worker while in the consumer's home,

1047 (3C) Payment of wages to the home care worker,

1048 (4D) Payment of employment and social security taxes,

1049 (5E) Payment of unemployment, worker's compensation, general liability
 1050 insurance, and, if provided, bond insurance.

1051 (6F) Supervision of the home care worker,

1052 (7G) Scheduling of the home care worker,

1053 (8H) Assignment of duties to the home care worker,

1054 (9I) Hiring, firing, and discipline of the home care worker,

1055 (10J) Provision of materials or supplies for the home care worker's use in
 1056 providing services to the consumer, and

1057 (11K) Training and ensuring qualifications that meet the needs of the
 1058 consumer.

1059 (C3) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA shall ensure
 1060 that the consumer, or authorized representative, acknowledges the disclosure
 1061 notice ~~is within one (1) business day of the start of services.~~

1062 (A) IN THE EVENT THE CONSUMER REFUSES TO ACKNOWLEDGE THE DISCLOSURE
 1063 NOTICE IN WRITING, THE HCA WILL DOCUMENT THE CONVEYANCE OF
 1064 INFORMATION VERBALLY TO THE CONSUMER OR AUTHORIZED
 1065 REPRESENTATIVE.

1066 (B) NOTICE OF CONSUMER RIGHTS

1067 (1) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA SHALL PROVIDE
 1068 THE CONSUMER OR AUTHORIZED REPRESENTATIVE WITH A NOTICE OF THE CONSUMER'S

- 1069 RIGHTS, IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT, AND IN A
1070 MANNER THAT THE CONSUMER UNDERSTANDS.
- 1071 (2) THE NOTICE SHALL INCLUDE INFORMATION ABOUT THE CONSUMER'S OPTIONS IF RIGHTS
1072 ARE VIOLATED, INCLUDING HOW TO CONTACT AN INDIVIDUAL EMPLOYED WITH THE HCA
1073 WHO IS RESPONSIBLE FOR THE COMPLAINT INTAKE, AND PROBLEM RESOLUTION
1074 PROCESS.
- 1075 (C) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA SHALL INFORM THE
1076 CONSUMER CONCERNING THE AGENCY'S POLICIES ON ADVANCE DIRECTIVES, INCLUDING A
1077 DESCRIPTION OF APPLICABLE STATE LAW. THE HCA MAY FURNISH ADVANCE DIRECTIVES
1078 INFORMATION TO A CONSUMER AT THE TIME OF THE FIRST HOME VISIT, AS LONG AS THE
1079 INFORMATION IS FURNISHED BEFORE CARE IS PROVIDED.
- 1080 (D) WITHIN ONE (1) BUSINESS DAY OF THE START OF SERVICES, THE HCA SHALL INFORM THE
1081 CONSUMER OR AUTHORIZED REPRESENTATIVE, ORALLY AND IN WRITING, OF THE EXTENT TO
1082 WHICH PAYMENT FOR THE HCA SERVICES MAY BE EXPECTED FROM INSURANCE OR OTHER
1083 SOURCES, AND THE EXTENT TO WHICH PAYMENT MAY BE REQUIRED FROM THE CONSUMER.
- 1084 (E) WHEN THE HCA ACCEPTS THE CONSUMER FOR TREATMENT OR CARE, THE HCA SHALL INFORM
1085 THE CONSUMER IN WRITING OF THE TELEPHONE NUMBER OF THE HOME HEALTH HOTLINE
1086 ESTABLISHED BY THE STATE, THE HOURS OF ITS OPERATION, AND THAT THE PURPOSE OF THE
1087 HOTLINE IS TO RECEIVE COMPLAINTS OR QUESTIONS ABOUT LOCAL HCAs.
- 1088 (F) THE HCA SHALL MAINTAIN DOCUMENTATION SHOWING THAT IT HAS COMPLIED WITH THE
1089 REQUIREMENTS OF THIS SECTION.
- 1090 ~~6.8 Non-compete agreements~~
- 1091 (A) ~~An HCA shall not coerce, threaten, or use any means of intimidation to prevent an~~
1092 ~~employee from terminating the employment relationship and commencing employment at~~
1093 ~~another HCA.~~
- 1094 (B) ~~Non-compete clauses, agreements or contracts shall only be enforceable in accordance~~
1095 ~~with Section 8-2-113, C.R.S.~~
- 1096 6.95.7 Complaint Processing
- 1097 (A) The HCA shall develop and implement policies to include the following items:
- 1098 (1) Investigation of complaints made by a consumer or others about services or care
1099 that is or is not furnished, or about the lack of respect for the consumer's person
1100 or property by anyone furnishing services on behalf of the HCA.
- 1101 (2) Documentation of the existence, the investigation, and the resolution of the
1102 complaint. ~~The agency shall notify the complainant of the results of the~~
1103 ~~investigation and the agency's plan to resolve any issue identified.~~
- 1104 (A) THE AGENCY SHALL NOTIFY THE COMPLAINANT OF THE RESULTS OF THE
1105 INVESTIGATION AND THE AGENCY'S PLAN TO RESOLVE ANY ISSUE IDENTIFIED.
- 1106 (3) Incorporation of the substantiated findings into it's ~~THE HCA'S~~ quality assurance
1107 program in order to evaluate and implement systemic changes, where needed.

Commented [BM66]: Not new language. From Notice of rights above.

Commented [BM67]: Not new language. Moved from above.

Commented [BM68]: Not new language. Broken out from above.

Commented [BM69]: Not new language. Duplicated from the Right to be informed section above.

Commented [BM70]: Recommend striking this language since it ultimately is up to a court of law to settle any dispute between employer and employee. If we remove here, recommend including this language in guidance.

Commented [SA71]: Not new language. Broken out from above.

- 1108 (4) ~~AN~~ explicit statement that the HCA does not discriminate or retaliate against a
1109 consumers for expressing a complaint or multiple complaints.
- 1110 (5) Maintenance of a separate ~~WRITTEN OR ELECTRONIC~~ record/log/file detailing all
1111 activity regarding complaints received, and their investigation and resolution
1112 thereof. ~~The record shall be maintained for at least a two (2) year period of time~~
1113 ~~and shall be available for audit and inspection purposes.~~

- 1114 (A) THE RECORD SHALL BE MAINTAINED FOR AT LEAST A TWO (2) YEAR PERIOD OF
1115 TIME AND SHALL BE AVAILABLE FOR AUDIT AND INSPECTION PURPOSES.

1116 6.405.8 Agency Reporting Requirements

- 1117 (A) Each HCA shall comply with the occurrence reporting requirements set forth in 6 CCR
1118 1011, Chapter 2, Part 4.2. ~~THE PROVISIONS OF 6 CCR 1011-1, CHAPTER 2, PART 4.2,~~
1119 ~~REGARDING OCCURRENCE REPORTING REQUIREMENTS SHALL APPLY.~~

- 1120 (B) ~~The agency shall investigate each reportable occurrence and institute appropriate~~
1121 ~~measures to prevent similar future occurrences. THE HCA SHALL DEVELOP AND IMPLEMENT~~
1122 ~~POLICIES AND PROCEDURES REGARDING THE INVESTIGATION OF REPORTABLE OCCURRENCES~~
1123 ~~AND ANY ALLEGED INCIDENTS INVOLVING NEGLIGENCE, ABUSE, OR PERSONNEL MISCONDUCT,~~
1124 ~~INCLUDING BUT NOT LIMITED TO:~~

- 1125 (1) THE INVESTIGATION OF ALL ALLEGED INCIDENTS INVOLVING NEGLIGENCE, ABUSE, OR
1126 PERSONNEL MISCONDUCT IN A TIMELY MANNER.

- 1127 (2) THE INVESTIGATION OF EACH REPORTABLE OCCURRENCE AND APPROPRIATE MEASURES
1128 INSTITUTED TO PREVENT SIMILAR FUTURE OCCURRENCES.

- 1129 (A) A REPORT WITH THE INVESTIGATION FINDINGS SHALL BE AVAILABLE FOR
1130 REVIEW BY THE DEPARTMENT WITHIN FIVE (5) WORKING DAYS OF THE
1131 OCCURRENCE.

- 1132 (3) ADMINISTRATIVE PROCEDURES TO BE IMPLEMENTED TO PROTECT THE HCA'S
1133 CONSUMERS DURING THE INVESTIGATION PROCESS.

- 1134 (14) Documentation regarding the investigation, including the appropriate measures
1135 to be instituted, THAT shall be made available to the dDepartment, upon request.

- 1136 (2) A report with the investigation findings shall be available for review by
1137 the dDepartment within five (5) working days of the occurrence.

- 1138 (C) Nothing in this section 5.86-40 shall be construed to limit or modify any statutory or
1139 common-law right, privilege, confidentiality, or immunity.

- 1140 (D) ~~An HCA shall notify the dDepartment before it initiates discharge of any consumer who~~
1141 ~~requires and desires continuing paid care or services where there are no known transfer~~
1142 ~~arrangements to protect the consumer's health, safety, or welfare.~~

- 1143 (1) ~~Emergency discharges necessary to protect the safety and welfare of staff shall~~
1144 ~~be reported to the dDepartment within 48 hours of the occurrence.~~

- 1145 (E) ~~The home care agency shall ensure that all staff have knowledge of Article 3.1 of Title 26,~~
1146 ~~G.R.S. regarding protective services for at risk adults, and that all incidents involving~~

Commented [SA72]: Not new language. Broken out from above.

Commented [BM73]: Updated to match language

Commented [BM74]: Stricken here and moved to (B)(2) below.

Commented [BM75]: Not new language. Moved from original (E)(3)

Commented [BM76]: Not new language. From original (B) above.

Commented [BM77]: Not new language. From below.

Commented [BM78]: Not new language. Moved from original (E)(3)

Commented [BM79]: Stricken here and moved to Discharge Planning above.

1147 neglect, abuse or financial exploitation are reported immediately, through established
1148 procedures, to the agency administrator or manager.

1149 (1) Any home care agency that provides care and/or services to pediatric
1150 consumers, shall ensure that all staff have knowledge of Part 3 of Article 3 of
1151 Title 19, C.R.S. regarding child abuse or neglect, and that all incidents involving
1152 child abuse or neglect are reported immediately, through established procedures,
1153 to the agency administrator or manager.

1154 (2) The agency shall report the incident to the appropriate officials as specified in the
1155 statute and, if applicable, to the department as an occurrence. The agency shall
1156 make copies of all such reports available to the department upon request.

1157 (3) The agency shall document that all alleged incidents involving neglect, abuse, or
1158 health professional misconduct are thoroughly investigated in a timely manner.
1159 The agency shall develop and implement a policy that addresses what
1160 administrative procedures will be implemented to protect its consumers during
1161 the investigation process.

Commented [BM80]: Recommend striking here and updating language to reflect statutory changes in new (D) below.

Commented [BM81]: Moved to (B)(1) and (B)(3) above.

1162 (D) MANDATORY REPORTING

1163 (1) HCA PERSONNEL ENGAGED IN THE CARE OR TREATMENT OF AT-RISK PERSONS SHALL
1164 REPORT SUSPECTED PHYSICAL OR SEXUAL ABUSE, EXPLOITATION, AND/OR CARETAKER
1165 NEGLECT TO LAW ENFORCEMENT WITHIN TWENTY-FOUR (24) HOURS OF OBSERVATION
1166 OR DISCOVERY PURSUANT TO SECTION 18-6.5-108, C.R.S.

Commented [BM82]: Verbal abuse is covered under caretaker neglect in the statute. Will add language into guidance document.

1167 (2) HCA PERSONNEL ENGAGED IN THE CARE OR TREATMENT OF CHILDREN SHALL REPORT
1168 SUSPECTED ABUSE OR NEGLECT TO THE COUNTY DEPARTMENT, LOCAL LAW
1169 ENFORCEMENT, OR TO THE CHILD ABUSE REPORTING HOTLINE PURSUANT TO SECTION
1170 19-3-304 AND 307, C.R.S.

Commented [BM83]: (1) and (2) new language based on updated statutory requirements.

1171 (3) THE HCA SHALL ENSURE ALL PERSONNEL HAVE KNOWLEDGE OF THESE
1172 REQUIREMENTS.

1173 (4) THE HCA SHALL REPORT THE INCIDENT TO THE DEPARTMENT AS AN OCCURRENCE, IF
1174 APPLICABLE.

Commented [BM84]: (3) and (4) not new language. Modified from original (E).

1175 6.115.9 Personnel records and policies

1176 (A) POLICIES

1177 (1) Agency policy shall direct any program or service offered by the HCA directly or
1178 under arrangement is provided in accordance with the plan of care and agency
1179 policy and procedure.

Commented [BM85]: Recommend striking here and moving to individual parts (skilled and non-skilled).

1180 (1) The HCA shall define the required competence, qualifications, and experience of
1181 staff PERSONNEL in each program or service it provides.

1182 (2) Personnel policies shall be available to all full and part-time employees.

1183 (2) THE HCA SHALL ENSURE THAT ALL PERSONNEL HAVE ACCESS TO AND ARE
1184 KNOWLEDGEABLE ABOUT THE HCA'S POLICIES AND PROCEDURES.

Commented [SA86]: Suggested modification of existing (2)

1185 (B) RECORDS

- 1186 (1) Personnel records for all employees shall include references, dates of
 1187 employment and separation from the HCA agency, and the reason for
 1188 separation. Personnel records for all employees shall also include:
- 1189 (2) PERSONNEL RECORDS SHALL INCLUDE, AT A MINIMUM:
- 1190 (A4) Qualifications and licensure that are kept current.
- 1191 (1a) Qualifications include confirmation of type and depth of
 1192 experience, advanced skills, training and education; and
 1193 appropriate, detailed, and observed competency evaluation; and
 1194 written testing overseen by a person with the same or higher
 1195 validated qualifications.
- 1196 (B2) Orientation to the agency,
- 1197 (C3) Job descriptions for all positions assigned by the agency, and
- 1198 (D4) Annual performance evaluation for each employee.
- 1199 (C) CRIMINAL HISTORY RECORD CHECKS
- 1200 (1) THE HCA SHALL REQUIRE ANY INDIVIDUAL SEEKING EMPLOYMENT WITH THE AGENCY TO
 1201 SUBMIT TO A CRIMINAL HISTORY RECORD CHECK TO ASCERTAIN WHETHER THE
 1202 INDIVIDUAL SEEKING EMPLOYMENT HAS BEEN CONVICTED OF A FELONY OR
 1203 MISDEMEANOR, WHICH FELONY OR MISDEMEANOR INVOLVES CONDUCT THAT THE
 1204 AGENCY DETERMINES COULD POSE A RISK TO THE HEALTH, SAFETY, OR WELFARE OF
 1205 HOME CARE CONSUMERS.
- 1206 (2) THE CRIMINAL HISTORY RECORD CHECK SHALL, AT A MINIMUM, INCLUDE A SEARCH OF
 1207 CRIMINAL HISTORY IN THE STATE OF COLORADO AND BE CONDUCTED NOT MORE THAN
 1208 NINETY (90) DAYS PRIOR TO EMPLOYMENT OF THE INDIVIDUAL.
- 1209 (3) THE COST OF SUCH INQUIRY SHALL BE PAID BY EITHER THE HCA OR THE INDIVIDUAL
 1210 SEEKING EMPLOYMENT.
- 1211 (4) IN ASSESSING WHETHER TO EMPLOY AN APPLICANT WITH A FELONY OR MISDEMEANOR
 1212 CONVICTION, THE HCA SHALL CONSIDER THE FOLLOWING FACTORS:
- 1213 (A) THE HISTORY OF CONVICTIONS, PLEAS OF GUILTY OR NO CONTEST;
- 1214 (B) THE NATURE AND SERIOUSNESS OF THE CRIMES;
- 1215 (C) THE TIME THAT HAS ELAPSED SINCE THE CONVICTION(S);
- 1216 (D) WHETHER THERE ARE ANY MITIGATING CIRCUMSTANCES; AND
- 1217 (E) THE NATURE OF THE POSITION FOR WHICH THE APPLICANT WOULD BE
 1218 EMPLOYED.
- 1219 (5) THE HCA SHALL DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES REGARDING
 1220 THE EMPLOYMENT OF ANY INDIVIDUAL WHO IS CONVICTED OF A FELONY OR
 1221 MISDEMEANOR TO ENSURE THAT THE INDIVIDUAL DOES NOT POSE A RISK TO THE
 1222 HEALTH, SAFETY, AND WELFARE OF THE CONSUMER.

Commented [BM87]: Not new language. Broken out from above.

Commented [SA88]: Consistent with statutory requirements found at Section 25-27.5-107, C.R.S.

Commented [BM89]: Not new language. Moved from its own subpart above.

1223 (D) BEFORE EMPLOYING ANY INDIVIDUAL TO PROVIDE DIRECT CONSUMER CARE OR SERVICES, THE
 1224 HCA MUST SHOW COMPLIANCE WITH THE COLORADO ADULT PROTECTIVE SERVICES DATA
 1225 SYSTEM (CAPS CHECK) REQUIREMENTS AS SET FORTH IN SECTION 26-3.1-111, C.R.S., AND 6
 1226 CCR 1011-1, CHAPTER 2, PART 2.3.6.

Commented [BM90]: Language from Chapter 2

1227 (E) Before employing any individual to provide direct consumer care or services, the agency
 1228 shall contact the Colorado Department of Regulatory Agencies (DORA) to verify whether
 1229 a license, registration, or certification exists and is in good standing. A copy of the
 1230 inquiry shall be placed in the individual's personnel file.

1231 (F) CONTRACTED PERSONNEL

Commented [BM91]: Not new language. Moved from its own subpart below.

1232 (1) IF CONTRACTED PERSONNEL ARE USED BY THE HCA, THERE SHALL BE A WRITTEN
 1233 CONTRACT THAT SPECIFIES THE FOLLOWING:

1234 (A) THAT CONSUMERS ARE ACCEPTED FOR CARE ONLY BY THE PRIMARY HCA;

1235 (B) THE SPECIFIC SERVICES TO BE FURNISHED;

1236 (C) THE NECESSITY TO CONFORM TO ALL APPLICABLE AGENCY POLICIES,
 1237 INCLUDING PERSONNEL QUALIFICATIONS;

1238 (D) THE RESPONSIBILITY FOR PARTICIPATING IN DEVELOPING PLANS OF CARE OR
 1239 SERVICE;

1240 (E) THE MANNER IN WHICH SERVICES WILL BE CONTROLLED, COORDINATED, AND
 1241 EVALUATED BY THE PRIMARY HCA;

1242 (F) THE PROCEDURES FOR SUBMITTING CLINICAL/SERVICE NOTES, SCHEDULING OF
 1243 VISITS, AND PERIODIC CONSUMER EVALUATION; AND

1244 (G) THE PROCEDURES FOR PAYMENT FOR SERVICES FURNISHED UNDER THE
 1245 CONTRACT.

1246 (2) PERSONNEL POLICIES SHALL BE AVAILABLE TO ALL CONTRACTED PERSONNEL.

1247 6.12.5.10 Emergency Preparedness

Commented [BM92]: New language developed with input from a small workgroup and vetted with all stakeholders in April and May 2021. Existing requirement(s) noted in comments.

1248 (A) THE HCA SHALL CONDUCT A RISK ASSESSMENT OF THE HAZARDS OR POTENTIAL EMERGENCY
 1249 SITUATIONS THE HCA COULD ENCOUNTER.

1250 (1) THIS ASSESSMENT SHALL ADDRESS, BUT NOT BE LIMITED TO, THE FOLLOWING
 1251 CONSIDERATIONS:

1252 (A) GEOGRAPHICAL LOCATION OF THE HCA, ANY BRANCH OFFICES AND
 1253 WORKSTATIONS, AND ITS CONSUMERS;

1254 (B) NEEDS OF THE HCA'S CONSUMER POPULATION; AND

1255 (C) POTENTIAL NATURAL AND HUMAN-MADE CRISES THAT IMPACT THE HCA'S
 1256 ABILITY TO OPERATE, INCLUDING BUT NOT LIMITED TO, EXTREME WEATHER,
 1257 FIRE, POWER OR INTERNET/COMMUNICATION OUTAGES, THREATENED OR
 1258 ACTUAL ACTS OF VIOLENCE, AND PANDEMIC OR DISEASE OUTBREAK EVENTS.

1259 (2) THE ASSESSMENT SHALL BE DOCUMENTED.

- 1260 (3) THE ASSESSMENT SHALL BE REVIEWED AT LEAST ANNUALLY, AND UPDATED AS
1261 NECESSARY.
- 1262 (B) THE HCA SHALL DEVELOP A WRITTEN EMERGENCY PREPAREDNESS PLAN, BASED ON THE
1263 RESULTS OF THE ASSESSMENT REQUIRED IN PART 5.10(A), WHICH IS DESIGNED TO MANAGE
1264 CONSUMERS' CARE AND SERVICES, AND IMPLEMENT THE PLAN IN RESPONSE TO THE
1265 CONSEQUENCES OF NATURAL DISASTERS OR OTHER EMERGENCIES THAT DISRUPT THE HCA'S
1266 ABILITY TO PROVIDE CARE AND SERVICES OR THREATENS THE LIVES OR SAFETY OF ITS
1267 CONSUMERS.
- 1268 (C) THE EMERGENCY PREPAREDNESS PLAN SHALL BE REVIEWED AT LEAST ANNUALLY OR AFTER ANY
1269 EMERGENCY RESPONSE, AND SHALL BE UPDATED AS NECESSARY.
- 1270 (D) PERSONNEL SHALL BE TRAINED ON THE EMERGENCY PREPAREDNESS PLAN UPON HIRE, AND AT
1271 LEAST ANNUALLY OR WHEN ANY CHANGES IN THE EMERGENCY PREPAREDNESS PROCESS,
1272 PROCEDURES, OR RESPONSIBILITIES ARE MADE.
- 1273 (E) AT A MINIMUM, THE EMERGENCY PREPAREDNESS PLAN SHALL INCLUDE THE FOLLOWING:
- 1274 (1) STRATEGIES FOR ADDRESSING EMERGENCY SITUATIONS IDENTIFIED BY THE RISK
1275 ASSESSMENT;
- 1276 (2) IDENTIFICATION OF PERSONNEL RESPONSIBLE FOR RESPONDING TO EMERGENCY
1277 SITUATIONS AND IMPLEMENTING THE PLAN;
- 1278 (3) PROCEDURES TO CONTACT PERSONNEL AND CONSUMERS IMPACTED BY AN
1279 EMERGENCY;
- 1280 (4) A MECHANISM FOR ASSESSING AND TRIAGING THE NEEDS OF ITS CONSUMERS TO
1281 ENSURE CONTINUATION OF NECESSARY CARE FOR ALL CONSUMERS DURING AN
1282 EMERGENCY. THE HCA SHALL CONTINUALLY ASSESS THE STATUS OF ITS CONSUMERS
1283 TO ENSURE THEY ARE TRIAGED APPROPRIATELY BASED ON NEEDS;
- 1284 (5) STRATEGIES FOR CONTINUING TO PROVIDE CONSUMER SERVICES WHEN THERE ARE
1285 INTERRUPTIONS IN THE SUPPLY OF ESSENTIALS, INCLUDING BUT NOT LIMITED TO,
1286 WATER, PHARMACEUTICALS, AND PERSONAL PROTECTIVE EQUIPMENT (PPE);
- 1287 (6) EDUCATION FOR CONSUMERS, CAREGIVERS, AND FAMILIES ON HOW TO HANDLE CARE
1288 AND TREATMENT, SAFETY, AND/OR WELL-BEING DURING AND FOLLOWING INSTANCES OF
1289 NATURAL AND OTHER DISASTERS, INCLUDING STRATEGIES AND RESOURCES FOR
1290 ENSURING ACCESS TO LIFE SUSTAINING SUPPLIES, APPROPRIATE TO THE NEEDS OF THE
1291 CONSUMER;
- 1292 (7) STRATEGIES TO PROTECT AND TRANSFER CONSUMER RECORDS, IF NECESSARY; AND
- 1293 (8) STRATEGIES FOR CONTINUING CONSUMER CARE IN THE EVENT THE HCA IS UNABLE TO
1294 ACCESS CONSUMER RECORDS.
- 1295 (A) ~~The home care agency (HCA) shall have a written emergency preparedness plan that is~~
1296 ~~designed to manage consumers' care and services in response to the consequences of~~
1297 ~~natural disasters or other emergencies that disrupt the agency's ability to provide care~~
1298 ~~and services or threatens the lives or safety of its consumers.~~
- 1299 (B) ~~At a minimum, an agency's written emergency preparedness plan shall include the~~
1300 ~~following:~~

Commented [BM93]: Existing requirement, updated to reflect risk assessment

Commented [BM94]: Existing requirement

Commented [BM95]: (2) and (6) are existing requirements

- 1301 (1) Provisions for the management of all staff who are designated to be involved in
 1302 emergency measures, including the assignment of responsibilities and functions.
 1303 All staff shall be informed of their duties and be responsible for implementing the
 1304 emergency preparedness plan.
- 1305 (2) Education for consumers, caregivers, and families on how to handle care and
 1306 treatment, safety, and/or well-being during and following instances of natural
 1307 (tornado, flood, blizzard, fire, etc.) and other disasters, or other similar situations,
 1308 appropriate to the needs of the consumer.
- 1309 (3) Adequate staff education on emergency preparedness so that staff safety is
 1310 assured.
- 1311 (C) The agency shall review its emergency preparedness plan after any incident response
 1312 and on an annual basis, and incorporate into policy any substantive changes.
- 1313 6.135.11 Coordination with eExternal hHome eCare aAgencies
- 1314 (A) Each HCA shall be responsible for the coordination of consumer services with known
 1315 external HCAs providing care and services to the same consumer.
- 1316 (1) No HCA shall refuse to share consumer care information unless the consumer
 1317 has chosen to refuse coordination with external HCAs.
- 1318 (2) The consumer's refusal of such coordination shall be documented in the
 1319 consumer's record.
- 1320 6.145.12 Quality Mmanagement Pprogram
- 1321 (A) Every HCA shall establish a quality management program appropriate to the size and type of agency
 1322 that evaluates the quality of consumer services, care, and safety, and that complies with the requirements
 1323 set forth in 6 CCR 1011, Chapter 2, Part 4.1.
- 1324 6.155.13 Infection PREVENTION AND Ccontrol
- 1325 (A) The HCA shall provide training for its PERSONNEL employees regarding the agency's
 1326 written infection PREVENTION AND control policies and procedures at the time of hire and
 1327 AT LEAST annually.
- 1328 (B) The HCA shall evaluate the adequacy of its infection PREVENTION AND control policies and
 1329 procedures at least annually, make any necessary substantive changes, and document
 1330 SUCH CHANGES in writing OR ELECTRONICALLY.
- 1331 6.16 (C) PERSONNEL Employee hHealth – eCommunicable dDisease bPrevention
- 1332 (A1) It shall be the responsibility of the HCA to establish written policies concerning
 1333 pre-employment physical evaluations and PERSONNEL employee health. Those
 1334 policies shall include, but not be limited, to:
- 1335 (4A) Work restrictions to be placed on direct care PERSONNEL staff who are
 1336 known to be affected with any illness in a communicable stage or to be a
 1337 carrier of a communicable illness or disease; afflicted with boils,
 1338 jaundice, infected wounds, vomiting, diarrhea or acute respiratory
 1339 infections.

Commented [BM96]: Moved this under 5.13 Infection Prevention and Control

- 1340 ~~6.17~~^{5.14} Missed ~~v~~Visits
- 1341 (A) There shall be a mechanism for informing the consumer about scheduled visits in
 1342 accordance with ~~HCA~~ agency policy. Documentation shall be maintained and alterations
 1343 in the schedule shall be provided to the consumer ~~IN ADVANCE OF ANY CHANGES TO THE~~
 1344 ~~SCHEDULE, WHERE POSSIBLE. as soon as practical.~~
- 1345 (1) The HCA's policy shall address processes for HCA planning for coverage of
 1346 ~~PERSONNEL~~ employee illness, vacation, holidays, and unexpected voluntary or
 1347 involuntary termination of employment.
- 1348 (2) If the consumer does not respond to let ~~PERSONNEL~~ staff in the home for the
 1349 scheduled visit, the HCA's attempts to ensure the safety of the consumer and the
 1350 outcome of each attempt shall be documented.
- 1351 (3) If there is a missed visit, services shall be provided as agreed upon by the
 1352 consumer and the HCA.
- 1353 (4) If the HCA admits ~~CONSUMERS~~ with needs that require care or services to be
 1354 delivered at specific times or parts of day, the HCA shall ensure qualified
 1355 ~~PERSONNEL~~ staff in sufficient quantity are employed by the agency, or have other
 1356 effective back-up plans to ensure the needs of the consumer ~~is~~^{ARE} met.
- 1357 (5) The back-up plan for scheduled visits shall not include calling for an ambulance
 1358 or other emergency services unless the presence of the scheduled ~~PERSONNEL~~
 1359 staff in the home would still have warranted the summons of emergency
 1360 services.
- 1361 ~~6.18~~ Contracts
- 1362 (A) ~~If personnel under hourly or per-visit contracts are used by the HCA, there shall be a~~
 1363 ~~written employment contract between those personnel and the agency that specifies the~~
 1364 ~~following:~~
- 1365 (1) ~~Home care consumers are accepted for care only by the primary HCA,~~
- 1366 (2) ~~The specific services to be furnished,~~
- 1367 (3) ~~The necessity to conform to all applicable agency policies, including personnel~~
 1368 ~~qualifications,~~
- 1369 (4) ~~The responsibility for participating in developing plans of care or service,~~
- 1370 (5) ~~The manner in which services will be controlled, coordinated, and evaluated by~~
 1371 ~~the primary HCA,~~
- 1372 (6) ~~The procedures for submitting clinical/service notes, scheduling of visits, periodic~~
 1373 ~~consumer evaluation, and~~
- 1374 (7) ~~The procedures for payment for services furnished under the contract.~~
- 1375 ~~6.19~~^{5.15} Information ~~m~~Management ~~s~~System
- 1376 (A) Each HCA shall implement a policy and procedure for an effective information
 1377 management system ~~THAT IS~~ either paper-based or electronic. Processes shall include

Commented [BM97]: Struck here and moved to Personnel above.

- 1378 effective management for capturing, reporting, processing, storing, and retrieving
 1379 clinical/service data and information in accordance with standards of practice. The
 1380 system shall provide for:
- 1381 (1) Privacy and confidentiality of protected health information from unauthorized use
 1382 or manipulation; ~~AND~~
- 1383 (2) Organization of the consumer record utilizing standardized formats for
 1384 documenting all care, treatment, and services provided to consumers according
 1385 to ~~agency~~HCA policy. Standardization shall not include pre-filled documentation
 1386 of future care and services.
- 1387 (B) In addition, for electronic consumer health care records, policies and procedures shall be
 1388 ~~devised~~DEVELOPED and implemented to ensure:
- 1389 (1) A method for validating data entry access and changes to previously entered
 1390 data, and
- 1391 (2) Recovery of records, including contingency plans for operational interruptions
 1392 (hardware, software, or other systems failures), emergency service plan, a back-
 1393 up system for retrieval of data from storage, and information presently in the
 1394 operating system.
- 1395 6.20(C) ~~CONTENT OF~~ Consumer Records content
- 1396 (A1) All HCAs shall have a complete and accurate record for each consumer
 1397 assessed, cared for, treated, or served. ~~The record shall contain sufficient~~
 1398 ~~information to identify the consumer; support the diagnosis or condition; justify~~
 1399 ~~the care, treatment, and/or services delivered; and promote continuity of care~~
 1400 ~~internally and externally, where applicable.~~
- 1401 (2) THE RECORD SHALL CONTAIN SUFFICIENT INFORMATION TO IDENTIFY THE CONSUMER;
 1402 SUPPORT THE DIAGNOSIS OR CONDITION; JUSTIFY THE CARE, TREATMENT, AND/OR
 1403 SERVICES DELIVERED; AND PROMOTE CONTINUITY OF CARE INTERNALLY AND
 1404 EXTERNALLY, WHERE APPLICABLE.
- 1405 (13) Such Records shall contain consumer-specific information as appropriate to the
 1406 care, treatment, or services provided, including but not limited to:
- 1407 (a) Records of communications with the consumer or authorized
 1408 representative regarding care, treatment, and services, including
 1409 documentation of phone calls and e-mails, and
- 1410 (b) Referrals to, and names of, known home care agencies, individuals, and
 1411 organizations involved in the consumer's care.
- 1412 (4) THE RECORD SHALL INDICATE IF THE SERVICE OR VISIT WAS PROVIDED IN PERSON OR
 1413 VIA TELEHEALTH.
- 1414 (25) Clinical records for HCAs providing skilled home health services shall contain,
 1415 where applicable:
- 1416 (a) Hospital and emergency room records for known episodes or
 1417 documentation of efforts to obtain the information;;

Commented [BM98]: Not new language. Broken out from
bullet above.

- 1418 (b) Medical equipment provided by the HCA or related to the care,
1419 treatment, and services provided, including assessment of consumer and
1420 family comprehension of appropriate use and maintenance;
- 1421 (c) Consumer and family education, and training on services or treatments,
1422 and the use of equipment at the time of delivery to the home;
- 1423 (d) Safety measures taken to protect the consumer from harm, including fall
1424 risk assessments, and documentation why any identified or planned
1425 safety measures were not implemented or continued; and
- 1426 (e) Diagnostic and therapeutic procedures, treatments, tests, and their
1427 results where known to have occurred.

(D) CONSUMER RECORDS MUST BE RETAINED FOR FIVE (5) YEARS AFTER THE DISCHARGE OF THE CONSUMER, UNLESS STATE LAW STIPULATES A LONGER PERIOD OF TIME.

(1) THE HCA'S POLICIES SHALL PROVIDE FOR RETENTION OF CONSUMER RECORDS EVEN IF IT DISCONTINUES OPERATION.

(A) WHEN AN HCA PERMANENTLY DISCONTINUES OPERATION, IT SHALL COMPLY WITH THE REQUIREMENTS OF 6 CCR 1011-1, CHAPTER 2, PART 2.14.4.

(B) WHEN AN HCA DISCONTINUES OPERATION, IT SHALL INFORM THE STATE AGENCY OF WHERE CLINICAL RECORDS WILL BE MAINTAINED.

(2) A CHANGE OF OWNERSHIP DOES NOT CONSTITUTE DISCONTINUING OPERATION.

(3) WHEN AN HCA HAS A CHANGE OF OWNERSHIP, THE EXISTING OWNER SHALL PROVIDE THE NEW OWNER WITH ALL CONSUMER RECORDS.

Commented [BM99]: Moved from skilled care since it applies to both skilled and non-medical HCAs.

Commented [BM100]: Add guidance language around this process

PART Section 76. SKILLED CARE

76.1 Governing Body

(A) An home care agency HCA shall have an organized governing body.

(1) The GOVERNING body shall consist of members who singularly or collectively have business and healthcare experience sufficient to oversee the services provided by the home care agency HCA.

(B) The governing body shall have a process for review of agency operations at least quarterly and meet at least annually.

(C) The governing body shall assume responsibility for:

(1) Compliance with all federal, STATE, AND LOCAL LAWS AND regulations, state rules, and local laws;

(2) Quality consumer care, INCLUDING ANNUAL REVIEW AND APPROVAL OF THE HCA'S QUALITY MANAGEMENT PLAN;

(3) DEVELOPMENT OF Policies and procedures which describe and direct functions or services of the home care agency HCA and protect consumer rights;

Commented [BM101]: Recommend striking here and capture in (B)(4)(a) and (B)(4)(c) below.

Commented [BM102]: Added language to specify that the QMP is different than the Agency Evaluation at 6.4.

- 1454 (4) ~~DEVELOPMENT OF b~~Bylaws OR GOVERNING DOCUMENT that shall include, at a
1455 minimum:
- 1456 (a) A description of functions and duties of the governing body, officers, and
1457 committees, INCLUDING BUT NOT LIMITED TO, A PROCESS FOR REVIEW OF
1458 AGENCY OPERATIONS AT LEAST ANNUALLY;
- 1459 (b) A statement of the authority and responsibility delegated to the
1460 administrator; AND
- 1461 (c) A REQUIREMENT TO MEET ~~Meet as stated in bylaws,~~ at least annually;.
- 1462 (d) ~~Appoint in writing a qualified administrator who is responsible for the~~
1463 ~~agency's overall functions.~~
- 1464 (5) DEVELOPMENT OF A POLICY AND PROCEDURE FOR DETERMINING THE QUALIFICATIONS
1465 OF THE ADMINISTRATOR. APPOINTMENT OF A QUALIFIED ADMINISTRATOR, RESPONSIBLE
1466 FOR THE HCA'S OVERALL FUNCTIONS, SHALL BE DOCUMENTED IN WRITING.
- 1467 (56) Review of the written agency evaluation report and other communications from
1468 the administrator or group of professional personnel with evidence of written
1469 response;.
- 1470 (67) EstablishING and ensureING the maintenance of a system of financial
1471 management and accountability;. and
- 1472 (78) Organization, services furnished, administrative control, and lines of authority for
1473 the delegation of responsibility down to the consumer care level, that are clearly
1474 set forth in writing and are readily identifiable.
- 1475 (9) DOCUMENTATION OF GOVERNING BODY MEETINGS AND ACTIVITIES.
- 1476 **76.2** Administration
- 1477 (A) The HCA, under the direction of the governing body, shall be responsible for preparation
1478 of an overall plan and a budget that includes an annual operating budget and capital
1479 expenditure plan, as applicable.
- 1480 (1) ~~The overall plan and budget shall be prepared by a committee consisting of~~
1481 ~~representatives of the governing body, the administrative staff, and the medical~~
1482 ~~staff (if any) of the HCA. The overall plan and budget shall be reviewed and~~
1483 ~~updated at least annually by the committee referred to herein under the direction~~
1484 ~~of the HCA governing body.~~
- 1485 (1) THE GOVERNING BODY SHALL REVIEW AND UPDATE THE OVERALL PLAN AND BUDGET AT
1486 LEAST ANNUALLY.
- 1487 (B) Any HCA that performs procedures in the consumer's residence that are considered
1488 waived clinical laboratory procedures under the Clinical Laboratory Improvement Act of
1489 1988, shall possess a certificate of waiver from the Centers for Medicare and Medicaid
1490 Services or its designated agency.
- 1491 (C) Any HCA that provides equipment to consumers shall have written DEVELOP AND
1492 IMPLEMENT policies and procedures for the management of medical equipment provided

Commented [BM103]: Recommend striking here and putting in (5) below.

Commented [BM104]: Removed committee requirement

Commented [BM105]: Modified language. Broken out from (1) above.

1493 for use in consumer homes, including selection, acquisition, delivery, and maintenance of
1494 the equipment.

1495 (1) The HCA shall make full disclosure of the policies and procedures to all
1496 consumers before the equipment is provided. ~~The policies and procedures shall~~
1497 ~~include the following:~~

1498 (2) ~~THE POLICIES AND PROCEDURES SHALL INCLUDE THE FOLLOWING:~~

Commented [BM106]: Not new language. Broken out from above.

1499 (a) A process to provide an appropriate back-up system, including
1500 emergency services ~~TWENTY-FOUR (24)~~ hours per day where the
1501 malfunction may threaten the consumer's life;

1502 (b) Monitoring and acting upon equipment hazard notices and recalls;

1503 (c) Checking equipment upon delivery to the consumer to ensure it is
1504 sanitary, undamaged, and operating properly;

1505 (d) Basic safety and operational checks on infusion pumps that include a
1506 volumetric test of accuracy of infusion rate between each consumer use;
1507 and

1508 (e) Performance of routine and preventative maintenance conducted at
1509 defined intervals per manufacturer's guidelines.

1510 (DE) Availability ~~AFTER BUSINESS HOURS~~

1511 (1) The ~~agency~~HCA shall have a registered nurse or other appropriate health
1512 professional available after business hours.

1513 (2) The ~~agency~~HCA shall have a policy describing, at a minimum, the following:

1514 (A) How consumers will contact the agency after hours; and

1515 (B) How the agency will ensure the health professional on call has access to
1516 all current consumer information.

1517 ~~7.3 Professional advisory committee~~

Commented [BM107]: No longer a CMS requirement. Recommend striking this section. Moved (B) to Agency Evaluation below.

1518 (A) ~~Each HCA shall have a group of professional personnel that includes at least one~~
1519 ~~physician and one registered nurse, an appropriate representation from the professional~~
1520 ~~disciplines the HCA employs or contracts with to provide services.~~

1521 (1) ~~The group of professional personnel shall establish and annually review the~~
1522 ~~agency's policies governing the services offered, admission and discharge~~
1523 ~~policies, medical supervision and plans of care, emergency care, clinical records,~~
1524 ~~personnel qualifications, and program evaluation.~~

1525 (2) ~~At least one member of the group shall not be an owner, an employee or a~~
1526 ~~contractor for the provision of consumer care services for the HCA.~~

1527 (B) ~~The agency shall implement an on-going mechanism for consumer involvement to~~
1528 ~~provide input and comment regarding services provided by the agency in accordance~~
1529 ~~with agency policy. Consumer input and commentary shall be provided to the group of~~

- 1530 professional personnel at least annually to identify trends or issues requiring
1531 consideration of the group.
- 1532 (C) The group of professional personnel shall meet annually and as frequently as necessary
1533 to advise the agency on professional issues, to participate in the evaluation of the
1534 agency's program, and to assist the agency in maintaining liaison with other health care
1535 providers in the community and in the agency's community information program.
- 1536 (1) The HCA shall have a policy and procedure to establish criteria for calling a
1537 meeting of the group of professional personnel more frequently than annually.
1538 The policy shall be developed to ensure professional advice is requested and
1539 received at an appropriate frequency to protect and preserve the health, safety
1540 and welfare of the consumers it serves.
- 1541 (2) Each meeting shall be documented with the date and the signatures of
1542 attendees. Meeting minutes shall be forwarded to the governing body to review
1543 and make recommendations.
- 1544 **7.46.3 Agency Evaluation**
- 1545 (A) The agency HCA's governing body or its designee shall conduct a comprehensive
1546 evaluation of the agency HCA's total operation at least annually.
- 1547 (B) The evaluation shall assure the appropriateness and quality of the agency's HCA's
1548 services with findings used to verify policy implementation, to identify problems, and to
1549 establish problem resolution and policy revision as necessary.
- 1550 (C) The evaluation shall consist of an overall policy and administration review, including the
1551 scope of services offered, arrangements for services with other agencies or individuals,
1552 admission and discharge policies, supervision and plan of care, emergency care, service
1553 records, and personnel qualifications.
- 1554 (A) THE HCA SHALL IMPLEMENT AN ON-GOING MECHANISM FOR CONSUMER INVOLVEMENT
1555 TO PROVIDE INPUT AND COMMENT REGARDING SERVICES PROVIDED BY THE HCA IN
1556 ACCORDANCE WITH HCA POLICY. CONSUMER INPUT AND COMMENTARY SHALL BE
1557 PROVIDED TO THE GOVERNING BODY AT LEAST ANNUALLY TO IDENTIFY TRENDS OR
1558 ISSUES REQUIRING CONSIDERATION.
- 1559 (D) In evaluating each aspect of its total program, the HCA shall consider four (4) main
1560 criteria:
- 1561 (1) Appropriateness - assurance that the area being evaluated addresses existing
1562 and/or potential problems.
- 1563 (2) Adequacy - a determination as to whether the HCA has the capacity to overcome
1564 or minimize existing or potential problems.
- 1565 (3) Effectiveness - the services offered accomplish the objectives of the HCA and
1566 anticipated consumer outcomes.
- 1567 (4) Efficiency - whether there is a minimal expenditure of resources by the HCA to
1568 achieve desired goals and anticipated consumer outcomes.

Commented [BM108]: Moved from Professional Advisory Committee.

1569 (E) Documentation of the annual evaluation shall include the names and titles of the persons
 1570 carrying out the evaluation, the criteria and methods used to accomplish it, and any
 1571 action taken by the ~~agency~~HCA as a result of its findings.

1572 (F) Appropriate professionals representing the scope of the ~~agency~~HCA's program shall
 1573 evaluate the ~~agency~~HCA's ~~client~~CONSUMER records at least quarterly.

1574 (1) The evaluation shall include a review of sample active and closed
 1575 ~~client~~CONSUMER records to ensure that ~~agency~~HCA policies are followed in
 1576 providing ~~services~~, both direct and under arrangement, and to assure that the
 1577 quality of service is satisfactory and appropriate. The review shall consist of a
 1578 representative sample of all home care services provided by the ~~agency~~HCA.

1579 7.56.4 Administrator

1580 (A) The administrator shall assume authority for the operation of the ~~HCA~~agency's skilled
 1581 health services, including but not limited to:

- 1582 (1) Organizing and directing the ~~HCA~~agency's ongoing functions;
- 1583 (2) Employing qualified personnel and ensure~~ING~~ appropriate ongoing education and
 1584 supervision of ~~ALL~~ personnel. ~~and volunteers~~;
- 1585 (3) Ensuring the accuracy of public information materials and activities;
- 1586 (4) Implementing a budgeting and accounting system; and
- 1587 (5) Designating ~~IN WRITING~~ a qualified alternate administrator to act in the
 1588 administrator's absence.

Commented [BM109]: Propose to strike (C)(9) below and add in writing here.

1589 (B) The administrator shall:

- 1590 (1) Be at least ~~TWENTY-ONE~~ (21) years of age;
- 1591 (2) Be a licensed physician, registered nurse, or other licensed healthcare
 1592 professional, or have experience and education in health service ~~administration~~;
- 1593 (3) Be qualified by education, knowledge, and experience to oversee the services
 1594 provided; and
- 1595 (4) Have at least two (2) years healthcare or health service administration
 1596 experience with at least one (1) year of supervisory experience in home care or a
 1597 closely related health program.

Commented [BM110]: Address any additional clarification of who qualifies in guidance

1598 (C) The administrator shall have the overall responsibility to ensure the following:

- 1599 (1) The ~~HCA~~agency's skilled health services are in compliance with all applicable
 1600 federal, state, and local laws,;
- 1601 (2) The completion, maintenance, and submission of such reports and records as
 1602 required by the ~~d~~Department,;
- 1603 (3) Ongoing liaison with the governing body, ~~staff members~~PERSONNEL, and the
 1604 community,;

- 1605 (4) ~~MAINTENANCE OF A~~ current organizational chart to show lines of authority down
1606 to the consumer level;
- 1607 (5) The management of the business affairs and the overall operation of the
1608 HCA agency;
- 1609 (6) Maintenance of appropriate personnel records, financial, and administrative
1610 records and all policies and procedures of the agency;
- 1611 (7) Employment of qualified personnel in accordance with written job descriptions;
- 1612 (8) Orientation of new PERSONNEL staff, AND regularly scheduled in-service education
1613 programs and opportunities for continuing education ARE PROVIDED for the
1614 PERSONNEL staff;
- 1615 ~~(9) Designate in writing the qualified staff member to act in the absence of the~~
1616 ~~administrator, and~~
- 1617 (409) Availability of the administrator or designee at all hours PERSONNEL employees
1618 are providing services, at minimum, any eight (8) hour period between 7 a.m. and
1619 7 p.m. Monday through Friday;
- 1620 (4410) Marketing, advertising, and promotional information accurately represents the
1621 HCA and addresses the care, treatment, and services that the HCA can provide
1622 directly or through contractual arrangement; AND
- 1623 (11) MAINTENANCE OF A COORDINATED HCA-WIDE PROGRAM FOR THE SURVEILLANCE,
1624 IDENTIFICATION, PREVENTION, CONTROL, AND INVESTIGATION OF INFECTIOUS AND
1625 COMMUNICABLE DISEASES THAT IS AN INTEGRAL PART OF THE HCA'S QUALITY
1626 MANAGEMENT PROGRAM.
- 1627 7-6 (D) Curriculum for administrator training
- 1628 (A1) A first-time administrator or alternate administrator shall complete a total of
1629 TWENTY-FOUR (24) CLOCK hours of training in the administration of an HCA agency
1630 before the end of the first TWELVE (12) months after designation to the position.
- 1631 (B2) A first-time administrator or alternate administrator shall complete eight (8) clock
1632 hours of educational training in the administration of an HCA agency within the
1633 first month of employment. The eight (8) clock hours shall include, at a minimum,
1634 the following topics:
- 1635 (4A) Home care overview,
- 1636 (2B) Information on the licensing standards for the HCA agency; and
- 1637 (3C) Information on state and local laws applicable to the HCA agency.
- 1638 (C3) A first-time administrator or alternate administrator shall complete an additional
1639 SIXTEEN (16) clock hours of educational training before the end of the first TWELVE
1640 (12) months after designation to the position. Any of the SIXTEEN (16) CLOCK
1641 hours may be completed prior to designation if completed during the TWELVE (12)
1642 months immediately preceding the date of designation to the position. The
1643 additional SIXTEEN (16) clock hours shall include the following subjects and may
1644 include other topics related to the duties of an administrator:

Commented [BM111]: Redundant to (A)(5) above. Suggest strike.

Commented [BM112]: SOM §484.70(b)

Commented [BM113]: Moved this subsection under 6.4 Administrator

- 1645 (4A) Consumer rights, governing body and administrator responsibilities,
 1646 ~~professional advisory committee~~, quality management plans, occurrence
 1647 reporting, and complaint investigation and resolution process;;
- 1648 (2B) Personnel qualifications, experience, competency, and evaluations;;
- 1649 (3C) Financial management;;
- 1650 (4D) Ethics in healthcare;;
- 1651 (5E) Needs of the fragile, ill, and physically and cognitively disabled in the
 1652 community setting with special training and staffing considerations;;
- 1653 (6F) Behavior management techniques;;
- 1654 (7G) Staffing methodologies and oversight of scheduling;;
- 1655 (8H) Staff training and supervision;; and
- 1656 (9I) Limitations of personal care versus health care services.
- 1657 (D4) The ~~TWENTY-FOUR (24) CLOCK~~ hour education requirement shall be met through
 1658 structured, formalized classes, correspondence courses, competency-based
 1659 computer courses, training videos, distance learning programs, or other training
 1660 courses. Subject matter that deals with the internal affairs of an organization
 1661 does not qualify for credit. The training shall be provided or produced by an
 1662 academic institution, a recognized state or national organization or association,
 1663 an independent contractor, or an ~~HCA~~agency.
- 1664 (4A) If an ~~HCA~~agency or independent contractor provides or produces
 1665 training, the training shall first be approved by the ~~d~~Department or
 1666 recognized by a national organization or association. The ~~HCA~~agency
 1667 shall maintain documentation of this approval for review by inspectors.
- 1668 (E5) Documentation of administrator or alternate administrator training must be on file
 1669 at the ~~HCA~~agency and contain the name of the class or workshop, the course
 1670 content or curriculum, the hours and dates of the training, and the name and
 1671 contact information of the entity and trainer who provided the training.
- 1672 (F6) After completion of the ~~TWENTY-FOUR (24) CLOCK~~ hours of educational training
 1673 within the first ~~TWELVE (12)~~ months after designation as a first-time administrator
 1674 or alternate administrator, each must then complete the continuing education
 1675 requirements in each subsequent ~~TWELVE (12)~~-month period after designation.
- 1676 (G7) An administrator shall complete ~~TWELVE (12)~~ clock hours of continuing education
 1677 within each ~~TWELVE (12)~~-month period beginning with the date of designation.
 1678 The education shall include at least two (2) of the following topics and may
 1679 include other topics related to the duties of the administrator.
- 1680 (4A) Any of the topics listed under the initial training requirements,
- 1681 (2B) Development and implementation of agency policies,
- 1682 (3C) Healthcare management,

- 1683 (4D) Ethics,
- 1684 (5E) Quality improvement,
- 1685 (6F) Risk assessment and management,
- 1686 (7G) Financial management,
- 1687 (8H) Skills for working with consumers, families, and other professional
1688 service providers, INCLUDING CONSIDERATIONS FOR SPECIAL POPULATIONS
1689 SERVED BY THE HCA,
- 1690 (9I) Community resources, AND
- 1691 (10J) Marketing.
- 1692 (H8) For an administrator or alternate administrator who was an administrator prior to
1693 June 1, 2009, but had HAS not served as an administrator for 180 days or more
1694 immediately preceding the date of designation, at least eight (8) of the TWELVE
1695 (12) clock hours within the first TWELVE (12) months after designation shall
1696 include the topics listed for first time administrators. The remaining four (4) clock
1697 hours shall include topics related to the duties of the administrator and include at
1698 least two (2) of the topics listed under continuing education. If a previous
1699 administrator has not been employed as such for two (2) years or more, the
1700 requirements for a first time administrator apply.
- 1701 7.76.5 Nursing or Healthcare Supervisor
- 1702 (A) The skilled nursing services furnished shall be under the supervision and direction of a
1703 physician or registered nurse who has at least two (2) years of nursing experience
1704 including one (1) year in home care or a closely related service. Other healthcare
1705 services shall be under the supervision and direction of a physician, registered nurse, or
1706 other licensed healthcare professional who has at least two (2) years healthcare
1707 experience in the field of supervision including one year experience in home care or a
1708 closely related service.
- 1709 (1) OTHER HEALTHCARE SERVICES SHALL BE UNDER THE SUPERVISION AND DIRECTION OF
1710 A PHYSICIAN, REGISTERED NURSE, OR OTHER LICENSED HEALTHCARE PROFESSIONAL
1711 WHO HAS AT LEAST TWO (2) YEARS OF HEALTHCARE EXPERIENCE IN THE FIELD OF
1712 SUPERVISION INCLUDING ONE (1) YEAR OF EXPERIENCE IN HOME CARE OR A CLOSELY
1713 RELATED SERVICE.
- 1714 (B) This person THE NURSING OR HEALTHCARE SUPERVISOR, or similarly qualified alternate, shall
1715 be available at all times during operating hours and participate in all activities relevant to
1716 the professional services furnished, including the development of qualifications and the
1717 assignment of personnel.
- 1718 (C) THE NURSING OR HEALTHCARE SUPERVISOR SHALL ENSURE OVERSIGHT OF ALL CONSUMER
1719 CARE SERVICES AND PERSONNEL, INCLUDING BUT NOT LIMITED TO:
- 1720 (1) MAKING CONSUMER AND PERSONNEL ASSIGNMENTS,
- 1721 (2) COORDINATING CONSUMER CARE,
- 1722 (3) COORDINATING REFERRALS,

Commented [BM114]: Not new language. Broken out from above.

- 1723 (4) ~~ASSURING THAT CONSUMER NEEDS ARE CONTINUALLY ASSESSED, AND~~
- 1724 (5) ~~ASSURING THE DEVELOPMENT, IMPLEMENTATION, AND UPDATES OF THE INDIVIDUALIZED~~
- 1725 ~~PLAN OF CARE.~~
- 1726 7.86.6 Personnel
- 1727 (A) ~~Each employee and contracted staff~~ ALL PERSONNEL shall possess the education and
- 1728 experience to provide services in the homes of consumers in accordance with
- 1729 HCA agency policy, state practice acts, and professional standards of practice as set forth
- 1730 in this chapter.
- 1731 (B) Licensed, registered, or certified healthcare providers shall, at a minimum, meet the
- 1732 following requirements:
- 1733 (1) ~~Be qualified as a physician, pharmacist, physician assistant, nurse practitioner,~~
- 1734 ~~clinical social worker, social worker, physical therapist, physical therapist~~
- 1735 ~~assistant, occupational therapist, occupational therapist assistant, respiratory~~
- 1736 ~~therapist, registered nurse, licensed practical nurse, massage therapist, certified~~
- 1737 ~~nurse aide or other provider licensed, registered or certified by the Colorado~~
- 1738 ~~Department of Regulatory Agencies (DORA).~~
- 1739 (2) ~~Meet the requirements for license, certification, or registration set forth by DORA.~~
- 1740 (B) LICENSED, CERTIFIED, AND/OR REGISTERED PERSONNEL SHALL HAVE AN ACTIVE LICENSE,
- 1741 CERTIFICATION, OR REGISTRATION, ISSUED BY DORA AND SHALL PROVIDE SERVICES WITHIN
- 1742 THEIR SCOPE OF PRACTICE.
- 1743 (C) PERSONNEL ~~Staff not~~ LICENSED, CERTIFIED, OR REGISTERED BY ~~regulated under~~ DORA shall,
- 1744 at a minimum, meet the following requirements:
- 1745 (1) ~~A speech-language pathologist shall:~~
- 1746 (a) ~~Possess a current certificate of clinical competence in speech pathology~~
- 1747 ~~or audiology granted by the American Speech-Language-Hearing~~
- 1748 ~~Association, or~~
- 1749 (b) ~~Meet the educational requirements for certification and be in the process~~
- 1750 ~~of accumulating the supervised experience required for certification.~~
- 1751 (2) ~~RESERVED~~
- 1752 (3) ~~RESERVED~~
- 1753 (4) ~~An X-ray technician shall:~~
- 1754 (a) ~~Have successfully completed a program of formal training in X-ray~~
- 1755 ~~technology of not less than 24 months in a school approved by the~~
- 1756 ~~Committee on Allied Health Education and Accreditation of the American~~
- 1757 ~~Medical Association or by the American Osteopathic Association; or~~
- 1758 (b) ~~Have earned a bachelor's or associate degree in radiological technology~~
- 1759 ~~from an accredited college or university.~~
- 1760 (5) A phlebotomist shall:

Commented [BM115]: SOM §484.105(c) language added to clarify the oversight responsibilities of all consumer care services and personnel.

Commented [SA116]: Recommend striking and no longer listing out each profession.

Commented [BM117]: Strike here as the profession is now regulated under DORA via HB12-1303, which is codified in Article 43.7 of Title 12, C.R.S., and is known as the Speech-Language Pathology Practice Act

Commented [BM118]: Recommend striking after reviewing with stakeholders. Likely HCAs are using certified portable xray providers.

- 1761 (a) Have successfully completed an approved phlebotomy training course or
1762 equivalent experience through previous employment; and
- 1763 (b) Have two (2) years of verifiable phlebotomy experience.

1764 (D) Ongoing training shall be provided to all direct care staff PERSONNEL. Training
1765 requirements shall be consistent with the program, services, and equipment THE HCA it
1766 provides, and are appropriate to the needs of the populations served.

- 1767 (1) Training shall consist of at least TWELVE (12) topics applicable to the
1768 HCA agency's care and services every TWELVE (12) months after the starting date
1769 of employment or calendar year as designated by HCA agency policy. The
1770 training requirement shall be prorated in accordance with the number of months
1771 the employee INDIVIDUAL was actively working for the agency. Training shall
1772 include, but is not limited to, the following items:

1773 (2) TRAINING SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING ITEMS:

- 1774 (a) Promoting consumer dignity, independence, self-determination, privacy,
1775 choice, and rights; including abuse and neglect prevention and reporting
1776 requirements;
- 1777 (b) Behavior management techniques;
- 1778 (c) Disaster and emergency procedures; and
- 1779 (d) Infection PREVENTION AND control including skis.

1780 (23) All training shall be documented BY THE HCA. Classroom type trainings shall be
1781 documented with the date of the training; starting and ending times; instructors
1782 and their qualifications; short description of content; and staff member's
1783 signature. On-line or self-study trainings shall be documented with information as
1784 to the content of the training, and the entity that offered or produced the training.

1785 (A) TRAININGS SHALL BE DOCUMENTED WITH THE DATE OF TRAINING; LENGTH OF
1786 TRAINING; ENTITY OR INSTRUCTOR(S) THAT OFFERED OR PRODUCED THE
1787 TRAINING; A SHORT DESCRIPTION OF THE CONTENT; AND STAFF MEMBER'S
1788 WRITTEN OR ELECTRONIC SIGNATURE OR PROOF OF ATTENDANCE.

Commented [BM119]: Not new language. Broken out from above.

Commented [BM120]: Not new requirement, language broken out from above and boiled down into one bullet.

1789 7.96.7 Initial and Comprehensive Assessments

1790 (A) Initial assessment visit

1791 (1) A registered nurse shall conduct an initial assessment visit to determine the
1792 immediate care and support needs of the consumer. The initial assessment visit
1793 shall be held either within FORTY-EIGHT (48) hours of referral, or within FORTY-
1794 EIGHT (48) hours of the consumer's return home, or on the ordered start-of-care
1795 date.

1796 (2) When an alternate professional healthcare service is the only service ordered,
1797 the initial assessment visit may be made by the appropriate healthcare
1798 professional.

1799 (3) THE INITIAL ASSESSMENT VISIT AND COMPREHENSIVE ASSESSMENT MAY BE CONDUCTED
1800 DURING THE SAME VISIT.

- 1801 (B) Comprehensive assessment of consumers
- 1802 (1) The HCA shall ~~accomplish~~ **CONDUCT** an individualized comprehensive
- 1803 assessment that accurately reflects each consumer's current health status and
- 1804 includes information that may be used to demonstrate the consumer's progress
- 1805 toward achievement of the desired outcomes.
- 1806 (2) The comprehensive assessment shall identify the consumer's need for home
- 1807 care and meet the consumer's medical, nursing, rehabilitative, social, and
- 1808 discharge planning needs.
- 1809 (3) The comprehensive assessment shall be completed in a timely manner,
- 1810 consistent with the consumer's immediate needs, but no later than five (5)
- 1811 calendar days after the start of care.
- 1812 (4) Except as otherwise indicated in this section, a registered nurse shall complete
- 1813 the comprehensive assessment.
- 1814 (5) When healthcare services other than nursing are ordered by the physician **OR**
- 1815 **LICENSED INDEPENDENT PRACTITIONER**, the primary professional healthcare worker
- 1816 shall complete the comprehensive assessment.
- 1817 (6) When nursing services are provided, the comprehensive assessment shall
- 1818 include a review of all medications the consumer is currently using in order to
- 1819 identify any potential adverse effects and drug reactions, including ineffective
- 1820 drug therapy, significant side effects, significant drug interactions, duplicate drug
- 1821 therapy, and noncompliance with drug therapy.
- 1822 (a) The HCA shall report any concerns to the attending physician **OR**
- 1823 **LICENSED INDEPENDENT PRACTITIONER**, and the ~~director of nursing~~ **NURSING**
- 1824 **OR HEALTHCARE SUPERVISOR**, and these reports shall be acted upon.
- 1825 (7) For consumers receiving intermittent respite and waiver services that are not
- 1826 provided within a continuous **SIXTY (60)** day period, a comprehensive assessment
- 1827 shall be accomplished before reinitiating services rather than the minimum time
- 1828 frames set forth below.
- 1829 (A) The comprehensive assessment shall be updated and revised as
- 1830 frequently as the consumer's condition warrants due to a major decline
- 1831 or improvement in the consumer's health status. At a minimum, it shall
- 1832 be updated and revised:
- 1833 (a)(i) Every **SIXTY (60)** days beginning with the start-of-care date; and
- 1834 (b)(ii) Within **FORTY-EIGHT (48)** hours of the consumer's return to the
- 1835 home from a hospital admission of **TWENTY-FOUR (24)** hours or
- 1836 more, for any reason other than diagnostic tests or, for non-
- 1837 certified agencies, as ordered by the physician or **LICENSED**
- 1838 **INDEPENDENT PRACTITIONER** ~~intermediate care provider~~.
- 1839 (C) Provision of skilled services
- 1840 (1) The HCA shall have written policies regarding nurse delegation. The policy shall
- 1841 delineate what tasks or procedures may or may not be delegated, the delegation
- 1842 process, documentation, and how the delegatee shall be supervised in

Commented [SA121]: In definitions:

"Licensed independent practitioner" means an individual permitted by law and the HCA to independently diagnose, initiate, alter or terminate health care treatment within the scope of their license, and includes Advanced Practice Registered Nurses (APRN) and Physician Assistants.

- 1843 accordance with **3 CCR 716-1, NURSING RULES AND REGULATIONS**-state
 1844 regulation. If the HCA prohibits **NURSE** delegation, there shall be a policy that
 1845 specifies such prohibition.
- 1846 **7.406.8 Plan of Care**
- 1847 (A) **CONSUMER** Care follows a written plan of care established and periodically reviewed by
 1848 a physician or **LICENSED INDEPENDENT PRACTITIONER**. ~~doctor of medicine, osteopathy, or~~
 1849 ~~podiatric medicine. Care plans established by a nurse practitioner, physician assistant, or~~
 1850 ~~other therapists within their scope of practice may be accepted by an HCA that is not~~
 1851 ~~federally certified as a home care agency.~~ For PACE participants, the interdisciplinary
 1852 team shall establish, follow, and periodically review the plan of care.
- 1853 (1) The plan of care shall be developed in consultation with the **HCA** agency staff
 1854 **PERSONNEL** and covers all pertinent diagnoses, including mental status, types of
 1855 services, identification of any services furnished by other providers, and how
 1856 those services are coordinated, equipment required, frequency and duration of
 1857 visits, prognosis, rehabilitation potential, functional limitations, activities
 1858 permitted, instructions for timely discharge or referral, and any other appropriate
 1859 items.
- 1860 (a) The plan of care shall identify the consumer's continuing need for home
 1861 care and meet the consumer's medical, nursing, rehabilitative, social,
 1862 and discharge planning needs.
- 1863 (b) The plan of care reflects the participation of the consumer to the extent
 1864 possible. The HCA communicates the plan of care to the
 1865 consumer/caregiver **OR AUTHORIZED REPRESENTATIVE** in a comprehensible
 1866 way.
- 1867 (B) If a physician or **LICENSED INDEPENDENT PRACTITIONER** ~~intermediate care provider~~ refers a
 1868 consumer under a plan of care that cannot be completed until after an evaluation visit,
 1869 the attending physician or **LICENSED INDEPENDENT PRACTITIONER** ~~attending intermediate~~
 1870 ~~care provider~~ shall be consulted to approve additions or modifications to the original plan.
 1871 ~~Orders for therapy services shall include the specific procedures and modalities to be~~
 1872 ~~used and the amount, frequency, and duration. The therapist, other agency personnel~~
 1873 ~~and external home care providers (where applicable) shall participate in developing the~~
 1874 ~~plan of care.~~
- 1875 (C) **ORDERS FOR THERAPY SERVICES SHALL INCLUDE THE SPECIFIC PROCEDURES AND MODALITIES**
 1876 **TO BE USED AND THE AMOUNT, FREQUENCY, AND DURATION. THE THERAPIST, OTHER HCA**
 1877 **PERSONNEL, AND EXTERNAL HOME CARE PROVIDERS, WHERE APPLICABLE, SHALL PARTICIPATE**
 1878 **IN DEVELOPING THE PLAN OF CARE.**
- 1879 (D) The total plan of care shall be reviewed **IN ITS ENTIRETY** by the attending physician or
 1880 **LICENSED INDEPENDENT PRACTITIONER** ~~attending intermediate care provider~~ and HCA
 1881 personnel as often as the severity of the consumer's condition requires, but at least once
 1882 every **SIXTY (60)** days or more frequently when there is a significant change in condition.
- 1883 (1) For consumers receiving intermittent respite and waiver services that are not
 1884 provided within a continuous **SIXTY (60)** day period, the time frame for review
 1885 begins upon the re-initiation of care.

Commented [BM122]: Not new language. Broken out from above.

1886 (D) ~~LICENSED HCA~~Agency professional staff ~~PERSONNEL~~ shall promptly alert the physician or
 1887 ~~LICENSED INDEPENDENT PRACTITIONER~~ attending intermediate care provider to any changes
 1888 that suggest a need to alter the plan of care.

1889 (E) If person-to-person contact ~~WITH THE PHYSICIAN OR LICENSED INDEPENDENT PRACTITIONER~~
 1890 ~~OR THEIR DESIGNATED REPRESENTATIVE~~ was not completed, or if awaiting a return
 1891 response, all contacts and interactions shall be documented. The ~~HCA~~agency shall have
 1892 a written policy regarding how the ~~HCA~~agency will intervene if the attending ~~PHYSICIAN OR~~
 1893 ~~LICENSED INDEPENDENT PRACTITIONER~~ care provider cannot be contacted or does not
 1894 respond ~~IN A~~ timely ~~MANNER~~.

1895 (G)(4) All orders shall contain sufficient information to carry out the order, name of the
 1896 physician, ~~LICENSED INDEPENDENT PRACTITIONER~~ intermediate care provider and, if
 1897 appropriate, representative conferring the order to the HCA.

1898 (H) ~~ANY PROGRAM OR SERVICE OFFERED BY THE HCA, DIRECTLY OR UNDER ARRANGEMENT, SHALL~~
 1899 ~~BE PROVIDED IN ACCORDANCE WITH THE PLAN OF CARE AND HCA POLICY AND PROCEDURE~~.

1900 7.12.6.9 Medication Management

1901 (A) If the plan of care includes medication administration, medication management, or
 1902 medication set-up, there shall be documentation ~~IN THE CONSUMER RECORD~~ as to who is
 1903 responsible to monitor the medication supply, order refills, and ensure the timely delivery
 1904 of medications. There shall be evidence that the plan has been developed with input from
 1905 the consumer or authorized representative.

1906 (1) Medication review shall be documented when new medications are prescribed.

1907 (2) ~~Medical~~ ~~MEDICATION~~ review shall be documented periodically throughout the
 1908 episode of care to determine if the consumer has added or eliminated
 1909 medications or herbal products from the medication regime.

1910 (B) Drugs and treatments shall be administered by ~~HCA~~agency staff ~~PERSONNEL~~ only as
 1911 ordered by the physician or ~~LICENSED INDEPENDENT PRACTITIONER~~ intermediate care
 1912 ~~provider~~, and in accordance with professional standards of practice.

1913 (1) ~~Influenza and pneumococcal polysaccharide~~ Vaccines may be administered per
 1914 ~~HCA~~agency policy, developed in consultation with a physician and after an
 1915 assessment for contraindications.

1916 (2) For consumers receiving medication administration services, a current
 1917 medication administration record shall be maintained ~~AS PART OF THE CONSUMER~~
 1918 ~~RECORD~~.

1919 (3) The ~~PERSONNEL~~ health professional administering medication(s) shall monitor for
 1920 effectiveness, interactions, and adverse effects.

1921 (C) If controlled drugs are being administered by the ~~HCA~~agency, there shall be a policy
 1922 regarding how the drugs will be administered and monitored.

1923 (1) ~~HCA's~~ Agencies shall have a written policy stating how controlled drugs will be
 1924 monitored if ~~HCA~~agency staff ~~PERSONNEL~~ transports the drugs from the
 1925 pharmacy to the consumer.

1926 7.12.6.10 CARE Coordination

Commented [BM123]: Will put any additional information related to acceptable contact with authorized representatives or the LIP in guidance as needed.

Commented [BM124]: Moved this language from General requirements section.

- 1927 (A) Care coordination shall be demonstrated for each consumer at least every ~~SIXTY~~ (60)
 1928 days for cases where there is more than one (1) agency sharing the provision of the
 1929 same home health services. The minutes of these case conferences shall reflect
 1930 discussion and input by all the disciplines providing care to the consumer .
- 1931 (B) The HCA shall be responsible for the coordination of consumer services both with
 1932 internal ~~staff~~ ~~PERSONNEL~~ and known external services providing care and services to the
 1933 same consumer.
- 1934 (C) ~~ALL PERSONNEL PROVIDING CARE ON BEHALF OF THE HCA, SHALL~~ ~~personnel furnishing~~
 1935 ~~services maintain~~ ~~COMMUNICATION~~ ~~liaison~~ to ensure that their efforts are coordinated
 1936 effectively and support the objectives outlined in the plan of care and as delineated
 1937 through outside home care services.
- 1938 (D) The clinical record, care coordination notes, or minutes of case conferences establish
 1939 that effective interchange, reporting, and coordination of consumer care do occur.
- 1940 (E) ~~THE HCA SHALL PREPARE A~~ written summary report, ~~for each consumer shall be~~
 1941 ~~documented and WHICH SHALL BE~~ sent to the attending primary care provider, ~~as~~
 1942 ~~appropriate, at least every SIXTY (60) days. THIS REPORT IS ONLY REQUIRED FOR~~
 1943 ~~CONSUMERS WHO EXPERIENCED A CHANGE IN STATUS OR NEEDS THAT NECESSITATED A~~
 1944 ~~CHANGE IN THE PLAN OF CARE DURING THE SIXTY (60)-DAY PERIOD.~~
- 1945 7.136.11 Extended Care
- 1946 (A) Extended care is defined as a total of six (6) or more hours of home health services
 1947 provided in a ~~TWENTY-FOUR (24)~~-hour period by a licensed agency that provides skilled
 1948 health services on a continuous basis.
- 1949 (A)(B) The ~~HCA~~ agency shall have a contingency plan regarding how the ~~case~~ ~~CARE~~ is managed
 1950 if ~~a~~ ~~THE~~ scheduled ~~PERSONNEL~~ employee is unable to ~~CANNOT PROVIDE CARE~~ staff the case.
- 1951 (B)(C) A communication record shall also be ~~maintained~~ ~~AVAILABLE~~ in the home if a consumer is
 1952 receiving extended care. ~~from a licensed or registered nurse.~~
- 1953 (1) The record shall contain:
- 1954 (a) The current plan of ~~CARE~~ treatment,
- 1955 (b) Notes containing consumer status and continuing needs.,
- 1956 (c) ~~THE~~ ~~M~~ medication administration record;, and
- 1957 (d) Any other information deemed necessary by the ~~HCA~~ ~~licensed agency~~.
- 1958 (2) If nurse aide service is the only service providing extended care, a home
 1959 communication record is not required. ~~Written instructions shall be maintained in~~
 1960 ~~the home and in the permanent record.~~
- 1961 (A) ~~WRITTEN INSTRUCTIONS SHALL BE MAINTAINED IN THE HOME AND IN THE~~
 1962 ~~PERMANENT RECORD.~~
- 1963 (C)(D) The ~~HCA~~ agency shall have an orientation plan for the ~~PERSONNEL~~ staff providing the care
 1964 to the consumers. Since extended care cases may involve highly technical services, this

Commented [BM125]: Not new language. Broken out from above.

1965 plan shall reflect how the HCA agency ensures that the individuals providing the extended
1966 care are qualified to provide these types of services.

1967 ~~(D)~~(E) Contracting for extended care services

1968 (1) A licensed HCA may contract with another entity to provide extended care in the
1969 licensed HCA agency's service area provided that administration, care, and
1970 supervision down to the consumer care level are ultimately the responsibility of
1971 the primary HCA agency.

1972 (2) The contract shall be in conformance with ~~PART section 6.185.9~~(F) of this
1973 chapter.

1974 (3) The contracted ~~staff~~PERSONNEL shall have completed the HCA agency orientation
1975 and competency EVALUATION appraisal for provisions of care and services for the
1976 extended care consumer. ~~Staff credentialing, orientation and competency~~
1977 ~~appraisal documentation shall be kept at the primary agency.~~

1978 (A) DOCUMENTATION OF PERSONNEL QUALIFICATIONS, ORIENTATION, AND
1979 COMPETENCY EVALUATION SHALL BE KEPT AT THE PRIMARY HCA.

1980 ~~(E)~~(F) Prior to withdrawing skilled nursing or nurse aide services for an extended care
1981 consumer, the HCA shall:

1982 (1) Show continuing and documented efforts to resolve conflicts unless the safety of
1983 PERSONNEL ~~staff~~ is placed at immediate risk;

1984 (2) Provide evidence that ongoing efforts were made to recruit PERSONNEL~~staff~~ or
1985 place THE CONSUMER with another HCA agency; and

1986 (3) Give the consumer or authorized representative FIFTEEN (15)-business days'
1987 notice of the intent to discharge the consumer unless staff or consumer safety is
1988 at immediate risk. ~~The HCA shall have evidence that such notice was delivered~~
1989 ~~in person or by certified mail.~~

1990 (A) THE HCA ~~SHALL MAINTAIN EVIDENCE~~ THAT SUCH NOTICE WAS DELIVERED IN
1991 PERSON OR BY CERTIFIED MAIL.

Commented [BM126]: Not new language. Broken out from above, with some slight modifications.

Commented [BM127]: Not new language. Broken out from above.

1992 7.146.12 Skilled Nursing Services

1993 (A) The registered nurse shall be responsible for the following:

1994 (1) ~~CONDUCTING THE INITIAL ASSESSMENT AND COMPREHENSIVE ASSESSMENT~~ The
1995 ~~evaluation visit;~~

1996 (2) Regularly reevaluating the consumer's nursing needs;

1997 (3) Initiating the plan of care and necessary revisions;

1998 (4) Furnishing those services requiring substantial and specialized nursing skill;

1999 (5) Initiating appropriate preventive and rehabilitative nursing procedures;

2000 (6) Preparing clinical notes, coordinating services, and informing the physician and
2001 other personnel of changes in the consumer's condition and needs;

- 2002 (7) Counseling the consumer and family in meeting nursing and related needs; and
- 2003 (8) Participating in in-service programs, supervising, and teaching other nursing
- 2004 personnel.
- 2005 (B) The licensed practical nurse shall be responsible for the following:
- 2006 (1) ~~PERFORMING NURSING SERVICES IN ACCORDANCE WITH THEIR SCOPE OF PRACTICE~~
- 2007 ~~AND AS ASSIGNED BY THE PHYSICIAN, LICENSED INDEPENDENT PRACTITIONER, AND/OR~~
- 2008 ~~REGISTERED NURSE;~~
- 2009 (12) Furnishing services in accordance with HCA agency policies;
- 2010 (23) Preparing clinical notes; AND
- 2011 (3) ~~Assisting the physician, intermediate care provider and registered nurse in~~
- 2012 ~~performing specialized procedures.~~
- 2013 (4) ~~Preparing equipment and materials for treatments, observing aseptic technique~~
- 2014 ~~as required, and~~
- 2015 (54) Assisting the consumer in learning appropriate self-care techniques.
- 2016 7.156.13 Nurse Aide Services
- 2017 (A) The HCA agency shall select nurse aides on the basis of such factors as the ability to
- 2018 read, write, carry out directions, effectively communicate to demonstrate competency in
- 2019 the SAFE AND EFFECTIVE provision of care and services safely and effectively, and treat
- 2020 consumers with dignity and respect to person and property.
- 2021 (B) The HCA agency shall ensure that each nurse aide it employs is certified by DORA the
- 2022 Colorado Department of Regulatory Agencies within four (4) months of starting
- 2023 employment and that certification remains current. Each aide that provides care and
- 2024 services before PRIOR TO certification shall be supervised in the home by direct
- 2025 observation at least weekly for the first month of employment and every two (2) weeks
- 2026 thereafter until certification is obtained.
- 2027 (1) HCAs THAT EMPLOY NURSE AIDES AWAITING CERTIFICATION SHALL DO SO IN
- 2028 ACCORDANCE WITH 12-255-214, C.R.S.
- 2029 (C) The HCA agency shall complete a competency assessment with direct observation of
- 2030 each nurse aide before assignment, in accordance with PART XXX section 7.16 of this
- 2031 chapter.
- 2032 (D) For all consumers who are receiving skilled care and need nurse aide services, the
- 2033 supervising healthcare professional shall, during supervisory visits, accomplish the
- 2034 following:
- 2035 (1) Obtain the consumer's input, or that of the consumer's authorized representative,
- 2036 regarding the nurse aide assignment form, including all tasks to be performed
- 2037 during each scheduled time period.
- 2038 (a) Details such as, but not limited to, housekeeping duties and standby
- 2039 assistance shall be negotiated and included on the nurse aide
- 2040 assignment form so that all obligations and expectations are clear.

Commented [BM128]: Created a broader requirement and modified and integrated original (3) into this point

Commented [BM129]: Added reference to statute:

...(d) A person who is directly employed by a medical facility while acting within the scope and course of employment for the first four consecutive months of the person's employment at the medical facility if the employment is part of an approved training program prior to certification and the certification is not by endorsement pursuant to section 12-255-204...

- 2041 (b) The nurse aide assignment form shall contain information regarding
 2042 special functional limitations and needs, safety considerations, special
 2043 diets, special equipment, and any other information that is pertinent to
 2044 the care that will be given by the **NURSE** aide.
- 2045 (c) The HCA shall ensure that the consumer or the consumer's authorized
 2046 representative approves and signs the form, is provided a copy at the
 2047 beginning of services, and at least **ANNUALLY**. ~~once per year thereafter.~~
- 2048 (d) Provide each consumer and/or the consumer's authorized representative
 2049 with a new copy of the consumer rights form and explain those rights at
 2050 least annually.
- 2051 (e) If nurse aide services are provided to a consumer who is receiving in-
 2052 home care by a **NURSE AIDE** health professional, the supervising health
 2053 care professional, in accordance with the professional's scope of practice
 2054 and state and federal law, shall make ~~A~~ **an on-site supervisory visit** **NO**
 2055 **LESS THAN EVERY TWO (2) WEEKS TO SUPERVISE THE NURSE AIDE SERVICES.**
 2056 **THE VISIT SHALL BE CONDUCTED EITHER IN to the consumer's home OR VIA**
 2057 **TELEHEALTH, IN ACCORDANCE WITH THE REQUIREMENTS IN PART 6.17(A)(1).**
 2058 ~~no less frequently than every two (2) weeks to supervise the nurse aide~~
 2059 ~~SERVICES. Direct observation of care being provided by the nurse aide~~
 2060 ~~shall occur at least every 60 days. More frequent direct supervision shall~~
 2061 ~~occur if there are adverse changes in the consumer's condition,~~
 2062 ~~complaints received associated with the provision of care by an aide,~~
 2063 ~~supervision requested by the nurse aide or consumer for specific issues,~~
 2064 ~~or other matters concerning the provisions of care by the nurse aide.~~
- 2065 (i) **DIRECT OBSERVATION OF CARE BEING PROVIDED BY THE NURSE AIDE**
 2066 **SHALL OCCUR AT LEAST EVERY SIXTY (60) DAYS IN THE CONSUMER'S**
 2067 **HOME.**
- 2068 (ii) **MORE FREQUENT DIRECT SUPERVISION SHALL OCCUR IF THERE ARE**
 2069 **ADVERSE CHANGES IN THE CONSUMER'S CONDITION, COMPLAINTS**
 2070 **RECEIVED ASSOCIATED WITH THE PROVISION OF CARE BY A NURSE**
 2071 **AIDE, SUPERVISION REQUESTED BY THE NURSE AIDE OR CONSUMER**
 2072 **FOR SPECIFIC ISSUES, OR OTHER MATTERS CONCERNING THE**
 2073 **PROVISIONS OF CARE BY THE NURSE AIDE.**
- 2074 (f) If nurse aide services are provided to a consumer who is not receiving in-
 2075 home care by a health professional, a supervisory visit with the nurse
 2076 aide present at the consumer's home shall occur no less frequently than
 2077 every **SIXTY (60)** days. ~~More frequent direct supervision shall occur if~~
 2078 ~~there are adverse changes in the consumer's condition, complaints~~
 2079 ~~received associated with the provision of care by an aide, supervision~~
 2080 ~~requested by the nurse aide or consumer for specific issues, or other~~
 2081 ~~matters concerning the provisions of care by the nurse aide.~~
- 2082 (i) **MORE FREQUENT DIRECT SUPERVISION SHALL OCCUR IF THERE ARE**
 2083 **ADVERSE CHANGES IN THE CONSUMER'S CONDITION, COMPLAINTS**
 2084 **RECEIVED ASSOCIATED WITH THE PROVISION OF CARE BY A NURSE**
 2085 **AIDE, SUPERVISION REQUESTED BY THE NURSE AIDE OR CONSUMER**
 2086 **FOR SPECIFIC ISSUES, OR OTHER MATTERS CONCERNING THE**
 2087 **PROVISIONS OF CARE BY THE NURSE AIDE.**

Commented [BM130]: Removed the on-site requirement and added language around telehealth supervision at proposed 6.17

Commented [BM131]: Not new language. Broken out from above.

Commented [BM132]: Now new language. Broken out from above.

Commented [BM133]: Moved under Nurse Aide Services subsection

2088 7.16 (E) Nurse aide training and orientation

- 2089 (A1) The HCA shall ensure that skills learned or tested elsewhere can be transferred
 2090 successfully to the care of the consumer in his/her~~THEIR~~ place of residence. This
 2091 review of skills could be done when the nurse installs an aide into a new
 2092 consumer care situation, during a supervisory visit, or as part of the annual
 2093 performance review. ~~A mannequin may not be used for this evaluation. A~~
 2094 ~~PSEUDO-PATIENT MAY BE USED FOR THIS EVALUATION.~~
- 2095 (B2) If the HCA's admission policies and the case-mix of HCA consumers demand
 2096 that the ~~NURSE~~ aide care for individuals whose personal care and basic nursing or
 2097 therapy needs require more complex training than the minimum required in the
 2098 regulation, the HCA shall document how these additional skills are taught and
 2099 validated.
- 2100 (C3) The HCA shall establish a process for standardized, step-by-step observation
 2101 and evaluation of nurse aide competency in the following subject areas prior to
 2102 the assignment of tasks requiring direct observation of items (3C), (9I), (40J) and
 2103 (44K) of this paragraph (C3).
- 2104 (4A) Communications skills;
- 2105 (2B) Observation, reporting, and documentation of consumer status and the
 2106 care or service furnished;
- 2107 (3C) Reading and recording temperature, pulse, and respiration;
- 2108 (4D) Basic infection control procedures;
- 2109 (5E) Basic elements of body functioning and changes in body function that
 2110 shall be reported to an ~~NURSE~~ aide's supervisor;
- 2111 (6F) Maintenance of a clean, safe, and healthy environment;
- 2112 (7G) Recognizing emergencies and knowledge of emergency procedures;
- 2113 (8H) The physical, emotional, and developmental needs of, and methods to
 2114 work with, the populations served by the HCA including the need for
 2115 respect of the consumer, his or her~~THEIR~~ privacy, and property;
- 2116 (9I) Appropriate and safe techniques in personal hygiene and grooming that
 2117 include:
- 2118 (a) Bathing, INCLUDING BED/SPONGE, TUB, AND SHOWER;
- 2119 (i) ~~Bed/sponge,~~
- 2120 (ii) ~~Tub, and~~
- 2121 (iii) ~~Shower,~~
- 2122 (b) Shampoo, INCLUDING SINK, TUB, AND BED;
- 2123 (i) ~~Sink,~~
- 2124 (ii) ~~Tub, and~~

Commented [BM134]: CMS requirement is for competency to be evaluated using a patient or a pseudo-patient. Added pseudo-patient to definitions.

- 2125 (iii) ~~Bed,~~
- 2126 (ciii) Nail and skin care~~;~~;
- 2127 (dii) Oral hygiene~~;~~; and
- 2128 (ev) Toileting and elimination;
- 2129 (40j) Safe transfer techniques and ambulation;
- 2130 (41k) Normal range of motion and positioning; and
- 2131 (42l) Adequate nutrition and fluid intake.
- 2132 (D4) Written assignment and instructions for the nurse aide shall be prepared by the
- 2133 registered nurse or other appropriate professional who is responsible for the
- 2134 supervision of the nurse aide.
- 2135 (4A) The nurse aide assigned and instructed to provide only those services
- 2136 the aide is permitted to perform under state law and deemed competent
- 2137 to perform.
- 2138 (2B) The written assignment reflects the consumer's plan of care orders.
- 2139 (3C) The written instructions of the assignment shall consider the skills of the
- 2140 nurse aide, the amount and kind of supervision needed, and the specific
- 2141 nursing or therapy needs of the consumer.
- 2142 (ai) The written instructions shall detail the procedures for the
- 2143 consumer's unique care needs.
- 2144 (bi) The written instructions shall identify when the nurse aide should
- 2145 report to the supervising professional.
- 2146 (4D) The written assignment and instructions shall be reviewed every ~~SIXTY~~
- 2147 ~~(60)~~ days or more frequently as changes in the consumer's status and
- 2148 needs occur.
- 2149 ~~7.17~~6.14 Therapy ~~S~~services
- 2150 (A) Any therapy services~~S~~ offered by the HCA, directly or under arrangement, shall be
- 2151 provided by a qualified therapist or by a qualified therapy assistant under the supervision
- 2152 of a qualified therapist and in accordance with the plan of care. ~~The qualified therapist~~
- 2153 ~~assists the physician or intermediate care provider in evaluating level of function, helps~~
- 2154 ~~develop the plan of care (revising it as necessary), prepares clinical notes, advises and~~
- 2155 ~~consults with the family and other agency personnel, and participates in in-service~~
- 2156 ~~programs.~~
- 2157 (B) ~~THE QUALIFIED THERAPIST SHALL ASSIST THE PHYSICIAN OR LICENSED INDEPENDENT~~
- 2158 ~~PRACTITIONER IN EVALUATING LEVEL OF FUNCTION, HELP DEVELOP THE PLAN OF CARE (REVISING~~
- 2159 ~~IT AS NECESSARY), PREPARE CLINICAL NOTES, ADVISE AND CONSULT WITH THE FAMILY AND~~
- 2160 ~~OTHER AGENCY PERSONNEL, AND PARTICIPATE IN IN-SERVICE PROGRAMS.~~
- 2161 (BC) Supervision of therapy assistants

Commented [SA135]: Moved to (B) below

- 2162 (1) A physical therapist assistant, occupational therapy assistant, or respiratory
 2163 therapy assistant performs services directed from a written plan of care,
 2164 delegated, and supervised by a qualified therapist, assists in preparing clinical
 2165 notes and progress reports, participates in educating the consumer and family,
 2166 and participates in in-service programs. Onsite supervision shall occur in
 2167 accordance with the agency's policies and procedures, plan of care, and
 2168 professional standards of practice.
- 2169 ~~7.18~~ **6.15** Medical ~~S~~social ~~S~~services
- 2170 (A) ~~If the agency furnishes medical social services, those services shall be given by a~~
 2171 ~~qualified social worker in accordance with the plan of care. ANY MEDICAL SOCIAL SERVICES~~
 2172 ~~OFFERED BY THE HCA, DIRECTLY OR UNDER ARRANGEMENT, SHALL BE PROVIDED BY A~~
 2173 ~~QUALIFIED SOCIAL WORKER IN ACCORDANCE WITH THE PLAN OF CARE.~~
- 2174 (B) The social worker shall be responsible for the following:
- 2175 (1) Assisting the physician, or ~~LICENSED INDEPENDENT PRACTITIONER~~ **intermediate care**
 2176 ~~provider~~ and other team members in understanding the significant social and
 2177 emotional factors related to the health problems,
- 2178 (2) Participating in the development of the plan of care,
- 2179 (3) Preparing clinical notes,
- 2180 (4) Working with the family,
- 2181 (5) ~~Using~~ **CONNECTING THE CONSUMER WITH** appropriate community resources,
- 2182 (6) Participating in discharge planning and in-service programs, and
- 2183 (7) Acting as a consultant to other ~~agency~~ **HCA** personnel.
- 2184 ~~7.19~~ **6.16** Other ~~H~~healthcare ~~S~~services
- 2185 (A) Any healthcare services offered by the HCA, directly or under arrangement, are given by
 2186 a qualified healthcare professional or by ~~A~~ **a** qualified healthcare professional assistant
 2187 under the supervision of a qualified healthcare professional and in accordance with the
 2188 plan of care. ~~The qualified healthcare professional assists the physician or intermediate~~
 2189 ~~care provider in evaluating the needs of the consumer, helps develop the plan of care~~
 2190 ~~(revising it as necessary), prepares clinical notes, advises and consults with the family~~
 2191 ~~and other agency personnel, and participates in in-service programs.~~
- 2192 (B) **THE QUALIFIED HEALTHCARE PROFESSIONAL ASSISTS THE PHYSICIAN OR LICENSED**
 2193 **INDEPENDENT PRACTITIONER IN EVALUATING THE NEEDS OF THE CONSUMER, HELPS DEVELOP**
 2194 **THE PLAN OF CARE (REVISING IT AS NECESSARY), PREPARES CLINICAL NOTES, ADVISES AND**
 2195 **CONSULTS WITH THE FAMILY AND OTHER AGENCY PERSONNEL, AND PARTICIPATES IN IN-SERVICE**
 2196 **PROGRAMS.**
- 2197 (B) ~~C~~ Supervision of assistants
- 2198 (1) An assistant to the healthcare professional performs services directed from a
 2199 written plan of care, delegated, and supervised by a qualified health professional,
 2200 assists in preparing clinical notes and progress reports, and participates in
 2201 educating the consumer and family, and participates in in-service programs.

Commented [BM136]: Moved to 6.17(A)(2)(a) in telehealth supervisory visits

Commented [BM137]: Recommended reword to be consistent with therapy & other healthcare services.

2202 Onsite supervision shall occur in accordance with policy and procedure, the plan
 2203 of care and professional standards of practice.

Commented [BM138]: Moved to 6.17(A)(3)(a) in telehealth supervisory visits

2204 6.17 TELEHEALTH SUPERVISORY VISITS

2205 (A) THE HCA MAY CONDUCT SUPERVISORY VISITS USING TELEHEALTH FOR THE FOLLOWING
 2206 SERVICES, SO LONG AS THE HCA CONTINUES TO ENSURE CONSUMER CARE AND TREATMENT
 2207 ARE DELIVERED IN ACCORDANCE WITH A PLAN OF CARE THAT ADDRESSES THE CONSUMER'S
 2208 STATUS AND NEEDS.

2209 (1) FOR NURSE AIDE SERVICES, THE SUPERVISING HEALTHCARE PROFESSIONAL MAY
 2210 EVALUATE THE DELIVERY OF CARE AND SERVICES REQUIRED EVERY TWO (2) WEEKS AT
 2211 PART 6.13(D)(1)(E) THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION WITH THE
 2212 CONSUMER. THE RESULTS OF THE SUPERVISORY VISIT MUST BE DOCUMENTED BY THE
 2213 SUPERVISING HEALTHCARE PROFESSIONAL.

Commented [BM139]: Guidance: must have audiovisual connection or continue to do in person; language around our preference at the Dept? Continue in person?

2214 (A) AN IN-PERSON SUPERVISORY VISIT WITH THE NURSE AIDE AND CONSUMER IS
 2215 REQUIRED AT LEAST EVERY SIXTY (60) DAYS IF NURSE AIDE SERVICES ARE
 2216 PROVIDED TO A CONSUMER WHO IS RECEIVING IN-HOME CARE BY A NURSE
 2217 AIDE.

2218 (2) FOR THERAPY SERVICES, SUCH AS PHYSICAL THERAPY, OCCUPATIONAL THERAPY, AND
 2219 SPEECH THERAPY, SUPERVISION OF ASSISTANTS REQUIRED AT PART 6.14(C) MAY BE
 2220 PROVIDED THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION AND IN ACCORDANCE
 2221 WITH ALL APPLICABLE STATE LAWS AND REGULATIONS.

2222 (A) AN IN-PERSON SUPERVISORY VISIT SHALL OCCUR IN ACCORDANCE WITH THE
 2223 HCA'S POLICIES AND PROCEDURES, THE PLAN OF CARE, AND PROFESSIONAL
 2224 STANDARDS OF PRACTICE.

Commented [BM140]: Not new language; moved from therapy services.

2225 (3) FOR OTHER HEALTHCARE SERVICES, SUPERVISION OF ASSISTANTS REQUIRED AT PART
 2226 6.16(C) MAY BE PROVIDED THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION AND
 2227 IN ACCORDANCE WITH ALL APPLICABLE STATE LAWS AND REGULATIONS.

2228 (A) AN IN-PERSON SUPERVISORY VISIT SHALL OCCUR IN ACCORDANCE WITH THE
 2229 HCA'S POLICIES AND PROCEDURES, THE PLAN OF CARE, AND PROFESSIONAL
 2230 STANDARDS OF PRACTICE.

Commented [BM141]: Not new language; moved from other healthcare services.

2231 (B) AN IN-PERSON SUPERVISORY VISIT IS REQUIRED TO EVALUATE CONSUMER COMPLAINTS RELATED
 2232 TO THE DELIVERY OF CARE WHEN SUCH CONCERNS CANNOT BE SUCCESSFULLY ADDRESSED
 2233 REMOTELY THROUGH AN INTERACTIVE AUDIOVISUAL CONNECTION.

2234 (C) ALL OTHER GENERAL REQUIREMENTS FOR SUPERVISORY VISITS, SUCH AS DOCUMENTATION AND
 2235 MEETING THE SAME STANDARD OF CARE, MUST BE MET.

2236 6.18 CLINICAL RECORD

2237 (A) IN ADDITION TO THE REQUIREMENTS IN PART 5.15, AN HCA PROVIDING SKILLED CARE SHALL
 2238 COMPLY WITH THE FOLLOWING REQUIREMENTS:

2239 (1) THE INITIAL AND COMPREHENSIVE ASSESSMENTS SHALL BE DOCUMENTED IN THE
 2240 CONSUMER RECORD AND SHALL INCLUDE THE CONSUMER'S CURRENT COMPREHENSIVE
 2241 ASSESSMENT, INCLUDING ALL OF THE ASSESSMENTS FROM THE MOST RECENT HCA
 2242 ADMISSION, CLINICAL NOTES, PLANS OF CARE, AND PHYSICIAN OR LICENSED
 2243 INDEPENDENT PRACTITIONER ORDERS.

Commented [BM142]: SOM language

- 2244 (2) THE RECORD SHALL INCLUDE ALL INTERVENTIONS, INCLUDING MEDICATION
 2245 ADMINISTRATION, TREATMENTS, AND SERVICES, AND RESPONSES TO THOSE
 2246 INTERVENTIONS.
- 2247 **PART** Section 87. NON-MEDICAL/PERSONAL CARE
- 2248 **87.1** Governing ~~b~~Body
- 2249 (A) ~~Each agency HCA shall have a governing body having legal authority and responsibility~~
 2250 ~~for the conduct of the agency HCA. At least one (1) member shall have knowledge of~~
 2251 ~~agency HCA operations.~~
- 2252 (A) AN HCA MAY CHOOSE TO CONVENE A GOVERNING BODY THAT SHALL HAVE LEGAL AUTHORITY
 2253 AND RESPONSIBILITY FOR THE CONDUCT OF THE HCA. IF AN HCA DOES NOT CONVENE A
 2254 GOVERNING BODY, THE HCA SHALL DESIGNATE AN INDIVIDUAL WHO SHALL HAVE RESPONSIBILITY
 2255 FOR ALL TASKS AS SET FORTH IN THIS PART 7.1.
- 2256 (B) AT LEAST ONE (1) MEMBER OF THE GOVERNING BODY OR DESIGNEE SHALL HAVE KNOWLEDGE OF
 2257 HCA OPERATIONS.
- 2258 (BC) For the purposes of this section, the governing body OR DESIGNEE shall:
- 2259 (1) Have bylaws or A GOVERNING DOCUMENT the equivalent, which THAT SHALL SPECIFY
 2260 THE PROGRAMS AND SERVICES OFFERED BY THE HCA, AND be reviewed and revised
 2261 as needed;
- 2262 (2) ~~The bylaws or the equivalent shall specify the objectives of the agency;~~
- 2263 (32) Designate and employ an agency HCA manager;
- 2264 (43) ~~Develop and Adopt, review annually, and revise as needed, policies and~~
 2265 ~~procedures for the operation and administration of the agency HCA, TO BE~~
 2266 ~~REVIEWED ANNUALLY AND REVISED AS NEEDED;~~
- 2267 (4) ENSURE ANY PROGRAM OR SERVICE OFFERED BY THE HCA, DIRECTLY OR UNDER
 2268 ARRANGEMENT, SHALL BE PROVIDED IN ACCORDANCE WITH THE SERVICE PLAN AND
 2269 HCA POLICY AND PROCEDURE;
- 2270 (5) Review the operations of the agency HCA at least annually;
- 2271 (6) Keep minutes of all meetings;
- 2272 (7) Provide and maintain a fixed office location, that provides for consumer
 2273 confidentiality and a safe working environment; and
- 2274 (8) Organize services furnished, administrative control, and lines of authority for the
 2275 delegation of responsibility down to the consumer care level that are clearly set
 2276 forth in writing and are readily identifiable.

2277 **8.2** Administration

- 2278 (A) ~~The agency shall have written administrative policies and procedures to ensure safe and~~
 2279 ~~adequate care of the consumer.~~
- 2280 (D) AGENCY EVALUATION

Commented [SA143]: SOM language

Commented [BM144]: Not new language. Broken out from above.

Commented [BM145]: Combined and modified (1) and (2)

Commented [BM146]: Modified from skilled care; will need guidance on this requirement for Class B HCAs

- 2281 (1) THE HCA'S GOVERNING BODY OR DESIGNEE SHALL CONDUCT A COMPREHENSIVE
2282 EVALUATION OF THE HCA'S TOTAL OPERATION AT LEAST ANNUALLY.
- 2283 (2) THE EVALUATION SHALL ASSURE THE APPROPRIATENESS AND QUALITY OF THE HCA'S
2284 SERVICES WITH FINDINGS USED TO VERIFY POLICY IMPLEMENTATION, TO IDENTIFY
2285 PROBLEMS, AND TO ESTABLISH PROBLEM RESOLUTION AND POLICY REVISION AS
2286 NECESSARY, AND SHALL INCLUDE ANY FINDINGS OR IMPROVEMENT STRATEGIES
2287 IDENTIFIED BY THE HCA'S QUALITY MANAGEMENT PROGRAM REQUIRED IN PART 5.12.
- 2288 (3) THE HCA SHALL IMPLEMENT A METHOD FOR ONGOING PROCESS IMPROVEMENT AND
2289 POLICY AND ADMINISTRATIVE REVIEW, WHICH INCLUDES A REVIEW OF THE SCOPE OF
2290 SERVICES OFFERED, ARRANGEMENTS FOR SERVICES WITH OTHER AGENCIES OR
2291 INDIVIDUALS, ADMISSION AND DISCHARGE POLICIES, SUPERVISION AND SERVICE PLAN,
2292 URGENT CONSUMER CARE, SERVICE RECORDS, AND PERSONNEL QUALIFICATIONS.
- 2293 (A) THE HCA SHALL IMPLEMENT AN ON-GOING MECHANISM FOR CONSUMER
2294 INVOLVEMENT TO PROVIDE INPUT AND COMMENT REGARDING SERVICES
2295 PROVIDED BY THE HCA IN ACCORDANCE WITH HCA POLICY.
- 2296 (B) ALL FINDINGS FROM THE POLICY AND ADMINISTRATIVE REVIEW AND CONSUMER
2297 INPUT AND COMMENTARY SHALL BE PROVIDED TO THE GOVERNING BODY AT
2298 LEAST ANNUALLY TO IDENTIFY TRENDS OR ISSUES REQUIRING CONSIDERATION.
- 2299 (4) IN EVALUATING EACH ASPECT OF ITS TOTAL PROGRAM, THE HCA SHALL CONSIDER
2300 FOUR (4) MAIN CRITERIA:
- 2301 (A) APPROPRIATENESS - ASSURANCE THAT THE AREA BEING EVALUATED
2302 ADDRESSES EXISTING AND/OR POTENTIAL PROBLEMS.
- 2303 (B) ADEQUACY - A DETERMINATION AS TO WHETHER THE HCA HAS THE CAPACITY
2304 TO OVERCOME OR MINIMIZE EXISTING OR POTENTIAL PROBLEMS.
- 2305 (C) EFFECTIVENESS - THE SERVICES OFFERED ACCOMPLISH THE OBJECTIVES OF
2306 THE HCA AND ANTICIPATED CONSUMER OUTCOMES.
- 2307 (D) EFFICIENCY - WHETHER THERE IS A MINIMAL EXPENDITURE OF RESOURCES BY
2308 THE HCA TO ACHIEVE DESIRED GOALS AND ANTICIPATED CONSUMER
2309 OUTCOMES.
- 2310 (5) DOCUMENTATION OF THE ANNUAL EVALUATION SHALL INCLUDE THE NAMES AND TITLES
2311 OF THE PERSONS CARRYING OUT THE EVALUATION, THE CRITERIA AND METHODS USED
2312 TO ACCOMPLISH IT, AND ANY ACTION TAKEN BY THE HCA AS A RESULT OF ITS FINDINGS.
- 2313 (6) APPROPRIATE QUALIFIED INDIVIDUALS REPRESENTING THE PROGRAMS AND SERVICES
2314 OFFERED BY THE HCA SHALL EVALUATE THE HCA'S CONSUMER RECORDS ON AN
2315 ONGOING BASIS, BUT NO LESS THAN QUARTERLY.
- 2316 (A) THE EVALUATION SHALL INCLUDE A REVIEW OF SAMPLE ACTIVE AND CLOSED
2317 CONSUMER RECORDS TO ENSURE THAT HCA POLICIES ARE FOLLOWED IN
2318 PROVIDING SERVICES, BOTH DIRECTLY AND UNDER ARRANGEMENT, AND TO
2319 ASSURE THAT THE QUALITY OF SERVICE IS SATISFACTORY AND APPROPRIATE.
2320 THE REVIEW SHALL CONSIST OF A REPRESENTATIVE SAMPLE OF ALL HOME
2321 CARE SERVICES PROVIDED BY THE HCA.

Commented [BM147]: Slight modifications from Skilled Care to reflect non-medical

2322 8.37.2 Agency HCA mManager

- 2323 (A) ~~THE HCA'S GOVERNING BODY OR DESIGNEE~~ A licensed home care agency providing
 2324 personal care services shall designate ~~APPOINT~~ an HCA agency manager to supervise the
 2325 provision of these HCA's services.
- 2326 (B) The HCA agency manager shall meet the following qualifications:
- 2327 (1) Be at least TWENTY-ONE (21) years of age, possess a high school diploma or
 2328 GED, and at least one (1) year documented supervisory experience in the
 2329 provision of personal care services;
- 2330 (A) IF THE HCA MANAGER DOES NOT HAVE THE REQUIRED ONE (1) YEAR OF
 2331 EXPERIENCE SUPERVISING THE DELIVERY OF PERSONAL CARE SERVICES, THEY
 2332 SHALL DEMONSTRATE THEY HAVE THE FOLLOWING:
- 2333 (I) A COLLEGE DEGREE IN HEALTHCARE SERVICES PLUS AT LEAST ONE
 2334 (1) YEAR OF WORK EXPERIENCE IN HEALTH CARE DURING THE
 2335 PREVIOUS TEN (10)-YEAR PERIOD; OR
- 2336 (II) A COLLEGE DEGREE IN ANY FIELD PLUS TWO (2) YEARS OF WORK
 2337 EXPERIENCE IN HEALTH CARE DURING THE PREVIOUS TEN (10)-YEAR
 2338 PERIOD.
- 2339 (2) Be able to communicate and understand return communication effectively in
 2340 exchanges between the consumer, family representatives, and other providers,
 2341 INCLUDING THE USE OF APPROPRIATE TRANSLATOR SERVICES AS NEEDED;
- 2342 (3) Have successfully completed an eight (8) hour agency manager training course.
 2343 Additional related annual training that equals TWELVE (12) hours shall be required
 2344 in the first year and annually thereafter;
- 2345 (a) Any person commencing service as an HCA agency manager after
 2346 January 1, 2011, shall meet the minimum training requirements
 2347 approved by the Department pursuant to section 8.3(D) PART 7.2(D) of
 2348 this chapter; or provide documented and confirmed previous job related
 2349 experience or related education equivalent to successful completion of
 2350 such program. The Department may require additional training to
 2351 ensure that all the required components of the training curriculum are
 2352 met.
- 2353 (b) A copy of the certificate of completion shall be retained in the
 2354 HCA agency manager's personnel file.
- 2355 (c) Any person already serving as an agency manager on December 31,
 2356 2010, shall either meet subparagraph (3) above or meet the minimum
 2357 training requirements in one of the following ways:
- 2358 (i) Successful completion of a program approved by the
 2359 department, pursuant to section 8.3(D) of this chapter, if
 2360 completed within a period of six (6) months following January 1,
 2361 2011;
- 2362 (ii) Submission of evidence of successful completion of such training
 2363 within the previous five (5) years before January 1, 2011; or

Commented [BM148]: Language idea came from ALR and modified to be more generic; Intent of language is to standardize personal care worker requirements across the industry. Discuss with stakeholders.

Commented [BM149]: Clarify in guidance document that college degree means associate's degree or higher

Commented [BM150]: Add Language Access and Effective Communication Policy from OBH in guidance

Commented [BM151]: Recommend striking since language is outdated; was included when the regulations were initially in place.

- 2364 (iii) ~~Documented and confirmed previous job related experience~~
 2365 ~~equivalent to successful completion of such a program that~~
 2366 ~~encompasses the items in section 8.3(D)(2) of this chapter.~~
- 2367 (4) Be familiar with all applicable local, state, and federal laws and regulations
 2368 concerning the operation and provision of home care services.
- 2369 (C) The ~~HCA~~agency manager shall be responsible for ensuring:
- 2370 (1) The ~~agency~~~~HCA~~ is in compliance with all applicable federal, state, and local
 2371 laws~~;~~;
- 2372 (2) ~~THE C~~Completion, maintenance, and submission of such reports and records as
 2373 required by the ~~d~~Department~~;~~;
- 2374 (3) Ongoing liaison with the governing body ~~OR DESIGNEE~~, staff members, and the
 2375 community~~;~~;
- 2376 (4) ~~MAINTENANCE OF A~~ current organizational chart to show lines of authority down
 2377 to the consumer level~~;~~;
- 2378 (5) ~~MAINTENANCE OF A~~Appropriate personnel, bookkeeping, and administrative
 2379 records and policies and procedures of the ~~agency~~~~HCA~~~~;~~;
- 2380 (6) Orientation of new ~~PERSONNEL~~staff, ~~AND~~ regularly scheduled in-service education
 2381 programs and opportunities for continuing education ~~ARE PROVIDED~~ for the
 2382 ~~PERSONNEL~~staff~~;~~;
- 2383 (7) ~~Designation~~~~DESIGNATING~~ in writing ~~OF~~ the qualified staff member to act in the
 2384 absence of the manager~~;~~;
- 2385 (8) Availability of the manager or designee for all hours that ~~employees~~~~PERSONNEL~~
 2386 are providing services~~;~~ ~~and~~
- 2387 (9) ~~All m~~Marketing, advertising, and promotional information accurately represent the
 2388 HCA and address the care, treatment, and services that the HCA can provide
 2389 directly or through contractual arrangement~~;~~;
- 2390 (10) ~~MAINTENANCE OF A COORDINATED HCA-WIDE PROGRAM FOR APPROPRIATE INFECTION~~
 2391 ~~PREVENTION AND CONTROL THAT IS AN INTEGRAL PART OF THE HCA'S QUALITY~~
 2392 ~~MANAGEMENT PROGRAM; AND~~
- 2393 (11) ~~THE IMPLEMENTATION AND MONITORING OF THE HCA'S TRAINING PROGRAM FOR ALL~~
 2394 ~~HOMEMAKERS AND PERSONAL CARE WORKERS, INCLUDING MANAGING OR DELEGATING~~
 2395 ~~EMPLOYEE TRAINING AND DEVELOPMENT ACTIVITIES FOR THE HCA.~~
- 2396 (D) An ~~agency~~~~HCA~~ manager training program shall be approved by the ~~d~~Department if:
- 2397 (1) The program or its components are conducted by an accredited college,
 2398 university, or vocational school; or an organization, association, corporation,
 2399 group, or agency with specific expertise in that area and the curriculum includes
 2400 at least eight (8) actual hours of training.
- 2401 (2) Instruction includes, at a minimum, discussion of each ~~OF~~ the following topics:

Commented [BM152]: SOM §484.70(b) language

Duplicated from skilled care and modified to align with non-medical

- 2402 (a) Home care overview including other agency types providing services and
 2403 how to interact and coordinate, ~~with each~~ including limitations of personal
 2404 care versus health care services,;
- 2405 (b) Regulatory responsibilities and compliance, including, but not limited to,;
- 2406 (i) Consumer rights,
- 2407 (ii) Governing body **OR DESIGNEE** responsibilities,
- 2408 (iii) Quality management plans,
- 2409 (iv) Occurrence reporting, and
- 2410 (v) Complaint investigation and resolution process,;
- 2411 (c) Personnel qualifications, experience, competency and evaluations, staff
 2412 training, and supervision,;
- 2413 (d) Needs of the fragile, ill, and physically, and cognitively, **AND/OR**
 2414 **DEVELOPMENTALLY** disabled in the community setting regarding special
 2415 training and staffing considerations,; and
- 2416 (e) Behavior management techniques.

2417 8.4 **Supervisor**

2418 (A) The supervisor shall:

2419 (1) ~~Be at least 18 years of age,~~

2420 (2) ~~Have appropriate experience or training in the home care industry or closely~~
 2421 ~~related personal care services in accordance with agency policy, and~~

2422 (3) ~~Have completed training in the provision of personal care services.~~

2423 7.3 **HOMEMAKER**

2424 (A) **A HOMEMAKER SHALL COMPLETE TRAINING, IN ACCORDANCE WITH THE FOLLOWING**
 2425 **REQUIREMENTS, PRIOR TO PROVIDING SERVICES INDEPENDENTLY.**

2426 (B) **A HOMEMAKER MUST COMPLETE TRAINING AS SPECIFIED IN PART 7.3(C) AND PASS A**
 2427 **COMPETENCY EVALUATION THAT INCLUDES A VISUAL OBSERVATION AND EVALUATION OF**
 2428 **RELEVANT SKILLS, PRIOR TO PROVIDING CARE TO A CONSUMER.**

2429 (1) **IF THE HCA UTILIZES ANOTHER ENTITY TO PROVIDE THE TRAINING, THE HCA MUST**
 2430 **VALIDATE THE TRAINING PROGRAM MEETS THE REQUIREMENTS IN PART 7.3(C) BELOW**
 2431 **AND RETAIN EVIDENCE OF THE INDIVIDUAL'S SUCCESSFUL COMPLETION OF THE**
 2432 **TRAINING PROGRAM IN THE PERSONNEL RECORD.**

2433 (C) **HOMEMAKER TRAINING**

2434 (1) **ALL HOMEMAKER STAFF SHALL COMPLETE HCA TRAINING BEFORE INDEPENDENTLY**
 2435 **PROVIDING SERVICES TO CONSUMERS. INITIAL TRAINING MUST BE INTERACTIVE IN**
 2436 **NATURE AND MAY BE COMPLETED THROUGH THE FOLLOWING MODES: IN-PERSON,**

Commented [BM153]: Moved down below training to 7.7 so that it is with Supervision.

Commented [BM154]: New proposed requirement; creates a "stacked" model where homemaker is base level requirements for personal care worker. While a new proposed requirement, not a lot of new language just a reorganization.

- 2437 ONLINE/VIRTUAL, OR A HYBRID, WITH DEMONSTRATION OF LEARNED CONCEPTS.
2438 INITIAL TRAINING SHALL INCLUDE:
- 2439 (A) PERSONNEL DUTIES AND RESPONSIBILITIES, INCLUDING BUT NOT LIMITED
2440 TO INCIDENT REPORTING AND MANDATORY REPORTING;
- 2441 (B) RULES FOR NON-MEDICAL CARE AND SERVICES AS DESCRIBED IN THIS
2442 CHAPTER;
- 2443 (C) THE DIFFERENCES IN HOME MAKER AND PERSONAL CARE;
- 2444 (D) CONSUMER RIGHTS INCLUDING FREEDOM FROM ABUSE OR NEGLECT, AND
2445 CONFIDENTIALITY OF PERSONAL, FINANCIAL, AND HEALTH INFORMATION;
- 2446 (E) BASIC HEALTH AND SAFETY, INCLUDING BUT NOT LIMITED TO, HOME
2447 SAFETY, FALL PREVENTION, HAND WASHING, AND INFECTION CONTROL;
- 2448 (F) ASSIGNMENT AND SUPERVISION OF SERVICES;
- 2449 (G) COMMUNICATION SKILLS;
- 2450 (H) THE PHYSICAL, EMOTIONAL, AND DEVELOPMENTAL NEEDS OF, AND
2451 METHODS TO WORK WITH, THE POPULATIONS SERVED AND ASSIGNMENT OF
2452 CONSUMERS BY THE HCA, INCLUDING THE NEED FOR RESPECT OF THE
2453 CONSUMER, THEIR PRIVACY, AND PROPERTY; AND
- 2454 (I) TRAINING AND CORE COMPETENCY EVALUATION OF HOME MAKING AND
2455 HOUSEKEEPING SKILLS, INCLUDING MAINTENANCE OF A CLEAN, SAFE, AND
2456 HEALTHY ENVIRONMENT AND THE APPROPRIATE AND SAFE TECHNIQUES
2457 FOR EACH ASSIGNED TASK TO BE CONDUCTED BEFORE COMPLETION OF
2458 INITIAL TRAINING.
- 2459 (2) THE HCA SHALL PROVIDE ORIENTATION FOR ALL PERSONNEL UPON HIRE THAT
2460 INCLUDES, BUT IS NOT LIMITED TO, HCA POLICIES AND PROCEDURES AND
2461 EMERGENCY RESPONSE POLICIES AND EMERGENCY CONTACT NUMBERS FOR THE
2462 HCA AND FOR THE INDIVIDUAL CONSUMER(S) ASSIGNED.
- 2463 (3) THE HCA SHALL ENSURE THAT ONGOING TRAINING OF HOME MAKERS OCCURS AND
2464 SHALL CONSIST OF AT LEAST FOUR (4) TRAINING TOPICS OUTLINED IN PART
2465 7.3(C)(1) ABOVE EVERY TWELVE (12) MONTHS AFTER THE STARTING DATE OF
2466 EMPLOYMENT OR CALENDAR YEAR AS DESIGNATED BY HCA POLICY. THE TRAINING
2467 REQUIREMENT SHALL BE PRORATED IN ACCORDANCE WITH THE NUMBER OF MONTHS
2468 THE EMPLOYEE WAS ACTIVELY WORKING FOR THE HCA.
- 2469 (D) HOME MAKERS SHALL PROVIDE SERVICES IN ACCORDANCE WITH THE POLICIES AND
2470 REQUIREMENTS OF THE HCA AS WELL AS THE SERVICE ARRANGEMENTS SPELLED OUT IN
2471 THE SERVICE PLAN.
- 2472 (E) THE DUTIES OF A HOME MAKER SHALL INCLUDE THE FOLLOWING:
- 2473 (1) REPORTING ANY OBSERVED ENVIRONMENTAL CONCERNS OR CHANGES IN THE
2474 CONSUMER'S STATUS THAT MAY IMPACT THE SAFETY AND SECURITY OF THE
2475 CONSUMER TO THE HCA.
- 2476 (2) COMPLETION OF APPROPRIATE SERVICE NOTES REGARDING SERVICE PROVISION OF
2477 EACH VISIT, TO INCLUDE CONFIRMATION OF SERVICES PROVIDED AND THE DATE AND

Commented [BM155]: Modified from CNA training

2478 TIME IN AND OUT. SUCH CONFIRMATION SHALL ALSO BE ACCORDING TO HCA
2479 POLICY.

2480 (F) THE DUTIES OF A HOMEMAKER MAY INCLUDE THE FOLLOWING:

2481 (1) ROUTINE LIGHT HOUSE CLEANING, MEAL PREPARATION, DISHWASHING, AND BED
2482 MAKING. HOMEMAKERS MAY ALSO ASSIST IN TEACHING THESE TASKS TO THE
2483 CONSUMER.

2484 (A) WHERE MEAL PREPARATION IS PROVIDED IN ACCORDANCE WITH THE
2485 SERVICE CONTRACT, THE HOMEMAKER SHOULD RECEIVE INSTRUCTION
2486 REGARDING ANY SPECIAL DIETS REQUIRED TO BE PREPARED.

2487 (2) ASSISTANCE IN COMPLETING ACTIVITIES OUTSIDE THE HOME, SUCH AS SHOPPING
2488 AND LAUNDRY.

2489 (3) COMPANIONSHIP, INCLUDING BUT NOT LIMITED TO, SOCIAL INTERACTION,
2490 CONVERSATION, EMOTIONAL REASSURANCE, ENCOURAGEMENT OF READING,
2491 WRITING, AND ACTIVITIES THAT STIMULATE THE MIND.

2492 8.57.4 Personal eCare wWorker

2493 (A) A PERSONAL CARE WORKER MUST MEET ALL REQUIREMENTS IN PART 7.3, HOMEMAKER, IN
2494 ADDITION TO THE SPECIFIC REQUIREMENTS FOR PERSONAL CARE WORKERS OUTLINED
2495 BELOW, PRIOR TO PROVIDING SERVICES INDEPENDENTLY.

2496 (B) A PERSONAL CARE WORKER MUST COMPLETE TRAINING AS SPECIFIED IN PART 7.4(C),
2497 PERSONAL CARE WORKER TRAINING, AND PASS A COMPETENCY EVALUATION AND SKILLS
2498 VALIDATION PRIOR TO PROVIDING CARE TO A CONSUMER.

2499 (A) ~~A personal care worker shall have completed agency training or have verified experience~~
2500 ~~in the provision of home care tasks to consumers and passed a competency evaluation.~~

2501 (B) ~~Personal care service employees shall provide services in accordance with the policies~~
2502 ~~and requirements of the agency as well as the service arrangements spelled out in the~~
2503 ~~service plan.~~

2504 (C) PERSONAL CARE WORKER TRAINING

2505 (1) INITIAL TRAINING SHALL INCLUDE THE TOPICS IDENTIFIED IN HOMEMAKER TRAINING AT
2506 PART 7.3(C)(1), IN ADDITION TO THE FOLLOWING:

2507 (A) THE DIFFERENCES IN PERSONAL CARE, NURSE AIDE CARE, AND HEALTH CARE
2508 IN THE HOME INCLUDING LIMITING FACTORS FOR THE PROVISION OF PERSONAL
2509 CARE AS SPECIFIED IN PART 7.4(E) BELOW;

2510 (B) OBSERVATION, REPORTING, AND DOCUMENTATION OF CONSUMER STATUS AND
2511 THE SERVICE(S) FURNISHED;

2512 (C) NON-MEDICAL ASSISTANCE WITH ACTIVITIES OF DAILY LIVING, INCLUDING
2513 BATHING, SKIN CARE, HAIR CARE, NAIL CARE, MOUTH CARE, SHAVING,
2514 DRESSING, FEEDING, ASSISTANCE WITH AMBULATION, EXERCISES AND
2515 TRANSFERS, POSITIONING, BLADDER CARE, BOWEL CARE, AND PROTECTIVE
2516 OVERSIGHT;

Commented [BM156]: Language moved up from PCW tasks

Commented [BM157]: Mimicking Homemaker language

Commented [BM158]: Reorganized this section, moved up from below. Not new language.

- 2517 (D) MEDICATION REMINDERS; AND
- 2518 (E) PERFORMANCE OF THE ABILITY TO ASSIST IN THE USE OF SPECIFIC ADAPTIVE
- 2519 EQUIPMENT IF THE WORKER WILL BE ASSISTING CONSUMERS WHO USE THE
- 2520 DEVICE.
- 2521 (2) THE HCA SHALL PROVIDE ORIENTATION FOR ALL PERSONNEL UPON HIRE THAT
- 2522 INCLUDES, BUT IS NOT LIMITED TO, TOPICS IDENTIFIED IN HOMEMAKER ORIENTATION AT
- 2523 7.3(C)(2) AND A DESCRIPTION OF THE SERVICES PROVIDED BY THE HCA.
- 2524 (3) ~~THE~~ HCA IS RESPONSIBLE FOR ENSURING THAT THE INDIVIDUALS WHO FURNISH
- 2525 PERSONAL CARE SERVICES ON ITS BEHALF ARE COMPETENT TO CARRY OUT ALL
- 2526 ASSIGNED TASKS IN THE CONSUMER'S PLACE OF RESIDENCE.
- 2527 (A) PRIOR TO ASSIGNMENT, THE HCA MANAGER OR SUPERVISOR SHALL CONDUCT
- 2528 A PROOF OF COMPETENCY EVALUATION INVOLVING THE TASKS LISTED IN PART
- 2529 7.4(C)(1)(C), (D), AND (E), ALONG WITH ANY OTHER TASKS THAT REQUIRE
- 2530 SPECIFIC HANDS-ON APPLICATION.
- 2531 (4) THE HCA SHALL ENSURE THAT ONGOING SUPERVISORY AND DIRECT CARE STAFF
- 2532 TRAINING OCCURS AND SHALL CONSIST OF AT LEAST SIX (6) TOPICS EVERY TWELVE (12)
- 2533 MONTHS AFTER THE STARTING DATE OF EMPLOYMENT OR CALENDAR YEAR AS
- 2534 DESIGNATED BY HCA POLICY. THE TRAINING REQUIREMENT SHALL BE PRORATED IN
- 2535 ACCORDANCE WITH THE NUMBER OF MONTHS THE EMPLOYEE WAS ACTIVELY WORKING
- 2536 FOR THE HCA. TRAINING SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING
- 2537 ITEMS:
- 2538 (A) BEHAVIOR MANAGEMENT TECHNIQUES AND THE PROMOTION OF CONSUMER
- 2539 DIGNITY, INDEPENDENCE, SELF-DETERMINATION, PRIVACY, CHOICE AND
- 2540 RIGHTS; INCLUDING ABUSE AND NEGLECT PREVENTION AND REPORTING
- 2541 REQUIREMENTS.
- 2542 (B) DISASTER AND EMERGENCY PROCEDURES.
- 2543 (C) INFECTION CONTROL USING UNIVERSAL PRECAUTIONS.
- 2544 (D) BASIC FIRST AID AND HOME SAFETY.
- 2545 (D) THE DUTIES OF A PERSONAL CARE WORKER SHALL INCLUDE ALL DUTIES OUTLINED IN
- 2546 HOMEMAKER DUTIES AT PART 7.3(E), IN ADDITION TO THE FOLLOWING:
- 2547 (1) OBSERVATION AND MAINTENANCE OF THE HOME ENVIRONMENT IN ACCORDANCE WITH
- 2548 THE SERVICE PLAN THAT ENSURES THE SAFETY AND SECURITY OF THE CONSUMER.
- 2549 (2) REPORTING ANY OBSERVED OR STATED CHANGES IN THE CONSUMER'S PHYSICAL,
- 2550 COGNITIVE, AND/OR DEVELOPMENTAL ~~STATUS~~.
- 2551 (GE) The duties of personal care worker may include ALL DUTIES OUTLINED IN HOMEMAKER
- 2552 DUTIES AT PART 7.3(F), IN ADDITION TO the following:
- 2553 (1) ~~Observation and maintenance of the home environment that ensures the safety~~
- 2554 ~~and security of the consumer.~~
- 2555 (2) ~~Assistance with household chores including cooking and meal preparation,~~
- 2556 ~~cleaning, and laundry.~~

Commented [BM159]: Existing language

Commented [BM160]: Existing language

Commented [BM161]: Added this duty in PCW after discussing what to do if a consumer is being served by a Class B agency and the consumer's needs change so that they need to be serviced by a Class A agency.

Commented [BM162]: Moved to required duties above

2557 (3) Assistance in completing activities such as shopping, and appointments outside
2558 the home.

2559 (4) Companionship including, but not limited to, social interaction, conversation,
2560 emotional reassurance, encouragement of reading, writing and activities that
2561 stimulate the mind.

Commented [BM163]: In homemaker

2562 (51) Assistance with NON-MEDICAL activities of daily living, personal care, and any
2563 other assignments as included in the service plan.

2564 (6) Completion of appropriate service notes regarding service provision each visit.
2565 Documentation shall contain services provided, date and time in and out, and a
2566 confirmation that care was provided. Such confirmation shall be according to
2567 agency policy.

Commented [BM164]: In homemaker

2568 (F) PERSONAL CARE WORKER TASKS

2569 (A1) THE PURPOSE OF THIS PART IS in order to delineate the types of services that can
2570 be provided by a personal care worker. The following are examples of limitations
2571 where skilled home health care would be needed to meet higher needs of the
2572 consumer.

Commented [BM165]: This entire section is not new language, but broken out into bullets below to make for easier reading.

2573 (4A) Skin care. A personal care worker may perform general skin care
2574 assistance. A personal care worker may perform skin care only when
2575 skin is unbroken, and when any chronic skin problems are not active.
2576 The skin care provided by a personal care worker shall be preventative
2577 rather than therapeutic in nature and may include the application of non-
2578 medicated lotions and solutions, or of lotions and solutions not requiring
2579 a physician's prescription. Skilled skin care includes wound care other
2580 than basic first aid, dressing changes, application of prescription
2581 medications, skilled observation, and reporting. Skilled skin care should
2582 be provided by an agency licensed to provide home health services.

2583 (i) A PERSONAL CARE WORKER MAY PERFORM GENERAL SKIN CARE
2584 ASSISTANCE.

2585 (ii) A PERSONAL CARE WORKER MAY PERFORM SKIN CARE ONLY WHEN
2586 SKIN IS UNBROKEN, AND WHEN ANY CHRONIC SKIN PROBLEMS ARE
2587 NOT ACTIVE.

2588 (iii) THE SKIN CARE PROVIDED BY A PERSONAL CARE WORKER SHALL BE
2589 PREVENTATIVE RATHER THAN THERAPEUTIC IN NATURE AND MAY
2590 INCLUDE THE APPLICATION OF NON-MEDICATED LOTIONS AND
2591 SOLUTIONS, OR OF LOTIONS AND SOLUTIONS NOT REQUIRING A
2592 PHYSICIAN'S PRESCRIPTION.

2593 (iv) SKILLED SKIN CARE INCLUDES WOUND CARE OTHER THAN BASIC FIRST
2594 AID, DRESSING CHANGES, APPLICATION OF PRESCRIPTION
2595 MEDICATIONS, SKILLED OBSERVATION, AND REPORTING. SKILLED SKIN
2596 CARE SHOULD BE PROVIDED BY AN HCA LICENSED TO PROVIDE
2597 SKILLED HOME HEALTH SERVICES.

2598 (2B) Ambulation. A personal care worker may generally assist consumers
2599 with ambulation who have the ability to balance and bear weight. If the
2600 consumer has been determined by a health professional to be

- 2601 independent with an assistive device, a personal services worker may be
2602 assigned to assist with ambulation.
- 2603 (I) A PERSONAL CARE WORKER MAY GENERALLY ASSIST CONSUMERS
2604 WITH AMBULATION IF THEY HAVE THE ABILITY TO BALANCE AND BEAR
2605 WEIGHT.
- 2606 (II) IF THE HEALTH PROFESSIONAL HAS DETERMINED THAT THE
2607 CONSUMER IS INDEPENDENT WITH AN ASSISTIVE DEVICE, A PERSONAL
2608 SERVICES WORKER MAY BE ASSIGNED TO ASSIST WITH AMBULATION.
- 2609 (3C) Bathing. A personal care worker may assist consumers with bathing.
2610 When a consumer has skilled skin care needs or skilled dressings that
2611 will need attention before, during or after bathing, the consumer should
2612 be in the care of an agency licensed to provide home health services.
- 2613 (I) A PERSONAL CARE WORKER MAY ASSIST CONSUMERS WITH BATHING
2614 ONLY IF THEY HAVE THE ABILITY TO BALANCE AND BEAR WEIGHT,
2615 EXCEPT WHEN A TRANSFER INVOLVES A LIFT DEVICE AS DESCRIBED IN
2616 PART 7.4(F)(1)(M)(IV).
- 2617 (II) WHEN A CONSUMER HAS SKILLED SKIN CARE NEEDS OR SKILLED
2618 DRESSINGS THAT WILL NEED ATTENTION BEFORE, DURING, OR AFTER
2619 BATHING, THE CONSUMER SHOULD BE IN THE CARE OF AN HCA
2620 LICENSED TO PROVIDE SKILLED HOME HEALTH SERVICES FOR THOSE
2621 NEEDS.
- 2622 (4D) Dressing. A personal care worker may assist a consumer with dressing.
2623 This may include assistance with ordinary clothing and application of
2624 support stockings of the type that can be purchased without a physician's
2625 prescription. A personal care worker shall not assist with application of
2626 an ace bandage and anti-embolic or pressure stockings that can be
2627 purchased only with a physician's prescription.
- 2628 (I) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH
2629 DRESSING. THIS MAY INCLUDE ASSISTANCE WITH ORDINARY CLOTHING
2630 AND APPLICATION OF SUPPORT STOCKINGS, INCLUDING ACE
2631 BANDAGES AND ANTI-EMBOLIC OR PRESSURE STOCKINGS THAT CAN
2632 BE PURCHASED WITHOUT A PHYSICIAN'S PRESCRIPTION.
- 2633 (II) A PERSONAL CARE WORKER THAT ASSISTS A CONSUMER WITH
2634 APPLICATION OF ANY SUPPORT STOCKING MUST RECEIVE TRAINING
2635 FROM A QUALIFIED INDIVIDUAL IN THE STOCKING'S PROPER
2636 APPLICATION. PRIOR TO APPLICATION AND ON AN ANNUAL BASIS, THE
2637 QUALIFIED INDIVIDUAL SHALL CONDUCT A PROOF OF COMPETENCY
2638 EVALUATION IN THE CORRECT APPLICATION OF SUPPORT STOCKINGS.
- 2639 (5E) Exercise. A personal care worker may assist a consumer with exercise.
2640 However, this does not include assistance with a plan of exercise
2641 prescribed by a licensed health care professional. A worker may remind
2642 the consumer to perform ordered exercise program. Assistance with
2643 exercise that can be performed by a personal care worker is limited to
2644 the encouragement of normal bodily movement, as tolerated, on the part
2645 of the consumer and encouragement with a prescribed exercise

Commented [BM166]: Clarify our interpretation around skilled skin care in guidance

2646 program. A personal care worker shall not perform passive range of
2647 motion.

2648 (i) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH
2649 EXERCISE. HOWEVER, THIS DOES NOT INCLUDE ASSISTANCE WITH A
2650 PLAN OF EXERCISE PRESCRIBED BY A LICENSED HEALTH CARE
2651 PROFESSIONAL.

2652 (ii) A PERSONAL CARE WORKER MAY REMIND THE CONSUMER TO
2653 PERFORM ORDERED EXERCISE. ASSISTANCE WITH EXERCISE THAT
2654 CAN BE PERFORMED BY A PERSONAL CARE WORKER IS LIMITED TO THE
2655 ENCOURAGEMENT OF NORMAL BODILY MOVEMENT, AS TOLERATED, ON
2656 THE PART OF THE CONSUMER AND ENCOURAGEMENT WITH A
2657 PRESCRIBED EXERCISE PROGRAM.

2658 (iii) A PERSONAL CARE WORKER SHALL NOT PERFORM PASSIVE RANGE OF
2659 MOTION.

2660 (6F) ~~Feeding. Assistance with feeding may generally be performed by a~~
2661 ~~personal service worker. Personal care workers can assist consumers~~
2662 ~~with feeding when the consumer can independently chew and swallow~~
2663 ~~without difficulty and be positioned upright. Unless otherwise allowed by~~
2664 ~~statute, assistance by a personal care worker does not include syringe,~~
2665 ~~tube feedings and intravenous nutrition. Whenever there is a high risk~~
2666 ~~that the consumer may choke as a result of the feeding the consumer~~
2667 ~~should be in the care of an agency licensed to provide home health~~
2668 ~~services.~~

2669 (i) ASSISTANCE WITH FEEDING MAY GENERALLY BE PERFORMED BY A
2670 PERSONAL SERVICE WORKER.

2671 (ii) PERSONAL CARE WORKERS CAN ASSIST CONSUMERS WITH FEEDING
2672 WHEN THE CONSUMER CAN INDEPENDENTLY CHEW AND SWALLOW
2673 WITHOUT DIFFICULTY AND BE POSITIONED UPRIGHT.

2674 (iii) UNLESS OTHERWISE ALLOWED BY STATUTE, ASSISTANCE BY A
2675 PERSONAL CARE WORKER DOES NOT INCLUDE SYRINGE, TUBE
2676 FEEDINGS, AND INTRAVENOUS NUTRITION. WHENEVER THERE IS A
2677 HIGH RISK THAT THE CONSUMER MAY CHOKES AS A RESULT OF THE
2678 FEEDING, THE CONSUMER SHOULD BE IN THE CARE OF AN HCA
2679 LICENSED TO PROVIDE SKILLED HOME HEALTH SERVICES.

2680 (7G) ~~Hair care. As a part of the broader set of services provided to consumers~~
2681 ~~who are receiving personal services, personal care workers may assist~~
2682 ~~consumers with the maintenance and appearance of their hair. Hair care~~
2683 ~~within these limitations may include shampooing with non-medicated~~
2684 ~~shampoo or shampoo that does not require a physician's prescription,~~
2685 ~~drying, combing and styling of hair.~~

2686 (i) AS A PART OF THE BROADER SET OF SERVICES PROVIDED TO
2687 CONSUMERS WHO ARE RECEIVING PERSONAL SERVICES, PERSONAL
2688 CARE WORKERS MAY ASSIST CONSUMERS WITH THE MAINTENANCE
2689 AND APPEARANCE OF THEIR HAIR.

- 2690 (ii) HAIR CARE MAY INCLUDE SHAMPOOING, DRYING, COMBING, AND
 2691 STYLING OF HAIR. MEDICATED SHAMPOO OR SHAMPOO THAT
 2692 REQUIRES A PHYSICIAN'S PRESCRIPTION MAY NOT BE USED.
- 2693 (iii) OVER-THE-COUNTER MEDICATED SHAMPOOS MAY BE USED AS PART
 2694 OF THE BROADER SET OF SERVICES PROVIDED TO THE CONSUMER, IF
 2695 THE PERSONAL CARE WORKER HAS BEEN TRAINED BY THE AGENCY IN
 2696 THE PROPER USE OF THE PRODUCT. PRIOR TO APPLICATION AND ON
 2697 AN ANNUAL BASIS, A QUALIFIED INDIVIDUAL SHALL CONDUCT A PROOF
 2698 OF COMPETENCY EVALUATION IN THE CORRECT USE OF THESE
 2699 PRODUCTS.
- 2700 (8H) Mouth care. A personal care worker may assist and perform mouth care.
 2701 This may include denture care and basic oral hygiene. Mouth care for
 2702 consumers who are unconscious, have difficulty swallowing or are at risk
 2703 for choking and aspiration should be performed by an agency licensed to
 2704 provide home health services.
- 2705 (i) A PERSONAL CARE WORKER MAY ASSIST AND PERFORM MOUTH CARE.
 2706 THIS MAY INCLUDE DENTURE CARE AND BASIC ORAL HYGIENE.
- 2707 (ii) MOUTH CARE FOR CONSUMERS WHO ARE UNCONSCIOUS, HAVE
 2708 DIFFICULTY SWALLOWING, OR ARE AT RISK FOR CHOKING AND
 2709 ASPIRATION SHOULD BE PERFORMED BY AN HCA LICENSED TO
 2710 PROVIDE SKILLED HOME HEALTH SERVICES.
- 2711 (9I) Nail care. A personal care worker may assist generally with nail care.
 2712 This assistance may include soaking of nails, pushing back cuticles
 2713 without utensils, and filing of nails. Assistance by a personal care worker
 2714 shall not include nail trimming. Consumers with a medical condition that
 2715 might involve peripheral circulatory problems or loss of sensation should
 2716 be under the care of an agency licensed to provide home health services
 2717 to meet this need.
- 2718 (i) A PERSONAL CARE WORKER MAY ASSIST GENERALLY WITH NAIL CARE.
 2719 THIS ASSISTANCE MAY INCLUDE SOAKING OF NAILS, PUSHING BACK
 2720 CUTICLES WITHOUT UTENSILS, AND FILING OF NAILS.
- 2721 (ii) ASSISTANCE BY A PERSONAL CARE WORKER SHALL NOT INCLUDE NAIL
 2722 TRIMMING.
- 2723 (iii) CONSUMERS WITH A MEDICAL CONDITION THAT MIGHT INVOLVE
 2724 PERIPHERAL CIRCULATORY PROBLEMS OR LOSS OF SENSATION
 2725 SHOULD BE UNDER THE CARE OF AN HCA LICENSED TO PROVIDE
 2726 SKILLED HOME HEALTH SERVICES.
- 2727 (10J) Positioning. A personal care worker may assist a consumer with
 2728 positioning when the consumer is able to identify to the personal care
 2729 staff, verbally, non-verbally or through others, when the positions needs
 2730 to be changed and only when skilled skin care, as previously described,
 2731 is not required in conjunction with the positions. Positioning may include
 2732 simple alignment in a bed, wheelchair, or other furniture.
- 2733 (i) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH
 2734 POSITIONING WHEN THE CONSUMER IS ABLE TO IDENTIFY TO THE

Commented [BM167]: New language to make more inclusive.
 Also create technical guidance on cultural competency around hair
 care and nuances (lice shampoo)

- 2735 PERSONAL CARE STAFF, VERBALLY, NON-VERBALLY, OR THROUGH
2736 OTHERS, WHEN THE POSITIONS NEEDS TO BE CHANGED.
- 2737 (II) POSITIONING SHALL NOT EXCEED SIMPLE ALIGNMENT IN A BED,
2738 WHEELCHAIR, OR OTHER FURNITURE.
- 2739 (III) A PERSONAL CARE WORKER MAY ASSIST A SKILLED HOME HEALTH
2740 WORKER WITH A CONSUMER'S POSITIONING WHEN ANY POSITION
2741 CHANGE ADDRESSES SKILLED SKIN CARE CONCERNS, AS DEFINED AT
2742 PART 7.4(F)(1)(A)(IV). A PERSONAL CARE WORKER MAY NOT BE
2743 ASSIGNED TO OR INDEPENDENTLY PERFORM THIS FUNCTION.
- 2744 (14K) Shaving- A personal care worker may assist a consumer with shaving
2745 only with an electric or a safety razor.
- 2746 (I) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER WITH SHAVING
2747 ONLY WITH AN ELECTRIC OR A SAFETY RAZOR.
- 2748 (14L) Toileting- A personal care worker may assist a consumer to and from the
2749 bathroom, provide assistance with bedpans, urinals and commodes;
2750 pericare, or changing of clothing and pads of any kind used for the care
2751 of incontinence.
- 2752 (I) A PERSONAL CARE WORKER MAY ASSIST A CONSUMER TO AND FROM
2753 THE BATHROOM, PROVIDE ASSISTANCE WITH BEDPANS, URINALS, AND
2754 COMMODOES; PERICARE, OR CHANGING OF CLOTHING AND PADS OF
2755 ANY KIND USED FOR THE CARE OF INCONTINENCE.
- 2756 (II) A PERSONAL CARE WORKER MAY EMPTY URINARY COLLECTION
2757 DEVICES, SUCH AS CATHETER BAGS. IN ALL CASES, THE INSERTION
2758 AND REMOVAL OF CATHETERS AND CARE OF EXTERNAL CATHETERS IS
2759 CONSIDERED SKILLED CARE AND SHALL NOT BE PERFORMED BY A
2760 PERSONAL CARE WORKER.
- 2761 (III) A PERSONAL CARE WORKER MAY EMPTY OSTOMY BAGS AND PROVIDE
2762 ASSISTANCE WITH OTHER CONSUMER-DIRECTED OSTOMY CARE ONLY
2763 WHEN THERE IS NO NEED FOR SKILLED SKIN CARE OR FOR
2764 OBSERVATION OR REPORTING TO A NURSE. A PERSONAL CARE
2765 WORKER SHALL NOT PERFORM DIGITAL STIMULATION, INSERT
2766 SUPPOSITORIES, OR GIVE AN ENEMA.
- 2767 (13) A personal care worker may empty urinary collection devices, such as
2768 catheter bags. In all cases, the insertion and removal of catheters and
2769 care of external catheters is considered skilled care and shall not be
2770 performed by a personal care worker.
- 2771 (14) A personal care worker may empty ostomy bags and provide assistance
2772 with other consumer-directed ostomy care only when there is no need for
2773 skilled skin care or for observation or reporting to a nurse. A personal
2774 care worker shall not perform digital stimulation, insert suppositories or
2775 give an enema.
- 2776 (15M) Transfers- A personal care worker may assist with transfers only when
2777 the consumer has sufficient balance and strength to reliably stand and
2778 pivot and assist with the transfer to some extent. Adaptive and safety

Commented [BM168]: (ii) and (iii) were their own bullets (below). Moved under toileting.

2779 equipment may be used in transfers, provided that the consumer and
 2780 personal care worker are fully trained in the use of the equipment and
 2781 the consumer, consumer's family member or guardian can direct the
 2782 transfer step by step. Adaptive equipment may include, but is not limited
 2783 to wheel chairs, tub seats and grab bars. Gait belts may be used in a
 2784 transfer as a safety device for the personal care worker as long as the
 2785 worker has been properly trained in its use.

2786 (i) A PERSONAL CARE WORKER MAY ASSIST WITH TRANSFERS ONLY
 2787 WHEN THE CONSUMER HAS SUFFICIENT BALANCE AND STRENGTH TO
 2788 RELIABLY STAND AND PIVOT AND ASSIST WITH THE TRANSFER TO
 2789 SOME EXTENT.

2790 (ii) ADAPTIVE AND SAFETY EQUIPMENT MAY BE USED IN TRANSFERS,
 2791 PROVIDED THAT THE CONSUMER AND PERSONAL CARE WORKER ARE
 2792 FULLY TRAINED IN THE USE OF THE EQUIPMENT, AND THE CONSUMER,
 2793 CONSUMER'S FAMILY MEMBER, OR GUARDIAN CAN DIRECT THE
 2794 TRANSFER STEP BY STEP. ADAPTIVE EQUIPMENT MAY INCLUDE, BUT IS
 2795 NOT LIMITED TO, WHEEL CHAIRS, TUB SEATS, AND GRAB BARS.

2796 (iii) GAIT BELTS MAY BE USED IN A TRANSFER AS A SAFETY DEVICE FOR
 2797 THE PERSONAL CARE WORKER AS LONG AS THE WORKER HAS BEEN
 2798 PROPERLY TRAINED IN ITS USE AND AS LONG AS THE CONSUMER IS
 2799 ABLE TO ASSIST WITH THE TRANSFER.

2800 (aiv) A personal care worker shall not perform assistance with
 2801 transfers when the consumer is unable to assist with the transfer.
 2802 Personal care workers, with training and demonstrated
 2803 competency, may assist a consumer in a transfer involving a lift
 2804 device.

2805 (bv) A personal care worker may assist the informal caregiver with
 2806 transferring the consumer provided the consumer is able to
 2807 direct and assist with the transfer.

2808 (16N) Medication Assistance. THE FOLLOWING REQUIREMENTS APPLY TO ALL
 2809 PRESCRIPTION AND ALL OVER-THE-COUNTER MEDICATIONS. Unless otherwise
 2810 allowed by statute, a personal care worker may assist a consumer with
 2811 medication only when the medications have been pre-selected by the
 2812 consumer, a family member, a nurse, or a pharmacist, and are stored in
 2813 containers other than the prescription bottles, such as medication
 2814 minders. Medication minder containers shall be clearly marked as to day
 2815 and time of dosage and reminding includes: inquiries as to whether
 2816 medications were taken; verbal prompting to take medications; handing
 2817 the appropriately marked medication minder container to the consumer;
 2818 and, opening the appropriately marked medication minder container for
 2819 the consumer if the consumer is physically unable to open the container.
 2820 These limitations apply to all prescription and all over-the-counter
 2821 medications. Any irregularities noted in the pre-selected medications
 2822 such as medications taken too often, not often enough or not at the
 2823 correct time as marked in the medication minder container, shall be
 2824 reported immediately by the personal care worker to the supervisor.

2825 (i) UNLESS OTHERWISE ALLOWED BY STATUTE, A PERSONAL CARE
 2826 WORKER MAY ASSIST A CONSUMER WITH MEDICATION ONLY WHEN THE
 2827 MEDICATIONS HAVE BEEN PRE-SELECTED BY THE CONSUMER, A

2828 FAMILY MEMBER, A NURSE, OR A PHARMACIST, AND ARE STORED IN
 2829 CONTAINERS OTHER THAN THE PRESCRIPTION BOTTLES, SUCH AS
 2830 MEDICATION MINDERS.

2831 (II) MEDICATION MINDER CONTAINERS SHALL BE CLEARLY MARKED AS TO
 2832 DAY AND TIME OF DOSAGE AND REMINDING INCLUDES: INQUIRIES AS
 2833 TO WHETHER MEDICATIONS WERE TAKEN; VERBAL PROMPTING TO
 2834 TAKE MEDICATIONS; HANDING THE APPROPRIATELY MARKED
 2835 MEDICATION MINDER CONTAINER TO THE CONSUMER; AND, OPENING
 2836 THE APPROPRIATELY MARKED MEDICATION MINDER CONTAINER FOR
 2837 THE CONSUMER IF THE CONSUMER IS PHYSICALLY UNABLE TO OPEN
 2838 THE CONTAINER.

2839 (III) ANY IRREGULARITIES NOTED IN THE PRE-SELECTED MEDICATIONS
 2840 SUCH AS MEDICATIONS TAKEN TOO OFTEN, NOT OFTEN ENOUGH, OR
 2841 NOT AT THE CORRECT TIME AS MARKED IN THE MEDICATION MINDER
 2842 CONTAINER, SHALL BE REPORTED IMMEDIATELY BY THE PERSONAL
 2843 CARE WORKER TO THE SUPERVISOR.

2844 (17O) ~~RESPIRATORY CARE. Respiratory care is considered skilled care and shall~~
 2845 ~~not be performed by a personal care worker. Respiratory care includes~~
 2846 ~~postural drainage, cupping, adjusting oxygen flow within established~~
 2847 ~~parameters, nasal, endotracheal and tracheal suctioning.~~

2848 (I) ~~RESPIRATORY CARE IS CONSIDERED SKILLED CARE AND SHALL NOT BE~~
 2849 ~~PERFORMED BY A PERSONAL CARE WORKER. RESPIRATORY CARE~~
 2850 ~~INCLUDES POSTURAL DRAINAGE, CUPPING, ADJUSTING OXYGEN FLOW~~
 2851 ~~WITHIN ESTABLISHED PARAMETERS, NASAL, ENDOTRACHEAL, AND~~
 2852 ~~TRACHEAL SUCTIONING.~~

2853 (aII) Personal care workers may temporarily remove and replace a
 2854 cannula or mask from the consumer's face for the purposes of
 2855 shaving and/or washing a consumer's face.

2856 (bIII) Personal care workers may set a consumer's oxygen flow
 2857 according to written instruction when changing tanks, provided
 2858 the personal care worker has been specifically trained and
 2859 demonstrated competency for this task.

2860 (18P) ~~Accompaniment. Accompanying the consumer to medical appointments,~~
 2861 ~~banking errands, basic household errands, clothes shopping, grocery~~
 2862 ~~shopping or other excursions to the extent necessary and as specified on~~
 2863 ~~the service plan may be performed by the personal care worker when all~~
 2864 ~~the care that is provided by the personal care staff in relation to the trip is~~
 2865 ~~unskilled personal care, as described in these regulations.~~

2866 (I) ~~ACCOMPANYING THE CONSUMER TO MEDICAL APPOINTMENTS,~~
 2867 ~~BANKING ERRANDS, BASIC HOUSEHOLD ERRANDS, CLOTHES~~
 2868 ~~SHOPPING, GROCERY SHOPPING, OR OTHER EXCURSIONS TO THE~~
 2869 ~~EXTENT NECESSARY AND AS SPECIFIED ON THE SERVICE PLAN MAY BE~~
 2870 ~~PERFORMED BY THE PERSONAL CARE WORKER WHEN ALL THE CARE~~
 2871 ~~THAT IS PROVIDED BY THE PERSONAL CARE STAFF IN RELATION TO THE~~
 2872 ~~TRIP IS UNSKILLED PERSONAL CARE, AS DESCRIBED IN THESE~~
 2873 ~~REGULATIONS.~~

- 2874 (19Q) Protective oversight. A personal care worker may provide protective
 2875 oversight including stand-by assistance with any personal care task
 2876 described in these regulations. When the consumer requires protective
 2877 oversight to prevent wandering, the personal care worker shall have
 2878 been trained in appropriate intervention and redirection techniques.
- 2879 (I) A PERSONAL CARE WORKER MAY PROVIDE PROTECTIVE OVERSIGHT
 2880 INCLUDING STAND-BY ASSISTANCE WITH ANY PERSONAL CARE TASK
 2881 DESCRIBED IN THESE REGULATIONS.
- 2882 (II) WHEN THE CONSUMER REQUIRES PROTECTIVE OVERSIGHT TO
 2883 PREVENT WANDERING, THE PERSONAL CARE WORKER SHALL HAVE
 2884 BEEN TRAINED IN APPROPRIATE INTERVENTION AND REDIRECTION
 2885 TECHNIQUES.
- 2886 (20R) Respite care. A personal care worker may provide respite care in the
 2887 consumer's home according to the service plan as long as the necessary
 2888 provision of services during this time does not include skilled home
 2889 health services as defined in section 3.29 of this chapter.
- 2890 (I) A PERSONAL CARE WORKER MAY PROVIDE RESPITE CARE IN THE
 2891 CONSUMER'S HOME ACCORDING TO THE SERVICE PLAN AS LONG AS
 2892 THE NECESSARY PROVISION OF SERVICES DURING THIS TIME DOES
 2893 NOT INCLUDE SKILLED HOME HEALTH SERVICES AS DEFINED IN PART
 2894 2.29 OF THIS CHAPTER.
- 2895 (21) Housekeeping services. A personal care worker may provide
 2896 housekeeping services, such as dusting, vacuuming, mopping, cleaning
 2897 bathroom and kitchen areas, meal preparation, dishwashing, linen
 2898 changes, laundry and shopping in accordance with the service contract.
 2899 Where meal preparation is provided, the personal care worker should
 2900 receive instruction regarding any special diets required to be prepared.
- 2901 (B2) In addition to the exclusions prescribed in the preceding section, the agencyHCA
 2902 shall not allow personal care workers to:
- 2903 (1A) Perform skilled home health services as defined in section 3.29 PART
 2904 2.29 of this chapter;
- 2905 (2B) Perform or provide medication set-up for a consumer; or
- 2906 (3C) Perform other actions specifically prohibited by agencyHCA policy,
 2907 regulations, or law.
- 2908 (F) Supervision of a personal care worker shall:
- 2909 (1) Be performed by a qualified employee of the agencyHCA who is in a designated
 2910 supervisory capacity and available to the worker for questions at all times;
- 2911 (2) Include evaluation of each personal care worker providing services at least
 2912 annually. The evaluation shall include observation of tasks performed and
 2913 relationship with the consumer; and

Commented [BM169]: Stricken here; moved and modified in homemaker duties (Part 7.3(F)(1))

Commented [BM170]: Moved to 7.8 below

2914 (3) Provide on-site supervision at a minimum of every three (3) months and include
 2915 an assessment of consumer satisfaction with services and the personal care
 2916 worker's adherence to the service plan.

2917 (a) For a service agency that provides only Supported Living Services or
 2918 Children's Extensive Support Services through a program approved by
 2919 the Colorado Department of Human Services, the criteria set forth in
 2920 paragraph F(3) shall be accomplished by compliance with 2 CCR 503-1,
 2921 Section 16, Developmental Disabilities Services.

2922 8.6 Personal care worker training

Commented [BM171]: Pared down and moved up to 7.4(C)

2923 (A) All personal care staff shall complete agency orientation before independently providing
 2924 services to consumers. Orientation shall include:

2925 (1) Employee duties and responsibilities;

2926 (2) A description of the services provided by the agency;

2927 (3) The differences in personal care, nurse aide care, and health care in the home
 2928 including limiting factors for the provision of personal care;

2929 (4) Consumer rights including freedom from abuse or neglect, and confidentiality of
 2930 consumer records, personal, financial, and health information;

2931 (5) Hand washing and infection control;

2932 (6) Assignment and supervision of services;

2933 (7) Observation, reporting, and documentation of consumer status and the service
 2934 furnished;

2935 (8) Emergency response policies and emergency contact numbers for the agency
 2936 and for the individual consumer assigned, and

2937 (9) Training and competency evaluation of appropriate and safe techniques in all
 2938 personal care tasks for each assigned task to be conducted before completion of
 2939 initial training.

2940 (B) Training within the first 45 days of employment shall be provided, in addition to
 2941 orientation, which can include self-study courses with demonstration of learned concepts,
 2942 and are applicable to the employee's responsibilities. Initial training shall include, but is
 2943 not limited to:

2944 (1) Communication skills with consumers such as those who have a hearing deficit,
 2945 dementia, or other special needs;

2946 (2) Appropriate training in accordance with the needs of special needs populations
 2947 served by the agency including communication and behavior management
 2948 techniques;

2949 (3) Appropriate and safe techniques in personal care tasks prior to assignment.
 2950 Areas include bathing, skin care, hair care, nail care, mouth care, shaving,
 2951 dressing, feeding, assistance with ambulation, exercises and transfers,

2952 positioning, bladder care, bowel care, medication reminding, homemaking tasks,
2953 and protective oversight;

2954 (4) Recognizing emergencies and knowledge of emergency procedures including
2955 basic first aid, home and fire safety;

2956 (5) The role of, and coordination with, other community service providers; and

2957 (6) Maintenance of a clean, safe and healthy environment, including appropriate
2958 cleaning techniques and sanitary meal preparation.

2959 7.5 TRAINING EXEMPTIONS

2960 (C) Initial orientation or training shall not be required under the following circumstances:

2961 (1) A returning employee IS EXEMPT FROM INITIAL TRAINING IF THEY ARE RETURNING TO
2962 THE SAME HCA WITHIN ONE (1) YEAR OF LEAVING, AND meets all of the following
2963 conditions:

2964 (a) The employee completed the agencyHCA's required training and
2965 competency assessment at the time of initial employment,

2966 (b) The employee successfully completed the agencyHCA's required
2967 competency assessment at the time of rehire or reactivation,

2968 (c) The employee did not have performance issues directly related to
2969 consumer care and services in the prior active period of employment,
2970 and

2971 (d) All orientation, training, and personnel action documentation is retained
2972 in the personnel files.

2973 (2) An employee with proof of current healthcare related licensure or certification is
2974 exempt from initial training in the provision of personal care tasks if such training
2975 is recognized as included in the training for that health discipline. The agency
2976 shall provide orientation and perform a competency evaluation to ensure the
2977 employee is able to appropriately perform all personal care tasks.

2978 (3) An employee moving from one office to another in the same agencyHCA if
2979 previous training is documented and the offices have the same orientation and
2980 training procedures.

2981 (A) EVIDENCE OF COMPLETED INITIAL ORIENTATION AND TRAINING AND
2982 COMPETENCY EVALUATION MUST BE MAINTAINED BY EACH SEPARATELY
2983 LICENSED HCA.

2984 (3) A PERSONAL CARE WORKER WITH PROOF OF CURRENT HEALTHCARE RELATED
2985 LICENSURE OR CERTIFICATION IS EXEMPT FROM INITIAL TRAINING IN THE PROVISION
2986 OF PERSONAL CARE TASKS IF SUCH TRAINING IS RECOGNIZED AS INCLUDED IN THE
2987 TRAINING FOR THAT HEALTH DISCIPLINE. THE HCA SHALL PROVIDE ORIENTATION
2988 AND PERFORM A COMPETENCY EVALUATION TO ENSURE THE PERSONAL CARE
2989 WORKER IS ABLE TO DIFFERENTIATE AND APPROPRIATELY PERFORM ALL PERSONAL
2990 CARE WORKER TASKS.

Commented [BM172]: New requirement. Determined that a time frame was needed.

Commented [BM173]: Moved to (3) below

Commented [BM174]: Not new language. Relevant for personal care worker only

- 2991 (D) — The agency is responsible for ensuring that the individuals who furnish personal care
 2992 services on its behalf are competent to carry out all assigned tasks in the consumer's
 2993 place of residence.
- 2994 (1) — Prior to assignment, the agency manager or supervisor shall conduct a proof of
 2995 competency evaluation involving the tasks listed in this subsection (D)(1), along
 2996 with any other tasks that require specific hands-on application.
- 2997 (a) — Bathing,
- 2998 (b) — Skin care,
- 2999 (c) — Hair care,
- 3000 (d) — Nail care,
- 3001 (e) — Mouth care,
- 3002 (f) — Shaving,
- 3003 (g) — Dressing,
- 3004 (h) — Feeding,
- 3005 (i) — Assistance with ambulation,
- 3006 (j) — Exercise and transfers,
- 3007 (k) — Positioning,
- 3008 (l) — Bladder and bowel care, and
- 3009 (m) — Medication reminding.
- 3010 (2) — Performance of the ability to assist in the use of specific adaptive equipment if
 3011 the worker will be assisting consumers who use the device.
- 3012 (E) — The agency shall ensure that ongoing supervisory and direct care staff training occurs
 3013 and shall consist of at least six (6) topics applicable to the agency's services every 12
 3014 months after the starting date of employment or calendar year as designated by agency
 3015 policy. The training requirement shall be prorated in accordance with the number of
 3016 months the employee was actively working for the agency. Training shall include, but is
 3017 not limited to, the following items:
- 3018 (1) — Behavior management techniques and the promotion of consumer dignity,
 3019 independence, self-determination, privacy, choice and rights; including abuse
 3020 and neglect prevention and reporting requirements.
- 3021 (2) — Disaster and emergency procedures.
- 3022 (3) — Infection control using universal precautions.
- 3023 (4) — Basic first aid and home safety.
- 3024 (F) Training documentation

Commented [BM175]: Modified based on skilled care and moved to 7.6 below

- 3025 (1) ~~All training shall be documented.~~
- 3026 (a) ~~Classroom type training shall be documented with the date of the~~
- 3027 ~~training; starting and ending times; instructors and their qualifications;~~
- 3028 ~~short description of content; and staff member's signature.~~
- 3029 (b) ~~On line or self study training shall be documented with information as to~~
- 3030 ~~the content of the training and the entity that offered or produced the~~
- 3031 ~~training.~~

3032 **7.6 TRAINING, COMPETENCY, AND SKILLS VALIDATION DOCUMENTATION**

- 3033 (A) ALL TRAINING, COMPETENCY, AND SKILLS VALIDATION SHALL BE DOCUMENTED BY THE HCA.
- 3034 (1) DOCUMENTED EVIDENCE OF TRAININGS, COMPETENCY TESTING, AND SKILLS
- 3035 VALIDATION SHALL BE DOCUMENTED WITH THE DATE OF TRAINING; LENGTH OF TRAINING;
- 3036 ENTITY OR INSTRUCTOR(S) THAT OFFERED OR PRODUCED THE TRAINING; A SHORT
- 3037 DESCRIPTION OF THE CONTENT; AND STAFF MEMBER'S WRITTEN OR ELECTRONIC
- 3038 SIGNATURE OR PROOF OF ATTENDANCE.
- 3039 (2) THE HCA SHALL MAINTAIN EVIDENCE OF TRAINING, COMPETENCY TESTING, SKILLS
- 3040 VALIDATION, AND RELATED CERTIFICATES ALONG WITH PROOF OF COMPLETION IN EACH
- 3041 INDIVIDUAL'S PERSONNEL FILE.

3042 **7.7 ~~SUPERVISOR~~ OF HOMEMAKERS AND PERSONAL CARE WORKERS**

Commented [BM176]: Existing language

- 3043 (A) THE SUPERVISOR SHALL:
- 3044 (1) BE AT LEAST EIGHTEEN (18) YEARS OF AGE,
- 3045 (2) HAVE APPROPRIATE EXPERIENCE OR TRAINING IN THE HOME CARE INDUSTRY OR
- 3046 CLOSELY RELATED PERSONAL CARE SERVICES IN ACCORDANCE WITH HCA POLICY, AND
- 3047 (3) HAVE COMPLETED TRAINING IN THE PROVISION OF PERSONAL CARE SERVICES.

3048 **7.8 SUPERVISION OF HOMEMAKERS AND PERSONAL CARE WORKERS**

- 3049 (A) SUPERVISION OF A HOMEMAKER OR PERSONAL CARE WORKER ~~SHALL~~:
- 3050 (1) BE PERFORMED BY AN EMPLOYEE OF THE HCA QUALIFIED AS A SUPERVISOR UNDER
- 3051 PART 7.7, WHO IS IN A DESIGNATED SUPERVISORY CAPACITY AND AVAILABLE TO THE
- 3052 WORKER AT ALL TIMES CARE AND SERVICES ARE BEING PROVIDED;
- 3053 (2) OCCUR AT A MINIMUM OF EVERY THREE (3) MONTHS WHICH MUST INCLUDE AN
- 3054 ASSESSMENT OF CONSUMER SATISFACTION WITH SERVICES AND THE WORKER'S
- 3055 COMPETENCE AND ADHERENCE TO THE SERVICE ~~PLAN~~.
- 3056 (A) SUPERVISION SHALL BE CONDUCTED EITHER IN PERSON OR VIA
- 3057 TELEHEALTH, IN ACCORDANCE WITH TELEHEALTH SUPERVISORY VISITS AT
- 3058 PART 7.9(A)(1); AND
- 3059 (3) OCCUR ANNUALLY FOR EVALUATION OF EACH WORKER PROVIDING SERVICES IN A
- 3060 CONSUMER'S HOME AND SHALL INCLUDE OBSERVATION OF TASKS PERFORMED AND
- 3061 RELATIONSHIP WITH THE CONSUMER.

Commented [BM177]: Existing language

Commented [BM178]: Existing language modified to reflect telehealth and to mimic skilled care

- 3062 (B) EVIDENCE OF ALL SUPERVISORY ACTIVITIES MUST BE DOCUMENTED AND RETAINED IN THE
3063 CONSUMER'S RECORD. DOCUMENTATION SHALL ~~INCLUDE~~.
- 3064 (1) THE DATE, TIME, METHOD OF DELIVERY, AND LOCATION OF THE SUPERVISORY
3065 ACTIVITY ALONG WITH DOCUMENTATION OF PERSONS PRESENT.
- 3066 (2) SPECIFIC TASKS EVALUATED AND/OR OBSERVED ALONG WITH OUTCOME.
- 3067 (3) INFORMATION ON ANY RE-TRAINING, INSTRUCTION, OR OTHER SUPPORT PROVIDED
3068 DURING THE SUPERVISORY ACTIVITY.
- 3069 (C) AN IN-PERSON SUPERVISORY VISIT IS REQUIRED TO EVALUATE CONSUMER COMPLAINTS
3070 RELATED TO THE DELIVERY OF CARE BY STAFF WHEN SUCH CONCERNS CANNOT BE
3071 SUCCESSFULLY ADDRESSED REMOTELY THROUGH AN INTERACTIVE AUDIOVISUAL
3072 CONNECTION.
- 3073 **7.9 TELEHEALTH SUPERVISORY VISITS**
- 3074 (A) WITH THE EXCEPTION OF THE ANNUAL SUPERVISION REQUIREMENT IN PART 7.8(A)(3) AND
3075 RESPONDING TO CONSUMER COMPLAINTS IN PART 7.8(C), THE HCA MAY CONDUCT
3076 SUPERVISORY VISITS USING TELEHEALTH, SO LONG AS THE HCA CONTINUES TO ENSURE
3077 CONSUMER CARE AND TREATMENT ARE DELIVERED IN ACCORDANCE WITH THE SERVICE PLAN
3078 THAT ADDRESSES THE CONSUMER'S STATUS AND NEEDS.
- 3079 (1) THE DESIGNATED SUPERVISOR MAY EVALUATE THE DELIVERY OF CARE AND
3080 SERVICES REQUIRED EVERY THREE (3) MONTHS AT PART 7.8(A)(2) THROUGH AN
3081 INTERACTIVE AUDIOVISUAL CONNECTION WITH THE HOMEMAKER OR PERSONAL CARE
3082 WORKER AND CONSUMER. THE RESULTS OF THE SUPERVISORY VISIT MUST BE
3083 DOCUMENTED BY THE QUALIFIED EMPLOYEE.
- 3084 (B) ALL OTHER GENERAL REQUIREMENTS FOR SUPERVISORY VISITS, SUCH AS DOCUMENTATION AND
3085 MEETING THE SAME STANDARD OF CARE, MUST BE ~~MET~~.

Commented [BM179]: New language

Commented [BM180]: From skilled care

3087 Editor's Notes

3088 6 CCR 1011-1 has been divided into separate chapters for ease of use. Versions prior to 05/01/2009 are
3089 located in the main section, 6 CCR 1011-1. Prior versions can be accessed from the All Versions list on
3090 the rule's current version page. To view versions effective on or after 05/01/2009, select the desired
3091 chapter, for example 6 CCR 1011-1 Chapter 04 or 6 CCR 1011-1 Chapter 18.

3092 History

3093 Chapter 26 entire rule eff. 04/30/2009.
3094 Rules 5.2(A), 5.2(f), 5.4.7(A), 5.4.8 (A) eff. 07/30/2010.
3095 Rule 5.4.8 eff. 09/30/2011.
3096 Rule 5.4 eff. 03/01/2012.
3097 Rules 5.4.4-5.4.7 eff. 03/02/2014.
3098 Rule 5.4.3 eff. 08/14/2014.
3099 Rules 3.6, 3.15-3.28, 5.1(B)-5.1(B)(1), 7.8(B)(1), 7.8(C)(2)-7.8(C)(3), 7.9(A)(1)-7.9(A)(2), 7.9(B)(6)-
3100 7.9(B)(7)(b), 7.10(A), 7.10(C)(1), 7.12(A), 7.12(E), 7.13, 8.5(B)(1), 8.5(D)(20), 8.5(E)(1) eff.
3101 09/14/2014.
3102 Rules 3.6, 3.11(B)(8)-3.32, 4.1-4.8(B)(2), 5.2(D), 6.3, 6.7(B) eff. 06/14/2014.

- 3103 Rules 5.1-5.1(B)(1)(b), 8.5(D)(17)(a), 8.5(D)(17)(b), 8.5(D)(20), 8.5(E)(1) eff. 05/15/2016.
- 3104 Rule 5.1(A) eff. 01/14/2017. Rule 8.5(B)(1) repealed eff. 01/14/2017.
- 3105 Rules 5.4.6(A), 5.4.7(A), 6.10(A), 6.14(A) eff. 01/14/2020.



COLORADO

Board of Health

Department of Public Health & Environment

Notice of Public Rule-Making Hearing December 15, 2021

NOTICE is hereby given pursuant to the provisions of Section 24-4-103, C.R.S., that the Colorado Board of Health will conduct a public rule-making hearing on December 15, 2021 at 10 a.m. remotely via [Zoom](#), to consider the amendments to 6 CCR 1011-1 Chapter 26, Home Care Agencies. The amendments are proposed by the Health Facilities and Emergency Medical Services Division of the Colorado Department of Public Health and Environment pursuant to Sections 25-1.5-103, 25-3-101, and 25-27.5-101, et seq., C.R.S.

The agenda for the meeting and the proposed repeal will also be available on the Board's website, <https://cdphe.colorado.gov/board-of-health> at least seven (7) days prior to the meeting. The proposed rule, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available for inspection at the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South EDO-A5, Denver, Colorado 80246-1530 at least five working days prior to the hearing. Copies of the proposed rules may be obtained by contacting the Colorado Department of Public Health and Environment, Health Facilities and Emergency Medical Services Division, 4300 Cherry Creek Drive S., Denver, CO 80246, 303-692-2836.

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments. Written testimony is encouraged; oral testimony will be received only to the extent the Board finds it necessary. For those that are permitted to provide oral testimony, the time may be limited to 3 minutes or less. Testimony is limited to the scope of the rulemaking hearing. Pursuant to 6 CCR 1014-8, §3.02.1, written testimony must be submitted no later than five (5) calendar days prior to the rulemaking hearing. Written testimony must be received by 5:00 p.m., Thursday, December 9, 2021. Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Board of Health Program Assistant, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South EDO-A5, Denver, Colorado 80246-1530 or by e-mail at: cdphe.bohrequests@state.co.us

Dated this 25th day of October, 2021.

Alexandra S. Haas

Alexandra Haas

Board of Health Administrator

Notice of Proposed Rulemaking

Tracking number

2021-00700

Department

1000 - Department of Public Health and Environment

Agency

1014 - Colorado State Board of Health

CCR number

6 CCR 1014-5

Rule title

OFFICE OF HEALTH EQUITY RULES FOR THE HEALTH DISPARITIES AND
COMMUNITY GRANT PROGRAM

Rulemaking Hearing**Date**

12/15/2021

Time

10:00 AM

Location

Via Zoom: https://us02web.zoom.us/meeting/register/tZYude2prjMsHtL_tElo1zx9GKfad_VOqhUe

Subjects and issues involved

Senate Bill 21-181 created a new grant program with the Office of Health Equity and the Health Equity Commission. It created a community element to the existing program and renamed it the Health Disparities and Community Grant Program. Additional funds were also provided to the grant program. For fiscal year 2021-2022, \$4,700,000 was appropriated by the General Assembly. The funds must be spent by June 30, 2022 or they revert back to the General Fund. Before a funding request can come before the board, the board needed to adopt rules for the new community grant process.

Statutory authority

Sections 25-4-2203, 24-22-117(2)(d)(III), and 24-22-117(f), C.R.S.

Contact information**Name**

Jami Hiyakumoto

Title

Health Disparities & Community Grant Prgm Manager

Telephone

303-692-2089

Email

jami.hiyakumoto@state.co.us

**COLORADO**Department of Public
Health & Environment

To: Members of the State Board of Health

From: Jami Hiyakumoto, Health Disparities and Community Grant Program Manager

Through: Dr. Sheila Davis, Office of Health Equity Director SD

Date: October 21, 2021

Subject: Emergency Rulemaking Hearing concerning 6 CCR 1014-5, Office of Health Equity Rules for the Health Disparities and Community Grant Program

Senate Bill 21-181 created a new grant program with the Office of Health Equity (OHE) and the Health Equity Commission (HEC). Primarily, it created a new community element to the existing Health Disparities Grant Program, renaming it the Health Disparities and Community Grant Program. Along with the expanded scope of providing funding to help community organizations positively affect social determinants of health and reduce the risk of future disease and exacerbating health disparities in underrepresented populations, additional funds were provided beyond the existing tobacco tax cash fund to the disparities and community grant program. For fiscal year 2021-22, an additional \$4,700,000 was appropriated by the Colorado General Assembly. These funds must be spent by June 30, 2022 or they revert back to the General Fund, unless a special one-year roll forward of the money and spending authority is granted. Prior to any Request for Applications being issued and grantees being selected, the Board needs to adopt rules for the new community grant process.

Given this timeline, OHE requests an emergency rule making so grant applications may be released, grantees selected, and money spent by June 30, 2022 (unless a special one-year roll forward of the money and spending authority is granted).

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY

for Amendments to

6 CCR 1014-5 Office of Health Equity Rules for the Health Disparities and Community Grant Program

Basis and Purpose.

The Office of Health Equity (OHE), within the Department of Public Health and Environment (the Department), proposes emergency rules to maximize the ability for community organizations to receive and spend \$4.7 million in grant money appropriated by Senate Bill 21-181. Senate Bill 21-181, expanding the existing Health Disparities Grant Program (HDGP) fund to include more opportunities for local community grant funding through a competitive Request for Applications (RFA), renamed the fund the Health Disparities and Community Grant Fund (HDCGP). The scope of the original tobacco tax cash fund was to provide a cohesive approach to cancer, cardiovascular disease, and chronic pulmonary disease prevention, early detection, and treatment. Senate Bill 21-181 provides additional funds for local organizations and communities to pursue policy and system changes to positively affect social determinants of health and reduce the risk of future disease and exacerbating health disparities in underrepresented populations. Rules must be adopted by the Board that specify the following, prior to a competitive RFA being released:

- The procedures and timelines by which an entity may apply for program grants;
- Grant application contents, including:
 - For money allocated to the health disparities grant program fund pursuant to section 24-22-117(2)(d)(III), how the program meets at least one of the program criteria specified in section 25-20.5-302(1), which may include population-based prevention work focused on influencing social determinants of health to advance health equity for underrepresented populations; and
 - For additional money appropriated by the general assembly to the health disparities program fund created in section 24-22-117(2)(f) that is not allocated from the prevention, early detection, and treatment fund pursuant to section 24-22-117(2)(d)(III), the criteria must be for a community organization applicant to receive grant money to reduce health disparities in underrepresented communities through policy and system changes regarding the social determinants of health. The criteria may include specifications how community organizations plan to achieve health equity through strategic planning, building the capacity of staff and volunteers, technical training and assistance within the community organization, and the evaluation of the community organization's impact on the community.
- Criteria for selecting the entities that shall receive grants and determining the amount and duration of the grants;
- Reporting requirements for entities that receive grants;
- Criteria for determining the effectiveness of the programs that receive grants.

The proposed rules differentiate between the requirements for the use of the existing health disparities grant funds and those of new community organization grant funds, while streamlining the rules by removing language that is more appropriate for the grant application. Additionally, the requirements of the final evaluation report at the end of the grant cycle is being removed as these expectations are part of the final grant award.

Emergency Rulemaking Finding and Justification:

An emergency rulemaking, which waives the initial Administrative Procedure Act noticing requirements, is necessary to comply with state law. Emergency rulemaking is authorized pursuant to section 24-4-103(6), C.R.S. Senate Bill 21-181 requires rules be adopted by the Board prior to a grant application being released for the appropriated \$4.7 million for fiscal year 2021-22. Any funds that grantees do not spend by June 30, 2022 will revert to the General Fund (unless a special one-year roll forward of the money and spending authority is granted).

This emergency rule shall become effective on adoption. It will be effective for no more than 120 days after its adoption unless made permanent through a rulemaking that satisfies the Administrative Act noticing requirements.

Specific Statutory Authority.

Statutes that require or authorize rulemaking:

Section 25-4-2203, C.R.S

Other relevant statutes:

Section 24-22-117(2)(d)(III), C.R.S

Section 24-22-117(f)

Is this rulemaking due to a change in state statute?

☒ Yes, the bill number is SB21-181. Rules are ___ authorized ☒ required.

___ No

Does this rulemaking include proposed rule language that incorporate materials by reference?

___ Yes ___ URL

☒ No

Does this rulemaking include proposed rule language to create or modify fines or fees?

___ Yes

☒ No

Does the proposed rule language create (or increase) a state mandate on local government?

☒ No.

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

___ Yes.

This rule includes a new state mandate or increases the level of service required to comply with an existing state mandate, and local government will not be reimbursed for the costs associated with the new mandate or increase in service.

The state mandate is categorized as:

___ Necessitated by federal law, state law, or a court order

- ☐ Caused by the State's participation in an optional federal program
- ☐ Imposed by the sole discretion of a Department
- ☐ Other:
(i.e. requested by local governments and consensus was achieved)

Has an elected official or other representatives of local governments disagreed with this categorization of the mandate? ☐ Yes ☒ No

If "yes," please explain why there is disagreement in the categorization.

REGULATORY ANALYSIS
6 CCR 1014-5 Office of Health Equity Rules
for the Health Disparities and Community Grant Program

1. A description of the classes of persons affected by the proposed rule, including the classes that will bear the costs and the classes that will benefit from the proposed rule.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/CLG/S/B
For the HDCGP, affected population means marginalized and underrepresented communities, including, but not limited to, low-income earners, people of color, immigrants and refugees, disenfranchised youth, LGBTQ individuals, people from rural communities, older adults, tribal nations, etc. The description of the 2020-21 grantees includes each of their intended population, as adopted by the Board of Health at the March 18, 2019 meeting.	<p>The affected persons include various sub-groups of people and the approximate size varies depending on the targeted or prioritized sub-group for each HDGP funded project.</p> <p>The 2020-21 HDGP evaluation report indicated that 5,723 persons were served by the program grantees.</p>	C/S/B

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please use this relationship categorization key:

- C = individuals/entities that implement or apply the rule.
- CLG = local governments that must implement the rule in order to remain in compliance with the law.
- S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.
- B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

This rule change complies with renaming OHE's grant program from the Health Disparities Grant Program to the Health Disparities and Community Grant Program and provides the Department more flexibility and funding for local organizations and to further address health disparities among underrepresented populations across the state communities through a competitive RFA. The description of the 2020-21 HDGP grantees includes each of their intended persons to be affected, as adopted by the Board of Health at the March 18, 2019 meeting. While it is not yet known how many persons will be served with the additional Senate Bill 21-1881 funding, the 2020-21 HDGP evaluation report indicated that 5,723 persons were served by the program grantees.

The Office of Health Equity will facilitate and summarize a stakeholder engagement process on the revised grant program rules by March 2022.

Senate Bill 21-181 provides the Department increased flexibility and funding for more local organizations and communities to further address health disparities among underrepresented populations across the state. The Department received additional administrative funds and FTE to manage the expanded scope of the grant program and the substantial funding increase provided under Senate Bill 21-181 (see Type of Expenditure table on page 5 below).

Commonly, customers, stakeholders, beneficiaries agree that the Department must offer increased opportunities for more local organizations and communities to apply and successfully compete for HDCGP funds to address the many and complex health disparities among underrepresented populations statewide. Yet, it is also common for groups to interpret and address health disparities differently; there may even be disagreement.

Senate Bill 21-181 substantially increased funding opportunities and resources for local organizations and communities. The HDCGP encourages varying approaches and innovation to addressing health disparities, and awards funding to selected grantees based on a sound Theory of Change and detailed implementation work plans. Community engagement and leadership are required of every HDGCP project to ensure people are working together to address health disparities, including collective identification and problem-solving of challenges, issues, and differences associated with the complexities of impacting health disparities.

Senate Bill 21-181 changed the HDGP with the Office of Health Equity and the Health Equity Commission. Primarily, it created a new community element to the existing Health Disparities Grant Program, renaming it the Health Disparities and Community Grant Program. Along with the expanded scope of providing funding to help community organizations positively affect social determinants of health and reduce the risk of future disease and exacerbating health disparities in underrepresented populations, additional funds were provided beyond the existing tobacco tax cash fund to the disparities and community grant program. Specifically, funding is for organizations to plan to achieve health equity through strategic planning, building the capacity of staff and volunteers, technical training and assistance within the organization, and the evaluation of the organization's impact. For fiscal year 2021-22, an additional \$4,700,000 was appropriated by the Colorado General Assembly.

Economic outcomes

Summarize the financial costs and benefits, include a description of costs that must be incurred, costs that may be incurred, any Department measures taken to reduce or eliminate these costs, any financial benefits.

Senate Bill 21-181 added funds beyond the existing tobacco tax cash fund to the HDGP. Specifically, funding is for organizations to plan to achieve health equity through strategic planning, building the capacity of staff and volunteers, technical training and assistance within local organizations and communities, and the evaluation of the organization's impact. The Department received additional administrative funds and FTE to manage the expanded scope of the grant program and the substantial increased funding provided under Senate Bill 21-1881 (see Type of Expenditure table on page 5 below). For fiscal year 2021-22, an additional \$4,700,000 was appropriated by the Colorado General Assembly.

Non-economic outcomes

Summarize the anticipated favorable and non-favorable non-economic outcomes (short-term and long-term), and, if known, the likelihood of the outcomes for each affected class of persons by the relationship category.

The increased level of funding under Senate Bill 21-181 expands support to more local organizations and communities under the existing Health Disparities Grant Program to further impact health disparities and address health equity among underrepresented populations across the state. The description of the 2020-21 HDGP grantees includes each of their intended persons to be affected, as adopted by the Board of Health at the March 18, 2019 meeting. While it is not yet known how many persons will be served with the additional Senate Bill 21-1881 funding, the 2020-21 HDGP evaluation report indicated that 5,723 persons were served by the program grantees.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

A. Anticipated CDPHE personal services, operating costs or other expenditures:

Type of Expenditure	Year 1	Year 2
Personal Services (2.5 FTE)	\$150,843	\$160,473
Operating Expenses	\$3,375	\$3,375
Capital Outlay Costs	\$18,600	
Health Disparities Grants	\$4,700,000	\$4,700,000
Centrally Appropriated Costs	\$47,264	\$48,865
Total	\$4,920,082	\$4,912,713

Anticipated CDPHE Revenues:

NA

The General Assembly allocated funds, as noted above, to cover the increase in staff needed to administer the fund as well as the funds necessary for the grant

expansion.

- B. Anticipated personal services, operating costs or other expenditures by another state agency:

Senate Bill 21-181 also expands the number of Health Equity Commissioners to include as representative from the Department of Corrections, the Department of Higher Education, the Department of Labor and Employment, the Department of Local Affairs, the Department of Transportation, the Department of Public Safety, and the Department of Education. These agencies indicated that staff time on grant review and Health Equity Commission meetings can be accomplished within existing appropriations.

Anticipated Revenues for another state agency:

NA

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Along with the costs and benefits discussed above, the proposed revisions:

- ☒ Comply with a statutory mandate to promulgate rules.
- ☒ Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.
- ☐ Maintain alignment with other states or national standards.
- ☐ Implement a Regulatory Efficiency Review (rule review) result
- ☐ Improve public and environmental health practice.
- ☐ Implement stakeholder feedback.

Advance the following CDPHE Strategic Plan priorities (select all that apply):

1.	Reduce Greenhouse Gas (GHG) emissions economy-wide from 125.716 million metric tons of CO ₂ e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO ₂ e per year by June 30, 2020 and to 113.144 million metric tons of CO ₂ e by June 30, 2023.
<input type="checkbox"/>	Contributes to the blueprint for pollution reduction
<input type="checkbox"/>	Reduces carbon dioxide from transportation
<input type="checkbox"/>	Reduces methane emissions from oil and gas industry
<input type="checkbox"/>	Reduces carbon dioxide emissions from electricity sector
2.	Reduce ozone from 83 parts per billion (ppb) to 80 ppb by June 30, 2020 and 75 ppb by June 30, 2023.
<input type="checkbox"/>	Reduces volatile organic compounds (VOC) and oxides of nitrogen (NO _x) from the oil and gas industry.
<input type="checkbox"/>	Supports local agencies and COGCC in oil and gas regulations.
<input type="checkbox"/>	Reduces VOC and NO _x emissions from non-oil and gas contributors
3.	Decrease the number of Colorado adults who have obesity by 2,838 by June 30, 2020

<p>and by 12,207 by June 30, 2023.</p> <ul style="list-style-type: none"> ___ Increases the consumption of healthy food and beverages through education, policy, practice and environmental changes. ___ Increases physical activity by promoting local and state policies to improve active transportation and access to recreation. ___ Increases the reach of the National Diabetes Prevention Program and Diabetes Self-Management Education and Support by collaborating with the Department of Health Care Policy and Financing.
<p>4. Decrease the number of Colorado children (age 2-4 years) who participate in the WIC Program and have obesity from 2120 to 2115 by June 30, 2020 and to 2100 by June 30, 2023.</p> <ul style="list-style-type: none"> ___ Ensures access to breastfeeding-friendly environments.
<p>5. Reverse the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.</p> <ul style="list-style-type: none"> ___ Reverses the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023. ___ Performs targeted programming to increase immunization rates. ___ Supports legislation and policies that promote complete immunization and exemption data in the Colorado Immunization Information System (CIIS).
<p>6. Colorado will reduce the suicide death rate by 5% by June 30, 2020 and 15% by June 30, 2023.</p> <ul style="list-style-type: none"> ___ Creates a roadmap to address suicide in Colorado. ___ Improves youth connections to school, positive peers and caring adults, and promotes healthy behaviors and positive school climate. ___ Decreases stigma associated with mental health and suicide, and increases help-seeking behaviors among working-age males, particularly within high-risk industries. ___ Saves health care costs by reducing reliance on emergency departments and connects to responsive community-based resources.
<p>7. The Office of Emergency Preparedness and Response (OEPR) will identify 100% of jurisdictional gaps to inform the required work of the Operational Readiness Review by June 30, 2020.</p> <ul style="list-style-type: none"> ___ Conducts a gap assessment. ___ Updates existing plans to address identified gaps. ___ Develops and conducts various exercises to close gaps.
<p>8. For each identified threat, increase the competency rating from 0% to 54% for outbreak/incident investigation steps by June 30, 2020 and increase to 92% competency rating by June 30, 2023.</p>

<p>___ Uses an assessment tool to measure competency for CDPHE's response to an outbreak or environmental incident.</p> <p>___ Works cross-departmentally to update and draft plans to address identified gaps noted in the assessment.</p> <p>___ Conducts exercises to measure and increase performance related to identified gaps in the outbreak or incident response plan.</p>
<p>9. 100% of new technology applications will be virtually available to customers, anytime and anywhere, by June 30, 2020 and 90 of the existing applications by June 30, 2023.</p> <p>___ Implements the CDPHE Digital Transformation Plan.</p> <p>___ Optimizes processes prior to digitizing them.</p> <p>___ Improves data dissemination and interoperability methods and timeliness.</p>
<p>10. Reduce CDPHE's Scope 1 & 2 Greenhouse Gas emissions (GHG) from 6,561 metric tons (in FY2015) to 5,249 metric tons (20% reduction) by June 30, 2020 and 4,593 tons (30% reduction) by June 30, 2023.</p> <p>___ Reduces emissions from employee commuting</p> <p>___ Reduces emissions from CDPHE operations</p>
<p>11. Fully implement the roadmap to create and pilot using a budget equity assessment by June 30, 2020 and increase the percent of selected budgets using the equity assessment from 0% to 50% by June 30, 2023.</p> <p>___ Used a budget equity assessment</p>

___ Advance CDPHE Division-level strategic priorities.

- Identify division strategic plan item or strategic priority

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

Failure to act will result in the Department being unable to release funds to grantees in a timely manner for funds to be spent prior to the fiscal year end on June 30, 2021, unless a special one-year roll forward of the money and spending authority is granted.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

Rulemaking is proposed when it is the least costly method or the only statutorily allowable method for achieving the purpose of the statute. The proposed revisions provide the most benefit for the least amount of cost, are the minimum necessary or are the most feasible manner to achieve compliance with statute.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

The Office of Health Equity reviewed the existing rules to determine what the necessary amendments to extend the framework to the community grant funds. During

this review, OHE also determined that the rules could be streamlined to remove duplicate language that also appears in the grant application and grant agreements.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The changes are necessary to conform to SB 21-181 and no other data evaluated at this point.

Please identify the determinants of health or other health equity and environmental justice considerations, values or outcomes related to this rulemaking.

Senate Bill 21-181 added funds beyond the existing tobacco tax cash fund to the HDGP and provides the Department increased flexibility and funding for more local organizations and communities to further address health disparities among underrepresented populations across the state. Specifically, funding is for organizations to plan to achieve health equity through strategic planning, building the capacity of staff and volunteers, technical training and assistance within local organizations and communities, and the evaluation of the organization's impact.

The Department is planning to release a new Request for Applications, including an applicable version of the following application components:

Social Determinant of Health: Identify the social determinant of health this project will address. Social determinants include social and economic factors such as education, employment, social support, community safety, housing, transportation, food insecurity, and environmental conditions.

Affected Population: The proposed project must address the health disparity needs of a specific underrepresented community defined as African American/Black; Asian; Native Hawaiian or Other Pacific Islander; American Indian or Alaska Native; Hispanic or Latin(o)(a)(x); older adults; lesbian, gay, bisexual, transgender, queer or questioning; gender nonconforming; people with disabilities; people with low socioeconomic status; and people who live in rural and/or geographically isolated communities.

Geographic Area: The proposed project must define a specific geographic community, area or region. For example, one county, several defined counties, a portion of the county, a region of the state, a region of a particular city (i.e., a neighborhood), etc.

Authentic Community Engagement: The proposed project must show evidence of how the affected population/community is directly involved in leading, identifying, and addressing the selected social determinants of health.

Allowed Activity(ies): The proposed project must specify which of the allowed activities below will be feasibly completed to prepare the applicant to work on community-led policy and systems-level changes.

- Strategic planning, such as creating a community-led policy or systems change development plan.
- Build staff and volunteer capacity, such as community leadership training.
- Provide technical assistance within the community organizations, such as hiring a subcontractor to support implementation of a strategic plan.

Overall, after considering the benefits, risks and costs, the proposed rule:

Select all that apply.

X	Improves behavioral health and mental health; or, reduces substance abuse or suicide risk.	Reduces or eliminates health care costs, improves access to health care or the system of care; stabilizes individual participation; or, improves the quality of care for unserved or underserved populations.
X	Improves housing, land use, neighborhoods, local infrastructure, community services, built environment, safe physical spaces or transportation.	Reduces occupational hazards; improves an individual's ability to secure or maintain employment; or, increases stability in an employer's workforce.

X	Improves access to food and healthy food options.	Reduces exposure to toxins, pollutants, contaminants or hazardous substances; or ensures the safe application of radioactive material or chemicals.
X	Improves access to public and environmental health information; improves the readability of the rule; or, increases the shared understanding of roles and responsibilities, or what occurs under a rule.	Supports community partnerships; community planning efforts; community needs for data to inform decisions; community needs to evaluate the effectiveness of its efforts and outcomes.
X	Increases a child's ability to participate in early education and educational opportunities through prevention efforts that increase protective factors and decrease risk factors, or stabilizes individual participation in the opportunity.	Considers the value of different lived experiences and the increased opportunity to be effective when services are culturally responsive.
X	Monitors, diagnoses and investigates health problems, and health or environmental hazards in the community.	Ensures a competent public and environmental health workforce or health care workforce.
	Other:_____	Other:_____

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**Colorado State Board of Health****OFFICE OF HEALTH EQUITY RULES FOR THE HEALTH DISPARITIES AND COMMUNITY GRANT PROGRAM****6 CCR 1014-5****1.1 Definitions**

(1) "Commission" means the Health Equity Commission that, pursuant to Section 25-4-2206, C.R.S., advises the ~~d~~Department ~~to advance health equity and eliminate health disparities on alignment, education, and capacity building for state and local health programs and community-based organizations for the promotion of health equity and eliminating health disparities.~~

(2) "Grant program" means the Health Disparities and Community Grant Program created in Section 25-4-2203, C.R.S. to provide financial support for statewide initiatives that address prevention, early detection, and treatment of cancer and cardiovascular and pulmonary diseases in underrepresented populations and to positively affect social determinants of health to reduce the risk of future disease and exacerbating health disparities in underrepresented populations.-

~~(3) "Health Disparities~~ Grant Program priorities" means areas of emphasis for grantees as determined for the grant cycle.

~~(4) "Office of Health Equity"~~ means the office administering the grant program.

(5) "State board" means the Colorado State Board of Health.

1.2 Procedures for Grant Application

(1) Grant Application Contents.

~~(a)~~ At a minimum, all applications shall be submitted to the department in accordance with these rules and shall contain the following information:

(i) A description of the specific needs of the community or population to be served.

(ii) A description of:

~~(A)~~ how the application meets at least one of the following program criteria

1. For money allocated to the Grant Program pursuant to section 24-22-117(2)(d)(III), related to the prevention, early detection, and treatment of the cancer, cardiovascular, and pulmonary diseases, at least one of the following:

~~(a)1-~~ Translating evidence-based strategies regarding the prevention and early detection of cancer, cardiovascular disease, and chronic pulmonary disease into practical application in healthcare, public health, workplace and community settings.

~~(b)2-~~ Providing appropriate diagnosis and treatment services for anyone who has abnormalities discovered in screening and early detection programs funded through this initiative.

(c)3- Implementing education programs for the public and healthcare providers regarding the prevention, early detection and treatment of cancer, cardiovascular disease and chronic pulmonary disease; ~~and~~

(d)4- Providing evidence-based strategies to overcome health disparities in the prevention and early detection of cancer, cardiovascular disease and chronic pulmonary disease; ~~and~~

(e)5- Providing population-based prevention work focused on influencing social determinants of health to advance health equity for underrepresented populations.

26. For any other money allocated to the Grant Program

(a) Providing population-based prevention work focused on influencing social determinants of health to advance health equity for underrepresented populations and

(b) Applicants for organizational planning grants to receive grant money to reduce health disparities in underrepresented communities through policy and systems changes regarding the social determinants of health shall demonstrate at least one of the following:

(i) Specifications of strategic planning to achieve health equity.

(ii) Building the capacity of staff and volunteers;

(iii) Technical training and assistance within the community organization;

(iv) How the impact on the community by applicant will be evaluated.

(B) For grants meeting the criteria of Section (1)(a)(A)(1) of how the application addresses the prevention, early detection, and treatment of cancer, cardiovascular disease, or chronic pulmonary diseases, in underrepresented populations, how the application addresses the prevention, early detection, and treatment of cancer, cardiovascular disease, or chronic pulmonary diseases, in underrepresented populations and;

(C) How the application meets the Health Disparities Grant and Community Program priorities identified for the grant cycle.

~~(iii) A detailed scope of work describing goals, objectives, implementation steps and timelines.~~

~~(iv) A description of the roles and responsibilities of all staff funded through the application.~~

~~(v) A detailed operating budget and budget narrative.~~

~~(vi) A detailed sustainability plan including any other funding to support the project.~~

(vii) A written evaluation plan.

(2) Procedures and Timelines for Grant Application.

(a) Grant applications may be solicited on dates determined by the department.

1.3 Criteria for Selecting Entities

(1) The following criteria shall be used for selecting potential grantees:

(a) The applicant submits a completed application in accordance with the requirements in Section 1.2 and as indicated in the formal state solicitation;

(b) For Grant Program applications meeting the criteria of Section (1)(a)(A)(1) of prevention, early detection, and treatment of cancer, cardiovascular, and pulmonary disease, ~~the applicant~~ does not use grant monies to supplant funding for existing programs;

(c) The applicant has the capacity to adequately administer and implement the grant.

(d) For any other money allocated to the Grant Program: the applicant must reduce health disparities in underrepresented communities through policy and systems changes regarding the social determinants of health.

(2) The Commission shall appoint a review committee to review the applications received and make recommendations to the Commission regarding the entities that may receive grants, the amounts of the grants, and the duration of the grant, which cannot exceed ~~five (5)~~ three years. The Commission shall finalize the recommendations for funding and provide them to the State Board ~~of Health~~. The State Board ~~of Health~~ shall ensure that awards are consistent with the purpose of the grant program.

1.4 Responsibilities of Grantees

(1) Participate in the program eEvaluation and submit progress reports, including, but not limited to, the following:

~~Grantees shall be responsible for ongoing program evaluation and reporting consisting of the following:~~

(a) Written evaluation plan at the inception of the program;

(b) ~~Quarterly p~~Progress reports as specified in the state contract;

(c) ~~Annual e~~Evaluation updates and final evaluation report as specified in the state contract ; ~~and~~

~~(d) Final evaluation report at the end of the grant cycle.~~

~~(2) All evaluation plans/reports and progress reports shall be submitted to the Office of Health Equity. Reports shall be submitted in an electronic form. Electronic reports shall be provided in any word processing software program compatible with Microsoft Word 2007 or higher format.~~

~~(3) The Written Evaluation Plan shall be developed and submitted with the application and implemented at the inception of the program. At a minimum, the Written Evaluation Plan shall describe:~~

~~(a) How the grantee will measure the outcomes of the grant against the goals and objectives it set out to accomplish;~~

~~(b) A determination of how the results achieved by the project will contribute to the achievement of the Health Disparities Grant program goals and objectives as stated in the application;~~

~~(c) Agreement to participate, at the request of the department, in state-level evaluation or surveillance studies regarding the impact of the overall grant program;~~

~~(d) The number of people and target population the grantee anticipates will be served and the services provided;~~

~~(e) A description of the measures or indicators that will be used to evaluate the project, along with the data methodology and data variables;~~

~~(f) A description of how the results of the evaluation will be used, disseminated and communicated;~~

~~(g) The interventions or approach selected and the desired outcomes;~~

~~(h) Why this approach was chosen;~~

~~(i) Specific disease category(ies) focus for the project; and~~

~~(j) How the grantee will address cultural competence.~~

~~(4) During the grant cycle, grantees shall submit Quarterly Reports no later than two weeks following the end of each 3-month quarterly cycle, as based on when the grant started within the state fiscal year (the State Fiscal year runs July 1 through June 30). At a minimum, each Quarterly Report shall include:~~

~~(a) Outlines of objectives, implementation steps, activities, achievements, occurring during the quarter using the measures, indicators and data identified in the written evaluation plan.~~

~~(b) An explanation if a project goal, objective or activity was not met. The grantee should describe what hindered the accomplishment of the project goal or objective and what was done to overcome the barriers. The narrative should also describe activities undertaken as an alternative or substituted for the original activity.~~

~~(c) Revisions to approved work plans. Requests for revision of program goals and objectives must be submitted in writing to the Office of Health Equity. Grantees will receive a written response regarding the approval of the change. If the requested change is substantial, it may be necessary to revise the budget.~~

~~(d) A copy of any material developed during the project, such as brochures or manuals, must be included with the progress reports. All such materials should include proper credit for the type and source of funding.~~

~~(5) A Final Evaluation Report shall be submitted within 30 days of the end of the grant cycle. At a minimum, each Final Evaluation Report shall include:~~

~~(a) A determination of how the results achieved by the project contributed to the achievement of the project goals and objectives;~~

~~(b) Whether the grantee participated in state-level evaluation or surveillance studies regarding the impact of the overall Health Disparities Grant Program at the request of the department, and if so, a description of each evaluation or study;~~

~~(c) The number of people and target population the grantee served and the services provided;~~

~~(d) A summary of outcomes achieved and the lessons the grantee learned from the implementation of the grant services;~~

~~(e) Measures or indicators used along with the data methodology and data variables;~~

~~(f) Methods/strategies used to determine effectiveness and impact on health disparities;~~

~~(g) How results will be used, disseminated and communicated;~~

~~(h) Whether plans for sustainability after the grant period ends have been implemented, and if so, what those plans are; and~~

~~(i) How grantees impacted the target population.~~

~~(j) An explanation of how cultural competence was addressed.~~

~~(26) Grantees who fail to comply with grant program requirements submit any of the required reports may be terminated from the grant program for non-performance and potentially denied future funding opportunities. In the event that grantees fail to submit a Final Evaluation Report after the conclusion of their grant, future applications of the grantee may be denied based on non-performance.~~

~~(7) The monies~~ shall not be used for the purposes of lobbying as defined in Section 24-6-301 (3.5) (a), C.R.S. or to support or oppose any ballot issue or ballot question.

1.5 Grant Program Effectiveness

~~(1) (1)-The Office of Health Equity and the State Board shall determine the criteria for evaluating the effectiveness of the programs that receive grants.~~



COLORADO

Board of Health

Department of Public Health & Environment

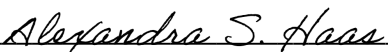
Notice of Public Rule-Making Hearing December 15, 2021

NOTICE is hereby given pursuant to the provisions of Section 24-4-103, C.R.S., that the Colorado Board of Health will conduct a public rule-making hearing on December 15, 2021 at 10 a.m. remotely via [Zoom](#), to consider the amendments to 6 CCR 1014-5, Office of Health Equity Rules for the Health Disparities and Community Grant Program. The amendments are proposed by the Office of Health Equity of the Colorado Department of Public Health and Environment pursuant to Sections 25-4-2203, 24-22-117(2)(d)(III), and 24-22-117(f), C.R.S.

The agenda for the meeting and the proposed repeal will also be available on the Board's website, <https://cdphe.colorado.gov/board-of-health> at least seven (7) days prior to the meeting. The proposed rule, together with the proposed statement of basis and purpose, specific statutory authority and regulatory analysis will be available for inspection at the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South EDO-A5, Denver, Colorado 80246-1530 at least five working days prior to the hearing. Copies of the proposed rules may be obtained by contacting the Colorado Department of Public Health and Environment, Office of Health Equity, 4300 Cherry Creek Drive S., Denver, CO 80246, 303-692-2089

The Board encourages all interested persons to participate in the hearing by providing written data, views, or comments. Written testimony is encouraged; oral testimony will be received only to the extent the Board finds it necessary. For those that are permitted to provide oral testimony, the time may be limited to 3 minutes or less. Testimony is limited to the scope of the rulemaking hearing. Pursuant to 6 CCR 1014-8, §3.02.1, written testimony must be submitted no later than five (5) calendar days prior to the rulemaking hearing. Written testimony must be received by 5:00 p.m., Thursday, December 9, 2021. Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Board of Health Program Assistant, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South EDO-A5, Denver, Colorado 80246-1530 or by e-mail at: cdphe.bohrequests@state.co.us

Dated this 25th day of October, 2021.



Alexandra Haas
Board of Health Administrator

Notice of Proposed Rulemaking

Tracking number

2021-00707

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-11

Rule title

COLORADO WHISTLEBLOWER, ANTI-RETALIATION, NON-INTERFERENCE, AND NOTICE-GIVING RULES ("COLORADO WARNING RULES")

Rulemaking Hearing**Date**

12/09/2021

Time

03:00 PM

Location

633 17th Street, 12th Floor, Denver, CO 80202

Subjects and issues involved

These rules amend the prior version of the Colorado WARNING Rules, the Divisions existing rules governing retaliation, interference, and notice of rights under several Division-enforced statutes, as follows (in addition to certain non-substantive edits):
(A) defining key terms and provisions relevant to retaliation and interference protections that the ALRRA created, and requires the Division to execute and enforce;

(B) implementing the ALRRA requirements for employers to provide agricultural employees notice of their rights under the ALLRA, as well as additional notice and training during a public health emergency;

(D) amending the Divisions existing complaint and investigation procedures, and list of available remedies, to conform to complaints and investigations under the ALRRA;

Statutory authority

These Rules are adopted pursuant to Division authority in C.R.S. §§ 8-1-103(3), -107(2), -111, -116, -117; §§ 8-2-130, -206(3)(c)(II); § 8-4-111; § 8-5-203; §§ 8-6-105, -106, -108, -117; §§ 8-13.3-403(9), -407(6), -408(1)-(2), -409, -410; § 8-13.5-204(1)(b); and §§ 8-14.4-103(2), -104, -105(4), -108.

Contact information**Name**

Michael Primo

Title

Rule Coordinator

Telephone

3033188462

Email

michael.primo@state.co.us

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

COLORADO WHISTLEBLOWER, ANTI-RETALIATION, NON-INTERFERENCE, AND NOTICE-GIVING RULES

("Colorado WARNING Rules")

7 CCR 1103-11

As proposed on October 29, 2021; if adopted, to be effective following the close of rulemaking. Adopted on November 9, 2020, effective January 1, 2021.

Rule 1. Statement of Purpose, Authority, and Construction

- 1.1 The general purpose of these Colorado Whistleblower, Anti-Retaliation, Non-Interference, and Notice-Giving Rules ("WARNING Rules") is to exercise the authority of this Division to enforce and implement Colorado legislative enactments and accompanying rules protecting against retaliation for, or interference with, the exercise of protected rights, and requiring that employees and other workers receive various forms of notification of their rights, including but not limited to the Healthy Family and Workplaces Act of 2020 ("HFWA," C.R.S. Title 8, Article 13.3, Part 4), the Public Health Emergency Whistleblower Act of 2020 ("PHEW," C.R.S. Title 8, Article 14.4), the Equal Pay for Equal Work Act of 2019 ("EPEWA," C.R.S. Title 8, Article 5), the Agricultural Labor Rights and Responsibilities Act of 2021, Colorado Senate Bill 21-87 ("ALRRA"), amendments to the Colorado Wage Act (C.R.S. Title 8, Article 4), and rules promulgated under the foregoing statutes. These Rules are adopted pursuant to Division authority in C.R.S. §§ 8-1-103(3), -107(2), -111, -116, -117; §§ 8-2-130, ~~-206(3)(c)(II)~~; § 8-4-111; § 8-5-203; §§ 8-6-105, -106, -108, -117; §§ 8-13.3-403(9), -407(6), -408(1)-(2), -409, -410; § 8-13.5-204(1)(b); and §§ 8-14.4-103(2), -104, -105(4), -108. Every rule herein applies to all statutes and rules referenced in Rule 1.1, unless a specific rule states otherwise.
- 1.2 Incorporations by Reference. Articles 1, ~~4~~-6, 13.3, 13.5, and 14.4 of C.R.S. Title 8 (2021) are hereby incorporated by reference. Earlier versions of such laws may apply to events that occurred in prior years. Such incorporation excludes later amendments to or editions of the statutes. These statutes are available for public inspection at the Colorado Department of Labor and Employment, Division of Labor Standards & Statistics, 633 17th Street, Denver CO 80202. Copies may be obtained from the Division of Labor Standards & Statistics at a reasonable charge. These statutes can be accessed electronically from the website of the Colorado Secretary of State. Pursuant to C.R.S. § 24-4-103(12.5)(b), the agency shall provide certified copies of the statutes incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency originally issuing the statutes. All Division Rules are available to the public at www.coloradolaborlaw.gov. Where these Rules have provisions different from or contrary to any incorporated or referenced material, the provisions of these Rules govern so long as they are consistent with Colorado statutory and constitutional provisions.
- 1.3 Separability. These Rules are intended to remain in effect to the maximum extent possible. If any part (including any section, sentence, clause, phrase, word, or number) is held invalid, (A) the remainder of the Rules remain valid, and (B) if the provision is held not wholly invalid, but merely in need of narrowing, the provision should be retained in narrowed form.

Rule 2. Definitions and Clarifications

- 2.1 "Administrative Procedure" means the process used by the Division to investigate Complaints arising under any rule or statute cited in Rule 1.1.
- 2.2 "Authorized representative" means a person designated by a party to a Complaint to represent the party during the Division's administrative procedure. To designate an authorized representative, the party must comply with the requirements for authorizing a representative in the Wage Protection

~~Act~~ Rules, 7 CCR 1103-7, Rule 4.3.

- 2.3 “Complaint” or “Claim” interchangeably mean a Complaint or Claim alleging violation of any retaliation, interference, or notice requirements of any statute or rule cited in Rule 1.1. “Complainant” means an employee, ~~or worker,~~ whistleblower, key service provider, or other protected party with a Complaint or Claim.
- 2.4 “Certified copy” means a copy of a final Division decision (issued by a compliance investigator or hearing officer) signed by the Director of the Division, or his or her designee, certifying that the document is a true and accurate copy of the final decision. A certified copy must be requested in writing. A Division decision (issued by a compliance investigator or hearing officer) will not be certified unless: either (1) all appeal deadlines have passed and no appeal has been filed or (2) if an appeal was timely filed, the decision was not superseded on appeal. A certified copy will not be issued if a Complainant terminated a Complaint in accord with applicable statutes or rules.
- 2.5 “Correct address” can include, but is not limited to, an email address reported to the Division or posted on a party’s website, an address on file with the Colorado Secretary of State, the address of a registered agent on file with the Colorado Secretary of State, or an address provided to the Division by the party. A notice is deemed sent to a party when placed in the U.S. mail; sent by electronic means; or personally delivered to a party or a party’s representative, or a party’s correct address.
- 2.6 “Determination” means a decision issued by a compliance investigator upon the conclusion of an investigation. “Determination” includes: Citation and Notice of Assessment, Determination of Compliance, and Notice of Dismissal, if that Notice of Dismissal is issued after the Division initiated the administrative procedure. A notice that the Division declines to investigate a Complaint is not a Determination.
- 2.7 “Division” means the Division of Labor Standards and Statistics in the Colorado Department of Labor and Employment.
- 2.8 “Employee” and “Employer” have the same meaning as in C.R.S. §§ 8-4-101(5),(6), except as to rights or responsibilities under C.R.S. Title 8, (A) Article 13.3, “Employee” and “Employer” have the same meaning as in C.R.S. §§ 8-13.3-402(4),(5); and (B) Article 5, “Employee” and “Employer” have the same meaning as in C.R.S. §§ 8-5-101(4),(5). As used in these rules, the term “Employee” includes an agricultural employee as defined in C.R.S. § 8-2-206(1)(b) and an agricultural worker as defined in C.R.S. § 8-13.5-201(3), and the term “Employer” includes an agricultural employer as defined in C.R.S. § 8-2-206(1)(c), except as otherwise provided.
- 2.9 “Notice of Right to Sue” means a notice from the Division stating that the Complainant has exhausted administrative remedies pursuant to C.R.S. § 8-14.4-105-, and/or that the Division has received and declined to investigate a Complaint for purposes of C.R.S. §§ 8-2-206(3)(c)(II), 8-13.3-411(4)(d), or 8-13.5-204(1)(b).
- 2.10 “Respondent” means an employer or principal that is alleged in a Complaint or Claim to have, or that is the subject of an investigation into whether they have, committed an unlawful practice.
- 2.11 ~~“Retaliation” includes, and is synonymous with, discrimination based on or for protected activity. In~~ “retaliation” or “interference” claims or investigations, the following definitions apply:
- 2.11.1 “Protected activity” means, as to any right under these Rules or any statute or rule to which these Rules apply, either:
- (A) asserting, seeking, or exercising any right or remedy;
- (B) opposing a possible or perceived violation;
- (C) participating in a formal or informal investigation, hearing, complaint, or other

process or proceeding that relates to any possible or perceived violation, or that relates to any relevant claim, right, or rule; or

(D) engaging in any other activity authorized or protected thereby.

With respect to rights under PHEW, “protected activity” is further defined in Rule 5 herein.

2.11.2 “Retaliation” means, and is synonymous with, discrimination based on or for protected activity, and it encompasses any act (whether an affirmative act, an omission, or a statement) that is intended to, and could, deter a reasonable person from engaging in, or impose consequences for, protected activity. Examples of retaliation include:

(A) using the assertion or exercise of any right protected by these Rules, or any statute or rule to which these Rules apply, as a negative factor in any employment action;

(B) acts that may not affect employment status but that may dissuade, deter, or interfere with engaging in protected activity, such as acts prohibited by Rule 4.8.2 of the Wage Protection Rules (7 CCR 1103-7), or acts that interfere or threaten to interfere with the receipt of public benefits.

2.11.3 “Interference” means any act (whether an affirmative act, an omission, or a statement) that, regardless of intent, interferes with any protected activity or any right under these Rules or any statute or rule to which these Rules apply, including any act that deters any protected activity. Examples of acts that may constitute interference include:

(A) failing to authorize the exercise of a right, imposing stricter conditions upon exercising a right (e.g., as to documentation or notice) than the applicable statute or rule permits, or altering employment conditions, rules, or procedures to limit coverage;

(B) failing to effectively provide a required notice or notification as to an employee’s rights;

(C) inducing or attempting to induce an employee, worker, whistleblower, key service provider, or other protected party to prospectively waive a right;

(D) imposing consequences (whether or not employment-related) for or discouraging the exercise of any such right, such as by counting paid sick leave taken by an employee pursuant to HFWA as an absence that may lead to negative consequences;

(E) “access interference” with an agricultural employee’s rights to reasonable access (as defined by C.R.S. § 8-13.5-202 and the Agricultural Labor Conditions Rules, 7 CCR 1103-15, Rule 4) to visitors at employer-provided housing, to employee residence access and egress, to key service providers, or to required transportation; except an agricultural employer may apply generally applicable hazard or safety protocols to work site visitors.

2.12 “Wage Protection ~~Act~~ Rules” refer to the rules contained in 7 CCR 1103-7.

2.13 “Willful,” in Articles within C.R.S. Title 8 that this Division enforces or administers, has the same meaning as under the federal Fair Labor Standards Act, as used and defined in 29 U.S.C § 255(a) and 29 C.F.R. § 578.3(c).

2.14 “Worker” and “principal,” as to rights or responsibilities under C.R.S. Title 8, Article 14.4, have the same meaning as in C.R.S. §§ 8-14.4-101(3),(5).

2.15 Any other definitions set forth in statutes enforced through these Rules are hereby incorporated by reference, except where terms are defined differently in these Rules.

2.16 Under the ALRRA and PHEW, a “whistleblower” is defined as follows, and need not have personally experienced the relevant violation:

- (A) under the ALRRA, an agricultural employee “with knowledge of an alleged violation of Part 2 [of Article 13.5 of C.R.S. Title 8] or the agricultural worker’s representative” (as defined in C.R.S. § 8-13.5-201(4)); and
- (B) under PHEW, a worker with knowledge of an alleged violation of Article 14.4 of C.R.S. Title 8 or the “worker’s representative” (as defined in C.R.S. § 8-14.4-107).

2.17 Under the ALRRA, the definitions of the following parties apply.

2.17.1 “Agricultural employee” and “agricultural worker,” as to rights and responsibilities under C.R.S. § 8-2-206 of the ALRRA, identically mean a person employed by an agricultural employer. As to other rights and responsibilities under the ALRRA, “agricultural employee” and “agricultural worker” identically mean an employee engaged in any service or activity included in 29 U.S.C. § 203(f) or 26 U.S.C. § 3121(g).

2.17.2 “Agricultural employer,” as to rights and responsibilities under the ALRRA, means a person engaged in any service or activity included in 29 U.S.C. § 203(f) or 26 U.S.C. § 3121(g) who either (1) contracts with any person who recruits, solicits, hires, employs, furnishes, or transports agricultural employees, or (2) regularly engages the services of one or more agricultural employees. Under C.R.S. § 8-3-104(1)(b) of the ALRRA, “[t]he meaning of ‘agricultural employer’ must be liberally construed for the protection of persons providing services to an employer.”

2.17.3 “Other protected party,” as to rights and responsibilities under the ALRRA, means a person who has, or is perceived as having, any of the following relationships protected against retaliation by C.R.S. § 8-2-206 of the ALRRA:

- (A) a “familial . . . relationship” with an agricultural employee (C.R.S. § 8-2-206(3)(c)), which encompasses (1) a spousal relationship (including a common-law marriage, civil union, or domestic partner), (2) any of the following relationships by blood, marriage, or adoption: parent, grandparent, son, daughter, grandson, granddaughter, brother, sister, stepparent, stepbrother, stepsister, stepson, stepdaughter, uncle, aunt, niece, nephew, or cousin (*i.e.*, a “relative” as defined by C.R.S. § 26-6-102(32)), or (3) another person with whom the employee similarly “has a significant personal bond . . . regardless of biological or legal relationship” (C.R.S. § 8-13.3-503(11)(e)), such as a longtime household member.
- (B) a “workplace relationship” with an agricultural employee (C.R.S. § 8-2-206(3)(c)), which encompasses any person with whom the employee has interacted repeatedly in the scope of their employment, regardless of the person’s employer or employment status.
- (C) a “person with whom the agricultural employee exchanges care or support” (C.R.S. § 8-2-206(3)(c)), which encompasses any relationship in which the employee or the person, outside of their scope of employment, provides care or support to the other with (1) health, family care, transportation, or similarly important personal needs, or (2) any other needs that the individual lacks capacity to perform on their own, such as hygiene, financial or similar paperwork, or home tasks (basic cleaning, shopping, cooking, maintenance, etc.).

Rule 3. Complaint, Investigation, and Appeal Procedures

3.1 Wage Protection ~~Act~~ Rules 4.1 and 4.3-4.8, 7 CCR 1103-7, regarding investigation procedures and protections, are incorporated by reference, except that as incorporated:

- (A) all references to “wage” or “wage and hour” Complaints, Claims, rights, responsibilities, or proceedings shall include other labor rights or responsibilities within these Rules;
- (B) in Rule 4.4.3 “C.R.S. § 8-4-113(1)(b)” is replaced with “C.R.S. § 8-1-140(2)”; and
- (C) for Claims under PHEW and the ALRRA, references to “employers” or “employees” shall include “principals” and “workers,” respectively, as defined by PHEW and these Rules, and “agricultural employers” and “agricultural employees,” respectively, as defined by the ALRRA and these Rules.

3.2 Complaint filings.

- 3.2.1** An employee ~~or~~ worker, whistleblower, key service provider, or other protected party who wishes to file a Complaint shall use a Division-approved form(s) and shall include the Complainant’s signature, the Complainant’s contact information, the Respondent’s contact information, and basis for the Complaint. If the Division does not have an applicable form publicly posted when the Complainant intends to file, then a Complainant may file a Complaint in any form, by mail or electronic mail, with the Division, and the Division may later require the Complainant to complete the Division’s Complaint form, but the filing date will remain the date of the Complainant’s original filing.
- 3.2.2** A Complainant shall respond in a timely manner to informational or investigatory requests by the Division. Failure to comply with this Rule may result in dismissal of the Complaint. If a Complaint is dismissed before a Notice of Complaint is sent to the Respondent due to failure to respond to a Division request for information, the Complaint may be reopened if the Complainant provides the requested information or documentation to the Division within 35 days of the request. A Complainant may be required to file a new Complaint if the response is received more than 35 days after the request.
- 3.2.3** Anonymous complaints will be accepted, but will not be investigated using the Division’s administrative procedure, and will be investigated only at the discretion of the Division.

3.3 Filing, service, and deadlines.

- 3.3.1** A Complaint or appeal is considered “filed” with the Division when it is received by the Division via mail, fax, email, online submission, or personal delivery. Any Complaint, appeal, or termination received after 11:59pm Mountain Time is considered filed the next business day.
- 3.3.2** Deadlines in these Rules may be extended for good cause. In considering whether good cause exists, under these Rules or applicable statutes allowing good-cause extensions of deadlines, the Division will determine whether the reason is substantial and reasonable, and must take into account all available information and circumstances pertaining to the specific Complaint.
- 3.3.3** Within ~~90~~ days of receipt of a Complaint (or within ~~90~~ days of the effective date of these Rules, whichever is later), the Division will (A) assess whether it will exercise its discretion to investigate the Complaint, and (B) inform the Complainant of the decision, including sending the Complainant a Notice of Right to Sue if the Complaint is subject to C.R.S. §§ 8-14.4-105(2)(b), 8-2-206(3)(c)(II), 8-13.3-411(4)(d), 8-13.5-204(1)(b) and the Division declines to exercise its discretion to investigate the Complaint. Under this Rule 3.3.3, a Complaint is considered received when the Complainant has provided all information and documents needed to process the Complaint, as requested in the Division Complaint form or by a Division investigator.
- 3.3.4** In a Complaint investigation, the Division will send the Respondent a Notice of Complaint, along with any relevant supporting documentation submitted by the Complainant, via U.S. mail, electronic means, or personal delivery. A Respondent must respond within four weeks

after a Complaint is sent to them, unless an extension is granted.

3.3.5 Where a retaliation or interference Complaint or investigation governed by these Rules is filed or commenced, the Respondent shall comply with the federal “Preservation of records made or kept” rule, 29 C.F.R. § 1602.14, requiring that the Respondent “shall preserve all personnel records relevant to the charge or action until final disposition of the charge or the action.” For purposes of retaliation or interference Claims, relevant “personnel records relevant” include but are not limited to:

- (A) requests or statements by the individual that are claimed to be protected activity;
- (B) responses to, or analyses of, such request(s) or statement(s);
- (C) policies or decisions, formal or informal, that may apply to such request(s) or statements(s); and
- (D) to the extent relevant to the Complaint or investigation (e.g., if the possible violation includes disparate treatment based on protected activity), the contents of “personnel files” (as defined by C.R.S. § 8-2-129(c)) of the Complainant and “other[s] ... holding positions similar to that held or sought by the aggrieved person and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected” (29 C.F.R. § 1602.14).

3.3.6 A Complainant may withdraw a Complaint at any time before issuance of a determination by notifying the Division in writing. Additionally, for a Complaint under PHEW, HFWA, or the ALRRA:

- (A) whether or not a Complainant requests Complaint withdrawal or a Notice of Right to Sue, the Division may exercise its discretion to terminate an investigation at any time, in which case it will promptly send a Notice of Right to Sue; and
- (B) if a Determination has not been sent by 180 days after the date the Division notifies the Claimant of its decision to investigate, the Complainant may request a Notice of Right to Sue, and the Division will respond within 30 days by sending either **(1)** the determination or **(2)** a Notice of Right to Sue indicating that the Division has terminated the investigation and that the Complainant has exhausted administrative remedies if required to do so.

3.4 Burdens of proof and production.

3.4.1 Complaints of retaliation are analyzed as follows, with the preponderance of the evidence standard applying to all burdens of proof.

- (A) The Complainant has the burden of proving all elements of a Claim, including that unlawful retaliation occurred. The Respondent must explain which, if any, allegations it disputes. Any evidence probative of a relevant issue may be submitted or considered. If an agricultural employer takes an “adverse action” (as defined in C.R.S. § 8-2-206(1)(a)) against an agricultural employee within 90 days of protected activity, under C.R.S. § 8-2-206(3)(b), that creates a rebuttable presumption of retaliation, shifting the burden of proof to the Respondent to offer any such rebuttal.
- (B) If the Complainant proves unlawful retaliation or discrimination was a motivating factor for the complained-of practice, then a violation is proven. However, if a violation is proven but the Respondent proves that the complained-of practice would have occurred for another lawful reason, then the Division shall not award reinstatement, back pay, or front pay as of the date the practice would have

occurred.

3.4.2 Complaints of interference or failure to provide any required notice are analyzed as follows, with the preponderance of the evidence standard applying to all burdens of proof.

(A) The Complainant has the burden of proving all elements of a Claim, including that unlawful interference or failure to provide required notice occurred. The Respondent must explain which, if any, allegations it disputes. Any evidence probative of a relevant issue may be submitted or considered.

(B) If the Complainant meets its burden of proof, then a violation is proven. However, if a violation is proven but the Respondent proves that the complained-of practice would have occurred for another lawful reason, then the Division shall not award reinstatement, back pay, or front pay as of the date the practice would have occurred.

~~(C) Interference with HFWA or PHEW rights has the same definition and scope as under the federal Family and Medical Leave Act statutory and rule provisions on interference, 29 U.S.C. § 2615(a)(1) and 29 C.F.R. § 825.220(b)-(d), except where any provisions of HFWA, PHEW, or these Rules expressly differ. Interference includes, but is not limited to, imposing stricter documentation, notice, or other conditions for exercising HFWA or PHEW rights than the statute permits.~~

3.5 Determinations.

3.5.1 Upon conclusion of the investigation of a Complaint, the Division will issue a determination. The Division shall notify the parties on the date the determination is issued by the Division's compliance investigator by sending (a) a copy of the determination; and (b) notice of the parties' termination and appeal rights.

3.5.2 The date of "issuance" of the Division's determination is the date the Division's determination is "sent." Both the termination and appeal deadlines are calculated from the date the Division's determination is originally issued and sent to the parties.

3.5.3 Determinations by the Division may include the following remedies and orders, depending on which, if any, the Division's findings support:

(A) monetary or other relief authorized by the statute(s) under which the Complaint was filed, including but not limited to, where applicable --

(1) any unpaid wages, penalties, and/or fines under C.R.S. Title 8, Article 4,

(2) if a violation of C.R.S. Title 8, Articles 13.3 (HFWA) or 14.4 (PHEW) cost an employee or worker a job or pay, back pay plus either reinstatement or (if reinstatement is infeasible) front pay for a reasonable period, ~~and/or~~

(3) the greater of actual damages or ten thousand dollars for each violation of the ALRRA, as stated in C.R.S. §§ 8-2-206 and 8-13.5-204, and/or

~~(4)~~ other fines or penalties authorized by statutes applicable to the Complaint;

(B) fines or penalties authorized by the statutes on Division investigative and enforcement authority in C.R.S. Title 8, Articles 1 and 4; and/or

(C) order(s) to cease non-compliance, ~~and/or~~ effectuate compliance, and/or otherwise redress direct or indirect consequences of violations, as authorized by the statute(s) under which the Complaint was filed and statutes on Division

investigative and enforcement authority, including but not limited to C.R.S. Title 8, Article 1, § 8-2-206(3)(c)(I), Articles ~~and~~ 4-6, and § 8-13.5-204(1)(b), (2)(a)(I); and/or-

(D) for any award under C.R.S. § 8-13.5-204 of the ALRRA, the Division's determination must order that any amounts recovered by a whistleblower or key service provider pursuant to the award must be distributed to agricultural workers affected by the violation who can be located, insofar as such disbursement is economically feasible.

3.6 The Division may exercise its discretion to have an investigation sequenced and/or divided into two or more stages on discrete questions of liability or relief (e.g., bifurcation), yielding two or more determinations and/or phases of the investigation.

3.7 Appeals.

3.7.1 Any party to a Claim or determination may appeal the Division's determination. The provisions governing appeals under Rule 6 of the Wage Protection ~~Act~~ Rules, 7 CCR 1103-7, as amended and modified (or, for direct investigations, Rule 6 of the Direct Investigation Rules, 7 CCR 1103-8, as amended and modified), shall apply to Claims or determinations under these Rules. Parties may not appeal the Division's discretionary decisions as to whether or not to investigate a Complaint.

3.7.2 An appeal may, in the discretion of the hearing officer, be sequenced and/or divided into two or more stages on discrete questions of liability or relief (e.g., bifurcation), yielding two or more decisions and/or phases of the appeal.

3.8 A certified copy of any citation, notice of assessment, or order imposing relief or remedies may be filed with the clerk of any court having jurisdiction over the parties at any time after the entry of the order. Such a filing can be in a county or district court, and will thereby have the effect of a judgment from which execution may issue.

Rule 4. Notice and Posting Rights and Responsibilities

4.1 Poster requirements. A poster informing all employees and workers of their rights under HFWA and PHEW must be posted, displayed, or otherwise provided by employers and principals, as required by C.R.S. § 8-13.3-408 (HFWA), and C.R.S. § 8-14.4-103 (PHEW). All agricultural employers must post a notice of agricultural employees' rights under Part 2 of Article 13.5 of Title 8, C.R.S., as required by C.R.S. § 8-13.5-202.

4.1.1 The poster(s) must specify:

- (A) for those covered by HFWA, (1) the amount of paid sick leave to which employees are entitled, and (2) the terms of its use;
- (B) for those covered by PHEW, (1) the right to raise reasonable concerns about workplace violations of government health or safety rules, or otherwise significant workplace health or safety threats, related to a public health emergency, and (2) the right to wear one's own personal protective equipment, such as a mask, faceguard, or gloves, if it provides a higher level of protection than already-provided equipment, is recommended by a governmental public health agency with jurisdiction over the workplace, and does not render the worker incapable of performing the job its duties;
- (C) for those covered by either HFWA or PHEW, (1) that it is unlawful to retaliate for or interfere with HFWA or PHEW rights, and (2) that a complaint may be filed if retaliation, interference, or another denial of HFWA or PHEW rights occurs; and-

(D) for those covered by the ALRRA, all rights under Part 2 of Article 13.5 of Title 8, C.R.S., and rules issued pursuant to and as implementation of those provisions, including: (1) § 202 of Part 2 (access to key service providers, visitors, and employee residences); (2) § 203 of Part 2 (protections from heat illness and injury; restrictions on short-handled hoe and other short-handled tool use; and for hand-weeding/thinning, additional rest as well as gloves and knee pads); and (3) § 204 of Part 2 (procedures and remedies for enforcement of Part 2 rights); and (4) the Agricultural Labor Conditions Rules, 7 CCR 1103-15.

4.1.2 Employers and principals may use the latest version of the “Colorado Workplace Public Health Rights Poster” (provided by the Division at www.coloradolaborlaw.gov) to satisfy the poster requirements of both HFWA and PHEW. Agricultural employers may use an up-to-date “Agricultural Labor Rights and Responsibilities Poster” published by the Division or, at any time such a poster is unavailable, an up-to-date version of an Interpretive Notice and Formal Opinion on agricultural labor rights and responsibilities published by the Division, to satisfy the poster requirements of the ALRRA. Employers and principals may comply by using another poster that contains all substantive information in the “Colorado Workplace Public Health Rights Poster,” and if applicable, in an “Agricultural Labor Rights and Responsibilities Poster,” and otherwise satisfies all statutory and rule requirements.

4.1.3 The poster(s) shall be displayed in each establishment where employees or workers work, in a conspicuous location frequented by employees or workers where it may be easily read during the workday, and in all places where notices concerning the rights and safety of employees or workers are customarily posted — such as in break rooms, on employee bulletin boards, and/or adjacent to time clocks, department entrances, and/or facility entrances. In addition:

(A) Agricultural employers must post an “Agricultural Labor Rights and Responsibilities Poster” or equivalent posting at any employer-provided housing, and must post it electronically, including by e-mail and on an intranet or internet site, if the agricultural employer customarily communicates with agricultural employees by these means.

(B) 4.1.4 If the work site or other conditions make a physical posting of the “Colorado Workplace Public Health Rights Poster” impractical (including remote work, private residences employing only one worker, and certain entirely outdoor work sites lacking an indoor area), the employer or principal shall provide a copy of the poster to each employee or worker within their first month of work, including through (if information is customarily disseminated to the employees or workers through these means) either electronic communication or conspicuous posting in a web-based platform.

4.2 Notice and Guidance Requirements. A written HFWA notice shall be provided to each employee, in addition to the poster requirement.

4.2.1 A written HFWA notice shall be provided to each employee, in addition to the poster requirement.

(A) 4.2.1 The written HFWA notice to each employee shall specify the same information specified in Rule 4.1.1 for those covered by HFWA.

(B) 4.2.2 Employers may use the latest version of the “Colorado Workplace Public Health Rights Poster” (provided by the Division at www.coloradolaborlaw.gov) to satisfy the written notice requirements of HFWA. Employers may comply by using another written notice that contains all substantive information in the “Colorado Workplace Public Health Rights Poster” and otherwise satisfies all statutory and rule requirements.

(C) 4.2.3 Including the written HFWA notice among other employment-related documents (such as a handbook, a manual, or other written or posted policies)

complies with this written notice requirement, as long as the documents are provided either:

- (1A) in hard copies given to each employee; or
- (2B) in electronic form, if the employee --
 - (a1) can easily access the documents electronically, and
 - (b2) is provided actual notice that the documents contain information regarding their terms of employment, not just a link that fails to so notify the employee.

4.2.2 Under C.R.S. § 8-14.4-109 of the ALRRA, during a public health emergency, a principal engaged in agricultural employment (as defined in C.R.S. § 8-13.5-201(2)) must also provide resources to agricultural employees as follows.

- (A) Employers must “provide informational and educational materials through posters and pamphlets written in English and Spanish and any other relevant languages [...as defined in Rule 4.3, that (1)] lists the contact information for the migrant farm worker division of Colorado Legal Services, or its successor organization, where a worker may receive free and confidential legal services; and [...(2)] informs the workers regarding federal and state guidance concerning [...the] public health emergency.”
- (B) These materials must be provided “in employer-provided housing, work sites, and other places where the principal usually posts information for the workers[.]” If materials are damaged or removed, they must be replaced within 48 hours of damage or removal.
- (C) An employer may comply with these requirements by providing a copy (including an electronic copy, if the employer customarily communicates to the employees in this form) of up-to-date guidance recommended by the Occupational Safety and Health Administration (OSHA) as to workplace conditions in a public health emergency (as of the publication of these rules, available at <https://www.osha.gov/coronavirus/safework>) and guidance by the Colorado Department of Public Health and Environment (CDPHE) that is (a) related to the public health emergency; and (b) relevant to agricultural employees (as of publication of these rules, available at <https://covid19.colorado.gov/guidance-for-the-agriculture-industry>).
- (D) Employers must also “provide training to workers concerning safety precautions and protections during [...the] public health emergency.” an employer may comply with these requirements by training workers in accordance with federal OSHA recommendations or CDPHE recommendations applicable to agriculture.

4.3 Posters and notices required by these Rules shall be in English and any language that is the first language spoken by at least five percent of the employer’s or principal’s workforce. The “Colorado Workplace Public Health Rights Poster” (provided by the Division at www.coloradolaborlaw.gov) is available in multiple languages. The “Agricultural Labor Rights and Responsibilities Poster” will also be made available in multiple languages. If an employer or principal needs the poster in a language not already provided, it has 30 days to procure a translation, and may ask the Division for a translation, which the Division will endeavor to provide if feasible.

4.4 Employers or principals shall be deemed noncompliant if they attempt to minimize the effect of posters or notices required by statute or these Rules, such as by communicating positions contrary to, or discouraging the exercise of rights covered in, the required poster or notice.

- 4.5** The poster and written notice rights and responsibilities of PHEW, C.R.S. § 8-14.4-103, ~~and of HFWA, C.R.S. § 8-13.3-408, and ALRRA, C.R.S. § 8-13.5-202,~~ have applied since each statute took effect on July 11, 2020, ~~and~~ July 14, 2020, and June 25, 2021, respectively, and will be interpreted in conformity with these Rules. Employers and principals will be deemed compliant if they executed required posting(s) and/or notice(s) within 30 days of the applicable statutory effective date.
- 4.6** Violation of these poster or notice requirements may subject the violator to:
- (A)** fines pursuant to C.R.S. § 8-1-140;
 - (B)** additional fines for willful violations pursuant to C.R.S. § 8-13.3-408(4); and/or
 - (C)** in the event that the violator also committed another violation of HFWA or PHEW, fines in the maximum amount available for that violation under HFWA (pursuant to C.R.S. §§ 8-4-111, 8-4-113, 8-13.3-407(5)) or PHEW (pursuant to C.R.S. § 8-14.4-105(3)).

Rule 5. Protected Activity under PHEW

- 5.1** For the PHEW provision that raising a “concern about workplace violations of government health or safety rules, or about an otherwise significant workplace threat to health or safety, related to a public health emergency” is protected against retaliation if the worker’s belief as to a violation or threat is, whether or not correct, was “reasonable” and “in good faith” (C.R.S. § 8-14.4-102(1)):
- 5.1.1** relevant evidence includes a recommendation, research, guidance, or other information from or provided by a public health agency (federal, state, or local), a major medical association, a major industry-specific trade association, a major public health organization, or another similarly reliable source; and
 - 5.1.2** the worker, whether or not citing a specific rule or guideline, must state what action, condition, or situation they believe constitutes a qualifying violation of a rule regarding, or significant threat to, workplace health or safety.
- 5.2** For protected use of a worker’s own personal protective equipment (“PPE”) under PHEW, the requirements of C.R.S. §§ 8-14.4-102(a)-(c) are conjunctive: PHEW protection for PPE use applies only if the PPE provides a higher level of protection as required by 102(a), is recommended by an applicable public health agency as required by 102(b), *and* does not render the worker incapable of performing as required by 102(c).
- 5.2.1** For the C.R.S. § 8-14.4-102(3)(a) requirement that a worker’s PPE “provides a higher level of protection than the equipment provided by the principal”:
 - (A)** the provisions of Rule 5.1.1 as to relevant information apply;
 - (B)** information may not be relied on if, before the worker either brought the PPE to work or communicated about the PPE with the principal, the information was repealed or otherwise repudiated by the person or entity who provided it, but information may still be relied on if, though no longer publicly published, it was not repealed or repudiated;
 - (C)** if principal-provided PPE of the same type is either cleaned or replaced, the worker’s own PPE must also be either cleaned or replaced; and
 - (D)** the requirement is not met if the PPE is more protective of the worker yet less protective of others (e.g., a mask with a vent releasing air that, even if highly protective for the wearer, is less protective for others).
 - 5.2.2** For the C.R.S. § 8-14.4-102(3)(b) requirement that PPE is “recommended by a federal, state, or local public health agency with jurisdiction over the worker’s workplace,” the

provisions of Rule 5.2.1(B) as to relevant information apply.

5.2.3 Special cases as to the requirements of C.R.S. §§ 8-14.4-102(3)(a) (that the PPE “provides a higher level of protection than the equipment provided by the principal”) and 8-14.4-102(3)(b) (that the PPE “is recommended by a federal, state, or local public health agency with jurisdiction over the worker’s workplace”).

(A) If a principal provides a worker *no* face covering during (1) a public health emergency related to an airborne pathogen, or (2) a governmental public health recommendation of a face covering for those in the worker’s occupation, then (3) a worker using their own face covering presumptively meets the C.R.S. §§ 8-14.4-102(3)(a)-(b) requirements (“higher level of protection” and “recommended”), without need for further evidence or inquiry, unless the principal proves that the worker’s face covering is worse than none at all.

(B) If a principal (1) provides a form of PPE (e.g., a mask) that is compliant with all applicable recommendations by federal, state, and local public health agencies with jurisdiction over the workplace, and (2) procures that PPE from a provider it knows to provide reliable PPE (from experience prior to obtaining the particular item it is providing to a worker wishing to use their own PPE), then (3) a worker may use their own PPE of the same type (e.g., a different mask) only if it was obtained from a reliable provider, whether or not the principal’s provider.

5.2.4 An unlawful decision to disallow a worker from wearing PPE that they are permitted to use under C.R.S. §§ 8-14.4-102(3)(a)-(c) is an adverse action, and may qualify as a constructive discharge if all of the following apply:

(A) the principal fails to remedy the unlawful decision immediately;

(B) working without the PPE would increase a substantial threat to health or safety for any person; and

(C) the worker terminates the work for the principal because of unwillingness to work without the PPE.



NOTICE OF PUBLIC HEARING CONCERNING PROPOSED RULES

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to adoption of the below **three sets of proposed rules**, under authority granted to the Division of Labor Standards and Statistics by the Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of C.R.S. Title 24, Article 50 and Title 8, Articles 1-4, 6, 12, 13.3, 13.5 and 14.4.

(1) Agricultural Labor Conditions Rules, 7 CCR 1103-15. This new set of rules executes the mandate in the Agricultural Labor Rights and Responsibilities Act of 2021, Colorado Senate Bill 21-87 (“ALRRA”), that the Division “shall promulgate” the following new sets of rules:

- (A) “Rules that **require agricultural employers to protect agricultural workers from heat-related stress illnesses and injuries** when the outside temperatures reach eighty degrees or higher, with discretion to adjust requirements based on environmental factors, exposure time, acclimatization, and metabolic demands of the job” — yielding these proposed rules providing agricultural employees: (i) drinking water — of a quantity and quality recommended by professional guidance; (ii) access to shade — usable during breaks, whether artificial or natural, to the maximum extent possible; (iii) during increased risk conditions such as especially high heat — breaks spaced no more than two hours apart, and safety communications to workers; (iv) safety procedures — for symptoms of heat stress to be spotted, responded to appropriately, and communicated to those who can provide or procure assistance; and (v) training — on these rules and on basic prevention, treatment, and symptoms of heat stress.
- (B) “Rules regarding additional times during which an employer may not interfere with **an agricultural worker's reasonable access to key service providers**, including periods during which the agricultural worker is performing compensable work, especially during periods when the agricultural worker is required to work in excess of forty hours per week and may have difficulty accessing such services outside of work hours” — yielding these proposed rules providing agricultural employees: (1) communication access to key service providers by phone and internet; (2) additional break time for communication with such providers, unpaid in weeks over 40 hours but paid in in weeks over 60 hours; and (3) assurance that they receive mail or other communications sent to an employer for them.

(2) Colorado Whistleblower, Anti-Retaliation, Non-Interference, and Notice-Giving Rules (“Colorado WARNING Rules”), 7 CCR 1103-11. These rules amend the prior version of the Colorado WARNING Rules, the Division’s existing rules governing retaliation, interference, and notice of rights under several Division-enforced statutes, as follows (in addition to certain non-substantive edits):

- (A) defining key terms and provisions relevant to retaliation and interference protections that the ALRRA created, and requires the Division to execute and enforce;
- (B) implementing the ALRRA requirements for employers to provide agricultural employees notice of their rights under the ALLRA, as well as additional notice and training during a public health emergency;
- (D) amending the Division’s existing complaint and investigation procedures, and list of available remedies, to conform to complaints and investigations under the ALRRA;
- (E) where the Division has discretion as to whether to investigate a complaint (including but not limited to various non-wage-related ALRRA complaints), expanding from 30 to 90 days the Division’s time to decide whether to investigate, and clarifying when a complaint is deemed “received” for this deadline;
- (F) harmonizing and clarifying the scope and definition of “interference” and “retaliation” under the ALRRA and other existing statutes; and
- (G) adding definitions that previously were incorporated, by referencing federal law in the rules directly.

(3) State Labor Relations Rules, 7 CCR 1103-12. Rule 4.1.2 is amended to clarify the timeframe to file an unfair labor practice complaint with the Division as authorized in C.R.S. 8-3-110(16).

Public Hearing Information:

Date and Time of Hearing: **Thursday, December 9, 2021, from 3:00 pm until at least 6:00 pm.** Division leadership will stay until at least 6:00 pm, or longer if by that time anyone still wishes to speak, to assure opportunity for anyone who may wish to attend in the early evening. You need not arrive by a particular time or stay the entire meeting.

Written Comment Deadline for Colorado WARNING Rules and State Labor Relations Rules:
Monday, December 13, 2021, at 5:00 pm

Written Comment Deadline for Agricultural Labor Conditions Rules:
Monday, December 20, 2021, at 5:00 pm

The Division is administering this public hearing, and all interested persons are free to offer oral testimony and to listen to part or all of the hearing. However, due to the current public health crisis, **participation will be primarily by remote means**, with limited in-person participation at the Division by RSVP only and subject to (A) space limitations and (B) the possibility of a decision, which would be announced on the [rulemaking page](#) no later than 24 hours before the meeting, as to whether the public health situation permits in-person attendance or requires an exclusively remote hearing. While not required, we request and highly recommend that **anyone interested in oral testimony use this [rulemaking comment form](#) to RSVP**, because at the hearing, after those in person speak, we will first call on those who RSVP'd to speak, followed by testimony from others by remote means. A recording of the hearing will be publicly posted after the hearing on our [rulemaking page](#).

Written comments may be submitted through our online [rulemaking comment form](#), mailed to the below address, faxed to 303-318-8400, or emailed to michael.primo@state.co.us. Because **written comments become part of the same record as oral testimony**, and are reviewed by the same officials, you **may submit written comments in lieu of oral testimony**, but are free to participate by both means.

Instructions for Hearing Participation: Either of the below options will work to participate, but for orderly administration of participation, and to avoid possible audio feedback, please do not use both simultaneously. *(You do not need to have a Google account to access any of the below means.)*

- (A) **To Participate by Internet, Including Testifying:**
visit this "Meet" webpage: meet.google.com/qrt-vmrc-ezv
- (B) **To Participate by Phone, Whether Just to Listen or to Testify:**
call (US) +1 636-707-2265, and then enter this pin: 325 388 238#
- (C) **To Participate in Person** (633 17th Street, Denver, CO, 80202, Room 12A on the 12th floor)
RSVP via our [rulemaking comment form](#) to attend in person.

Please contact michael.primo@state.co.us with any questions about how to access either the hearing or its recording, or **if you need accommodations or translation services** to attend or participate. This hearing is held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101 et seq., and Colorado Open Meetings Law, C.R.S. § 24-6-401 (2021), to receive any testimony, written, views, or arguments that interested parties wish to submit regarding the proposed rules.

For resources in Spanish: visit LeyesLaboralesDeColorado.gov; submit comments on our [Spanish comment form](#); RSVP (optionally) to attend or speak on our [Spanish RSVP form](#); or call 303-318-8441 and ask for an employee who speaks Spanish.

***Para recursos en español:** visite [Leyes Laborales Colorado.gov](https://LeyesLaboralesDeColorado.gov); envíe comentarios por nuestro [formulario en español para comentarios](#); Para asistir o hablar, confirme su asistencia (opcionalmente) en nuestro [formulario RSVP](#) en español ; o llame al 303-318-8441 y pida un empleado que hable español.*

Copies of proposed rules, including redlined copies showing changes from prior versions, and statements of basis and purpose further detailing the proposed rules, are available at www.coloradolaborlaw.gov or by request to: **Division of Labor Standards and Statistics, 633 17th Street, Denver, Colorado, 80202.**

Notice of Proposed Rulemaking

Tracking number

2021-00706

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-12

Rule title

COLORADO STATE LABOR RELATIONS RULES

Rulemaking Hearing**Date**

12/09/2021

Time

03:00 PM

Location

633 17th Street, 12th Floor, Denver, CO 80202

Subjects and issues involved

Rule 4.1.2 is amended to clarify the timeframe to file an unfair labor practice complaint with the Division as authorized in C.R.S. 8-3-110(16).

Statutory authority

Colorado Revised Statutes (C.R.S.) Title 24, Article 50 (2022) (the Colorado Partnership for Quality Jobs and Services Act, C.R.S. § 24-50-1101 et seq.), the general labor law implementation and enforcement authority of C.R.S. Title 8, Articles 1 and 3 (2022), and are intended to be consistent with rulemaking requirements of the Administrative Procedures Act, C.R.S. § 24-4-103. Rules are promulgated pursuant to the Divisions authority in C.R.S. §§ 24-50-1103, -1106(4), and C.R.S. § 8-3-105

Contact information**Name**

Michael Primo

Title

Rule Coordinator

Telephone

3033188462

Email

michael.primo@state.co.us

COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

STATE LABOR RELATIONS RULES

7 CCR 1103-12

~~As proposed on October 29, 2021; if adopted, to be effective following the close of rulemaking. Adopted on November 9, 2020, effective Jan. 1, 2021.~~

Rule 1. Authority.

- 1.1 These Rules are issued under the authority of, and as enforcement of, Colorado Revised Statutes (“C.R.S.”) Title 24, Article 50 (202~~20~~²⁹) (the “Colorado Partnership for Quality Jobs and Services Act,” C.R.S. § 24-50-1101 et seq.), as well as the general labor law implementation and enforcement authority of C.R.S. Title 8, Articles 1 and 3 (202~~20~~²⁹), and are intended to be consistent with the rulemaking requirements of the Administrative Procedures Act, C.R.S. § 24-4-103. These Rules are promulgated pursuant to the Division’s authority in C.R.S. §§ 24-50-1103, -1106(4), and C.R.S. § 8-3-105.
- 1.2 The Director of the Division of Labor Standards and Statistics in the Department of Labor and Employment has the authority to enforce C.R.S. § 24-50-1101 et seq. and these Rules.
- 1.3 Incorporations by Reference. C.R.S. § 24-50-1101 et seq. is hereby incorporated by reference into these Rules. Copies are available for public inspection and a reasonable charge at the Colorado Department of Labor and Employment, Division of Labor Standards and Statistics, 633 17th Street, Denver CO 80202. Electronic access is available from the website of the Colorado Secretary of State. Pursuant to C.R.S. § 24-4-103(12.5)(b), the agency shall provide certified copies of them at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency originally issuing them. All Division Rules are available to the public at www.coloradolaborlaw.gov. Where these Rules have provisions different from or contrary to any incorporated or referenced material, the provisions of these Rules govern so long as they are consistent with Colorado statutory and constitutional provisions.
- 1.4 Separability. These Rules are intended to remain in effect to the maximum extent possible. If any part (including any section, sentence, clause, phrase, word, or number) is held invalid, (A) the remainder of the Rule remains valid, and (B) if the provision is held not wholly invalid, but merely in need of narrowing, the provision should be retained in narrowed form.

Rule 2. Definitions.

- 2.1 “Authorized representative” means a person designated by a party to an unfair labor practice complaint to represent the party during the Division’s complaint and/or appeal process. To designate an authorized representative, the party must comply with the requirements of Rule 4.1.1.
- 2.2 A “covered employee” is defined as “an employee who is employed in the personnel system of the state established in Section 13 of Article XII of the State Constitution,” unless the individual is not covered for one of the reasons provided in C.R.S. § 24-50-1102(3)(a)-(h).

- 2.3 “Director” refers to the Director of the Division of Labor Standards and Statistics and his or her designee, unless otherwise specified in these Rules.
- 2.4 An “employee organization” has the same meaning as in C.R.S. § 24-50-1102(7), and a “certified employee organization” has the same meaning as in C.R.S. § 24-50-1102(1).
- 2.5 “Division” refers to the Division of Labor Standards and Statistics in the Colorado Department of Labor and Employment.
- 2.6 “Electronic mail” (“email”) refers to the electronic transmission of messages, including documents, via the Internet.
- 2.7 “Mail” refers to first-class mail, sent through the United States Postal Service, postage prepaid.
- 2.8 “Unfair labor practice” is defined as in C.R.S. §§ 24-50-1107, -1108, -1109, -1111, and -1112, but does not include disputes over the interpretation, application, and enforcement of any provision of the partnership agreement.

Rule 3. Filing.

- 3.1 Documents may be filed with the Division by electronic mail, facsimile, or other electronic means when possible; U.S. mail is also an acceptable filing method. A document is considered “filed” with the Division when it is received by the Division; any document received after 11:59 p.m. Mountain Time is considered “filed” the next business day.

Rule 4. Unfair Labor Practices.

4.1 Unfair Labor Practice Complaints

- 4.1.1 The party filing an unfair labor practice complaint shall be designated the charging party. The party against whom a complaint is filed shall be designated the respondent. Either party may designate an authorized representative to act on its behalf in filing a complaint with the Division. The party may designate an authorized representative by filing the Division-approved form with the Division. The party may revoke the authorized representative’s authority by contacting the Division in writing.
- 4.1.2 An unfair labor practice complaint must be received by the Division no later than six (6) months after ~~the latest of (1) the date that the alleged unfair labor practice occurred, (2) the date the charging party knew about the unfair labor practice, or (3) the date the charging party reasonably should have known about the alleged unfair labor practice, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the armed forces, in which event the six-month period shall be computed from the day of the person’s discharge. A complaint shall be dismissed as untimely if it is filed after the above deadline.~~
- 4.1.3 Unfair labor practice complaints shall be filed on the designated form provided by the Division. The charging party shall set forth a clear and concise statement of the facts constituting the unfair labor practice.
- 4.1.4 The Division will evaluate unfair labor practice complaints to determine if the Division has jurisdiction over the alleged conduct and if sufficient evidence has been shown from which an unfair labor practice may be reasonably inferred.
- 4.1.5 If the unfair labor practice complaint provides insufficient evidence, the Division will notify the charging party and may request additional information.

- 4.1.6 Failure to respond in a timely manner to requests from the Division for additional supporting information and/or documentation may result in dismissal of the unfair labor practice complaint.
- 4.1.7 After determining that a charging party's unfair labor practice complaint contains sufficient allegations and evidence that, if proven true, would state a claim of an unfair labor practice, the Division shall give notice of the allegations and request an answer be filed by the respondent.
- 4.1.8 The respondent shall file an answer responding to each allegation in the complaint, and attach any documentation or evidence the respondent wishes the Division to consider in reviewing the complaint, within twenty-one (21) calendar days of the date the Division sends a copy of the complaint to the respondent.
- 4.1.9 In any Division investigation, proceeding, or other action, if information is provided to the Division by a source requesting confidentiality, and that information is used only as a basis for procuring other evidence, not offered as evidence itself, then the source shall remain confidential. Any such confidential source is unlawful to disclose (unless the source consents) in any administrative or judicial proceeding, in response to any records or information request, or in any other manner, in order to effectuate statutory requirements. This rule parallels and adopts the identical Division provisions and practices in existing Wage Protection Rule 4.7.
- 4.1.10 Upon receiving a request in writing to the Division stating the reason required for an extension, the Division may, in its discretion, extend the period for the respondent to file an answer to the complaint for good cause.
- 4.1.11 Upon written request, other parties or entities may be designated as intervenors or may be joined as charging parties or respondents, at the Division's discretion.
- 4.1.12 Upon receipt of the complaint, answer, and any supplemental documents, the Division shall make a determination as to whether an unfair labor practice has been committed and issue findings and orders.
- 4.1.13 The burden of proof for establishing an unfair labor practice is on the charging party.
- 4.1.14 The Division may exercise its discretion to have an investigation sequenced and/or divided into two or more stages on discrete questions of liability or relief (e.g., bifurcation), yielding two or more determinations and/or phases of the investigation.
- 4.1.15 A charging party may withdraw an unfair labor practice complaint at any time prior to issuance of a determination.
- 4.2 Unfair Labor Practice Appeals
 - 4.2.1 An appellant, either the charging party or respondent, may file an appeal within thirty-five (35) calendar days from the date of the Division's determination. A valid appeal is a written statement that is timely filed with the Division, explains the basis for the appeal, and has been signed by the appellant or the appellant's authorized representative.
 - 4.2.2 On appeal, questions of fact are reviewable for clear error, while questions of law are reviewable de novo.

- 4.2.3 Upon receipt of the appeal, the Division will notify the parties of the date of the hearing and any interim deadlines, and send a copy of the appeal and a copy of the record of its investigation to the parties via U.S. mail or email. All evidence submitted to the Division as part of the investigation is part of the record on appeal and need not be resubmitted.
- 4.2.4 The hearing officer shall have the power and authority to call, preside at, and conduct hearings on the appeal, including the power to administer oaths and affirmations, order and take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed determination. The hearing officer shall make a decision on each relevant issue raised, including findings of fact, conclusions of law, and an order.
- 4.2.5 Parties who timely file a valid appeal of the Division's determination will be afforded an administrative appeal hearing before a Division hearing officer. Parties may be required to appear by telephone.
- 4.2.6 The parties may submit new testimonial evidence, which is defined as any evidence that is elicited through the statements of individual witnesses, to the hearing officer in accordance with deadlines imposed by the Division. New evidence must be sent to all other parties to the appeal. Failure to send all new evidence to all other parties to the appeal may result in the evidence being excluded from the record. The parties may submit new documentary or other non-testimonial evidence in accordance with deadlines imposed by the Division and upon showing "good cause," which may be assessed based on any relevant factors, including but not limited to:
- (A) That the new evidence was previously not known or obtainable, despite diligent evidence gathering efforts by the party offering the new evidence;
 - (B) That the party failed to receive fair notice of the investigation or of a key filing by another party or by the Division to which the new evidence is responsive;
 - (C) That factors outside the control of the party prevented a timely action or interfered with the opportunity to act, except that the acts and omissions of a party's authorized representative are considered the acts and omissions of the party and are not considered to be a factor outside the party's control as intended by this rule;
 - (D) That a determination raised a new issue or argument that cannot be responded to adequately without the new designate;
 - (E) That, at the investigation stage, the party offering new evidence requested more time to submit evidence, yet was denied, and in the hearing officer's judgment (1) the need for more time was legitimate and did not reflect neglect by the party, (2) the denial of the request for more time was unwarranted, and (3) exclusion of the evidence would cause substantial injustice to the party; and/or
 - (F) That failure to admit the evidence otherwise would cause substantial injustice and did not arise from neglect by the party.
- 4.2.7 An appeal may, at the discretion of the hearing officer, be sequenced and/or divided into two or more stages on discrete questions of liability or relief (e.g., bifurcation), yielding two or more decisions and/or phases of the appeal.

- 4.2.8 The hearing officer's decision constitutes a final agency action pursuant to C.R.S. § 24-4-106. The Division shall promptly provide all parties with a copy of the hearing officer's decision via U.S. mail or email. A party may seek judicial review of the decision pursuant to C.R.S. § 24-50-1115(1).

Rule 5. Appeals of Coverage Decisions by the State Personnel Director.

- 5.1 Appeals of a decision by the State Personnel Director regarding whether an employee or group of employees are appropriately classified as "covered employees" may be filed with the Division on the Notice of Appeal form provided by the Division. The hearing officer will review the State Personnel Director decision *de novo*.
- 5.2 A certified employee organization or the State may file a Notice of Appeal with the Division within thirty-five (35) calendar days from the date of the decision of the State Personnel Director. A valid appeal is a written statement that is timely filed with the Division, explains the basis for the appeal, and has been signed by the appellant or the appellant's authorized representative.
- 5.3 The appellant shall provide the State Personnel Director (SPD) with a copy of the Notice of Appeal at the time of filing with the Division. The SPD shall have twenty-one (21) calendar days to file a Response, after which the appellant shall have twenty-one (21) calendar days to file a Reply.
- 5.4 The State Personnel Director (SPD) may authorize another official, department, division, agency, or other person to respond to the Notice of Appeal, provide information or evidence regarding the Notice of Appeal, or otherwise participate in the appeal. The SPD may so authorize in writing, or a state official may represent that they have been so authorized in a submission that is also copied to the SPD.
- 5.5 Upon receipt of the Notice of Appeal, the Response, and the Reply, the Division shall assign a hearing officer, who may set the matter for hearing or make a decision on the existing record. The hearing officer shall have the power and authority to call, preside at, and conduct hearings on the appeal, including the power to administer oaths and affirmations, order and take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed ruling of the State Personnel Director.
- 5.6 The hearing officer shall make a decision on each relevant issue raised, including findings of fact, conclusions of law, and an order sustaining, overruling or modifying the ruling of the State Personnel Director. Testimony and further evidence may be allowed at the hearing, at the discretion of the hearing officer. Parties may be required to appear by telephone.
- 5.7 The hearing officer's decision constitutes a final agency action pursuant to C.R.S. § 24-4-106. The Division shall promptly provide all parties with a copy of the hearing officer's decision via U.S. mail or email. A party may seek judicial review of the decision pursuant to C.R.S. § 24-50-1115(1).



NOTICE OF PUBLIC HEARING CONCERNING PROPOSED RULES

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to adoption of the below **three sets of proposed rules**, under authority granted to the Division of Labor Standards and Statistics by the Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of C.R.S. Title 24, Article 50 and Title 8, Articles 1-4, 6, 12, 13.3, 13.5 and 14.4.

(1) Agricultural Labor Conditions Rules, 7 CCR 1103-15. This new set of rules executes the mandate in the Agricultural Labor Rights and Responsibilities Act of 2021, Colorado Senate Bill 21-87 (“ALRRA”), that the Division “shall promulgate” the following new sets of rules:

- (A) “Rules that **require agricultural employers to protect agricultural workers from heat-related stress illnesses and injuries** when the outside temperatures reach eighty degrees or higher, with discretion to adjust requirements based on environmental factors, exposure time, acclimatization, and metabolic demands of the job” — yielding these proposed rules providing agricultural employees: (i) drinking water — of a quantity and quality recommended by professional guidance; (ii) access to shade — usable during breaks, whether artificial or natural, to the maximum extent possible; (iii) during increased risk conditions such as especially high heat — breaks spaced no more than two hours apart, and safety communications to workers; (iv) safety procedures — for symptoms of heat stress to be spotted, responded to appropriately, and communicated to those who can provide or procure assistance; and (v) training — on these rules and on basic prevention, treatment, and symptoms of heat stress.
- (B) “Rules regarding additional times during which an employer may not interfere with **an agricultural worker's reasonable access to key service providers**, including periods during which the agricultural worker is performing compensable work, especially during periods when the agricultural worker is required to work in excess of forty hours per week and may have difficulty accessing such services outside of work hours” — yielding these proposed rules providing agricultural employees: (1) communication access to key service providers by phone and internet; (2) additional break time for communication with such providers, unpaid in weeks over 40 hours but paid in in weeks over 60 hours; and (3) assurance that they receive mail or other communications sent to an employer for them.

(2) Colorado Whistleblower, Anti-Retaliation, Non-Interference, and Notice-Giving Rules (“Colorado WARNING Rules”), 7 CCR 1103-11. These rules amend the prior version of the Colorado WARNING Rules, the Division’s existing rules governing retaliation, interference, and notice of rights under several Division-enforced statutes, as follows (in addition to certain non-substantive edits):

- (A) defining key terms and provisions relevant to retaliation and interference protections that the ALRRA created, and requires the Division to execute and enforce;
- (B) implementing the ALRRA requirements for employers to provide agricultural employees notice of their rights under the ALLRA, as well as additional notice and training during a public health emergency;
- (D) amending the Division’s existing complaint and investigation procedures, and list of available remedies, to conform to complaints and investigations under the ALRRA;
- (E) where the Division has discretion as to whether to investigate a complaint (including but not limited to various non-wage-related ALRRA complaints), expanding from 30 to 90 days the Division’s time to decide whether to investigate, and clarifying when a complaint is deemed “received” for this deadline;
- (F) harmonizing and clarifying the scope and definition of “interference” and “retaliation” under the ALRRA and other existing statutes; and
- (G) adding definitions that previously were incorporated, by referencing federal law in the rules directly.

(3) State Labor Relations Rules, 7 CCR 1103-12. Rule 4.1.2 is amended to clarify the timeframe to file an unfair labor practice complaint with the Division as authorized in C.R.S. 8-3-110(16).

Public Hearing Information:

Date and Time of Hearing: **Thursday, December 9, 2021, from 3:00 pm until at least 6:00 pm.** Division leadership will stay until at least 6:00 pm, or longer if by that time anyone still wishes to speak, to assure opportunity for anyone who may wish to attend in the early evening. You need not arrive by a particular time or stay the entire meeting.

Written Comment Deadline for Colorado WARNING Rules and State Labor Relations Rules:
Monday, December 13, 2021, at 5:00 pm

Written Comment Deadline for Agricultural Labor Conditions Rules:
Monday, December 20, 2021, at 5:00 pm

The Division is administering this public hearing, and all interested persons are free to offer oral testimony and to listen to part or all of the hearing. However, due to the current public health crisis, **participation will be primarily by remote means**, with limited in-person participation at the Division by RSVP only and subject to (A) space limitations and (B) the possibility of a decision, which would be announced on the [rulemaking page](#) no later than 24 hours before the meeting, as to whether the public health situation permits in-person attendance or requires an exclusively remote hearing. While not required, we request and highly recommend that **anyone interested in oral testimony use this [rulemaking comment form](#) to RSVP**, because at the hearing, after those in person speak, we will first call on those who RSVP'd to speak, followed by testimony from others by remote means. A recording of the hearing will be publicly posted after the hearing on our [rulemaking page](#).

Written comments may be submitted through our online [rulemaking comment form](#), mailed to the below address, faxed to 303-318-8400, or emailed to michael.primo@state.co.us. Because **written comments become part of the same record as oral testimony**, and are reviewed by the same officials, you **may submit written comments in lieu of oral testimony**, but are free to participate by both means.

Instructions for Hearing Participation: Either of the below options will work to participate, but for orderly administration of participation, and to avoid possible audio feedback, please do not use both simultaneously. *(You do not need to have a Google account to access any of the below means.)*

- (A) **To Participate by Internet, Including Testifying:**
visit this "Meet" webpage: meet.google.com/qrt-vmrc-ezv
- (B) **To Participate by Phone, Whether Just to Listen or to Testify:**
call (US) +1 636-707-2265, and then enter this pin: 325 388 238#
- (C) **To Participate in Person** (633 17th Street, Denver, CO, 80202, Room 12A on the 12th floor)
RSVP via our [rulemaking comment form](#) to attend in person.

Please contact michael.primo@state.co.us with any questions about how to access either the hearing or its recording, or **if you need accommodations or translation services** to attend or participate. This hearing is held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101 et seq., and Colorado Open Meetings Law, C.R.S. § 24-6-401 (2021), to receive any testimony, written, views, or arguments that interested parties wish to submit regarding the proposed rules.

For resources in Spanish: visit LeyesLaboralesDeColorado.gov; submit comments on our [Spanish comment form](#); RSVP (optionally) to attend or speak on our [Spanish RSVP form](#); or call 303-318-8441 and ask for an employee who speaks Spanish.

***Para recursos en español:** visite [Leyes Laborales Colorado.gov](https://LeyesLaboralesDeColorado.gov); envíe comentarios por nuestro [formulario en español para comentarios](#); Para asistir o hablar, confirme su asistencia (opcionalmente) en nuestro [formulario RSVP](#) en español ; o llame al 303-318-8441 y pida un empleado que hable español.*

Copies of proposed rules, including redlined copies showing changes from prior versions, and statements of basis and purpose further detailing the proposed rules, are available at www.coloradolaborlaw.gov or by request to: **Division of Labor Standards and Statistics, 633 17th Street, Denver, Colorado, 80202.**

Notice of Proposed Rulemaking

Tracking number

2021-00708

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-15

Rule title

Agricultural Labor Conditions Rules

Rulemaking Hearing

Date

12/09/2021

Time

03:00 PM

Location

633 17th Street, 12th Floor, Denver, CO 80202

Subjects and issues involved

(A) Yielding these proposed rules providing agricultural employees: drinking water of a quantity and quality recommended by professional guidance; access to shade usable during breaks, whether artificial or natural, to the maximum extent possible; during increased risk conditions such as especially high heat breaks spaced no more than two hours apart, and safety communications to workers; safety procedures for symptoms of heat stress to be spotted, responded to appropriately, and communicated to those who can provide or procure assistance; and training on these rules and on basic prevention, treatment, and symptoms of heat stress.

(B) Yielding these proposed rules providing agricultural employees: communication access to key service providers by phone and internet; additional break time for communication with such providers, unpaid in weeks over 40 hours but paid in in weeks over 60 hours; and assurance that they receive mail or other communications sent to an employer for them.

Statutory authority

Agricultural Labor Rights and Responsibilities Act, Colorado Senate Bill 21-087 (ALRRA, enacted June 25, 2021), including but not limited to Part 2, Labor Conditions for Agricultural Workers, of Article 13.5 of Colorado Revised Statutes (C.R.S.) Title 8, and other existing Title 8 provisions and authority, including but not limited to C.R.S §§ 8-1-103(3), 107(2), 111; 8-2-206; 8-3-104; 8-6-101.5, 105, 106, 108, 117; and 8-13.5-201 to 204.

Contact information

Name

Michael Primo

Title

Rule Coordinator

Telephone

3033188462

Email

michael.primo@state.co.us

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

Agricultural Labor Conditions Rules

7 CCR 1103-15

As proposed on October 29, 2021; if adopted, to be effective May 1, 2022.

Rule 1. Statement of Purpose, Authority, and Construction.

1.1 The general purpose of these Agricultural Labor Conditions Rules is to exercise the authority of this Division to enforce and implement the Agricultural Labor Rights and Responsibilities Act, Colorado Senate Bill 21-087 (“ALRRA,” enacted June 25, 2021), including but not limited to Part 2, “Labor Conditions for Agricultural Workers,” of Article 13.5 of Colorado Revised Statutes (“C.R.S.”) Title 8, and other existing Title 8 provisions and authority, including but not limited to C.R.S §§ 8-1-103(3), 107(2), 111; 8-2-206; 8-3-104; 8-6-101.5, 105, 106, 108, 117; and 8-13.5-201 to 204. The Rules are intended to be consistent with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101, et seq.

1.2 Incorporations by Reference. Articles 1-4, 6, 13.3, 13.5, and 14.4 of C.R.S. Title 8 (2022) are hereby incorporated by reference. Earlier versions of such laws may apply to events that occurred in prior years. Such incorporation excludes later amendments to or editions of the statutes. These statutes are available for public inspection at the Colorado Department of Labor and Employment, Division of Labor Standards & Statistics, 633 17th Street, Denver CO 80202. Copies may be obtained from this Division at a reasonable charge, or can be accessed electronically from the website of the Colorado Secretary of State. Pursuant to C.R.S. § 24-4-103(12.5)(b), the agency shall provide certified copies of the statutes incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency originally issuing the statutes. All Division Rules are available to the public at www.coloradolaborlaw.gov. Where these Rules have provisions different from or contrary to any incorporated or referenced material, the provisions of these Rules govern so long as consistent with Colorado statutory and constitutional provisions.

1.3 Separability. These Rules are intended to remain in effect to the maximum extent possible. If any part (including any section, sentence, clause, phrase, word, or number) is held invalid, (A) the remainder of the Rules remain valid, and (B) if the provision is held not wholly invalid, but merely in need of narrowing, the provision should be retained in narrowed form.

1.4 Other Requirements for Agricultural Labor. In addition to these rules on certain labor conditions for which the ALRRA requires rules from this Division: (A) the ALRRA put into effect other agricultural labor requirements that do not require any rules; (B) other ALRRA requirements are covered in other rules, such as the Colorado Overtime and Minimum Pay Standards (“COMPS”) Order, 7 CCR 1103-1 (wage and hour matters); Labor Peace Act Rules and Industrial Relations Act Rules, 7 CCR 1101-1 (labor management relations); and Colorado Whistleblower, Anti-Retaliation, Non-Interference, and Notice-Giving (“Colorado WARNING”) Rules, 7 CCR 1103-11 (retaliation, interference, and notice); and (C) other rules cover other labor requirements not specific to, but applicable to, agriculture. All Division rules are available as per Rule 1.2.

Rule 2. Definitions Applicable to These Rules.

2.1 “Division” is the Division of Labor Standards and Statistics in the Colorado Department of Labor and Employment.

2.2 “Employee” is as defined by C.R.S. § 8-6-101.5(3): “agricultural employee” or “agricultural worker” has the “same meaning as under C.R.S. § 8-13.5-201(3)” (“A worker engaged in any service or activity included in section 203(f) of the federal ‘Fair Labor Standards Act of 1938’, ... as amended ... or section 3121(g) of the federal ‘Internal Revenue Code of 1986’, as amended”). As to rights and remedies under

C.R.S. § 8-2-206, “agricultural worker” “means a person employed by an agricultural employer.” Unless otherwise noted, references to “employees” in these rules mean “agricultural employees.”

2.3 “Employer” is as defined by C.R.S. § 8-2-206(1)(c): “agricultural employer” has the “same meaning provided in C.R.S. § 8-3-104(1)” (“a person that is engaged in any service or activity included in section 203(f) of the federal ‘Fair Labor Standards Act of 1938’, ... as amended,” or engaged in “agricultural labor, as defined in section 3121 of the federal ‘Internal Revenue Code of 1986’,” that either (1) contracts with any person who recruits, solicits, hires, employees, furnishes, or transports agricultural employees, or (2) regularly engages the services of one or more agricultural employees). Unless otherwise noted, references to “employers” in these rules mean “agricultural employers.”

2.4 “Locality” includes a county, city, town, village, other municipality, unincorporated local area, or other government unit or subdivision smaller than the state of Colorado.

2.5 “Meal period” and “rest period” are defined by and apply as stated in COMPS Order Rules 5.1-5.2 unless otherwise provided in these Rules, and are synonymous with “meal break” or “rest break,” respectively.

2.6 “Potable water” means drinkable water safe for human consumption, and in compliance with Colorado Primary Drinking Water Regulations, 5 CCR 1002-1, if provided from a supply system subject to those rules.

2.7 “Provide” or “providing” means the item, service, or permission must be at no cost, with no additional conditions, and with no deductions from compensation.

2.8 “Range worker” is as defined by C.R.S. § 8-6-101.5(1)(b) and, as used to define agricultural employees to whom different rights and responsibilities within these rules apply, means an agricultural employee who is paid at least the minimum salary for range workers (as specified in the Publication And Yearly Calculation of Adjusted Labor Compensation (“PAY CALC”) Order, 7 CCR 1103-14, for the applicable year) during periods when they are “principally engaged in the range production of livestock ... on the open range” (as defined by C.R.S. § 8-6-101.5(b)), and who is provided without cost or deduction any housing, food, transport, and equipment required for H-2A visa range workers by federal regulations (20 C.F.R. §§ 655.210, 655.1304).

2.9 Temperatures in or applicable to these rules are all on the Fahrenheit temperature scale.

2.10 “Workday” and “workweek” have the same meanings as under COMPS Order Rules 1.12-1.13.

Rule 3. Heat Illness and Injury Protection.

3.1 **Application of heat illness and injury protection rules.** This Rule 3 applies on days when the temperature at a worksite for agricultural work is, or is forecast to be, 80 degrees or higher, except: Rule 3.4 applies additional requirements under the “increased risk conditions” defined in that rule; and Rule 3 does not apply to employees working no more than fifteen minutes in any sixty-minute period in conditions that otherwise trigger Rule 3 requirements.

3.1.1 Temperature and increased risk conditions shall be assessed on a day to day basis.

(A) For outdoor worksites of agricultural work, the employer shall rely on a forecasted high temperature for the day. For indoor worksites of agricultural work, the employer shall measure the worksite temperature during the workday, and shall apply the relevant Rule 3 requirements (1) on any day when the measured temperature exceeds a Rule 3 threshold, or (2) regardless of measured temperature, on any day when the employer has reason to expect the temperature to exceed the relevant Rule 3 threshold. This includes when (a) the employer intends to cause the indoor temperature to meet the threshold, (b) outdoor weather conditions give the employer reason to expect that the indoor temperature will meet the threshold, or (c) in one of the last three workdays the indoor worksite had a high temperature that met the threshold.

(B) The employer may rely on any forecast, from no earlier than noon the prior day, for any locality that includes the worksite (or if no such forecast is available, the nearest locality with a forecast), from any reliable daily forecast source, such as a professional weather service, mass media source, or government entity.

(C) If it is not possible for an employer to determine whether outdoor temperatures meet a Rule 3 threshold, or to inform employees when a threshold is met, then it shall rely on the most recent available monthly average temperature (applying Rule 3.1.1 standards for choosing a locality and reliable forecast), to comply with:

(1) Rule 3 heat illness and injury prevention requirements for any day in a month with at least a 76-degree average (i.e., 95% of the 80-degree threshold); and

(2) Rule 3.4 increased risk conditions requirements for any day in a month with at least a 90-degree average (i.e., 95% of the 95-degree threshold).

3.1.2 If an employer learns of conditions that do or are expected to trigger Rule 3 requirements only after a workday starts (e.g., if a temperature exceeding a Rule 3 threshold, or any Rule 3.4 increased risk condition, appears after not being forecast), then the employer shall comply with applicable Rule 3 requirements to the maximum extent possible.

3.1.3 If complying with any Rule 3 requirement(s) is not possible or would make employees more unsafe, then an employer must (A) comply to the maximum extent possible, and (B) implement equivalent protective measures, recording in writing their nature and reasons.

3.2 **Drinking Water.** Employers shall provide employees with potable water, and the opportunity to drink it, as follows:

(A) at least 32 ounces of water per hour per employee, kept 60 degrees or cooler, by any means the employer chooses, such as providing (1) a tap or fountain supplying water in that temperature range, or (2) a supply of water kept within that temperature range as much as possible (e.g., in a refrigerator or enclosed cooler in the shade) and, if the temperature would rise out of the range, is replenished or re-cooled (e.g., by adding ice);

(B) from a sanitary source, whether a fountain, tap, or individual cup or container; and

(C) with employees permitted time to drink water and use restrooms during shifts as needed, including by providing water where it is available during shifts and breaks.

3.2.1 If, for a range worker, it is not possible to comply with any portion of Rule 3.2, then the employer shall comply to the maximum extent possible, including but not limited to by: (A) re-supplying potable water to the worker whenever the employer re-supplies or otherwise visits a location near the worker; and (B) by providing resources to permit the employee to carry potable water, and to the extent that it is not possible to carry enough potable water, providing resources to permit the worker to obtain potable water from non-potable sources, such as water purification containers or other devices that render water potable.

3.3 **Shade.** For employee use during rest, meal, cool-down, and other breaks, employers shall provide access to adequate shade, which may be artificial or natural, but does not qualify if:

(A) any source yields additional heat in the shaded area, such as exhaust, running machinery, heat-radiating structures, or heat in a non-air-conditioned vehicle;

(B) the shaded area is too far for use during rest and meal periods, or too small for employees to sit fully shaded in normal posture, without touching one another;

(C) the shaded area is neither ventilated nor open to the air; or

(D) the area has unsafe, unhealthy, unsanitary, or other conditions (e.g., noxious odor from rot or garbage) that deter or discourage accessing or using the shade.

3.3.1 If an employer can demonstrate that providing access to adequate shade is not safe or possible (e.g., during high wind), it shall provide equivalent protection by alternate measures, such as an air-conditioned site (e.g., a vehicle or structure) with adequate shade, or an individualized cooling item (e.g., vest, bandana, or towel) that contains or is made from material that retains a cool temperature.

3.3.2 Range workers shall be authorized and permitted to take rest breaks totaling at least 30 minutes per day to find and use shade to rest, eat, or drink. If shade is not available when working away from their residence or other employer property, then they may use the break time to rest, eat, drink, or otherwise limit the impact of heat and sun exposure.

3.4 **Increased Risk Conditions.** During increased risk conditions (as defined below), employers shall provide the following, in addition to other requirements in these or other Rules:

(A) Employers shall ensure that no more than two hours of work are performed before at least 10 minutes of rest are provided, by any mix of (1) spacing out any breaks already required by these or other Rules, and/or (2) providing additional breaks meeting the rest or meal period standards of Rule 5 of the COMPS Order; except that for range workers, employers shall encourage spacing the rest breaks provided in Rule 3.3.2, and other rest opportunities, to include rest every two hours to the maximum extent possible.

(B) Before a workday or shift starts (or during a shift, if the employer only later learns of an increased risk condition), employers shall inform employees of their rights to (1) all Rule 3 heat protections, including additional Rule 3.4 breaks, and (2) cool-down rest under Rule 3.5 when needed. If an employer cannot contact an employee to provide this information, or cannot assess possible increased risk conditions, it shall provide this information if any such conditions are anticipated or forecasted to be present during that week (or lesser time period when an employee is inaccessible).

3.4.1 “Increased risk conditions” means one or more of the following in the day, in addition to Rule 3.1 heat conditions (i.e., a temperature of at least 80 degrees), applying Rule 3.1.1 standards for choosing a locality and a reliable forecast.

(A) Temperature: A daily high or measured temperature of at least 95 degrees.

(B) Unhealthy Air Quality: The “daily high” air quality forecast for the locality is “unhealthy,” “very unhealthy,” or “hazardous,” as defined by forecasts of the Colorado Department of Public Health and Environment (as of publication of these rules, available at https://www.colorado.gov/airquality/air_quality.aspx, or in the Air Quality Index of the U.S. Environmental Protection Agency at <https://www.airnow.gov/>).

(C) Long Days: An employee (other than a range worker) is scheduled or expected to work over 12 hours in the workday or shift.

(D) Heavy Clothing or Gear Required: The employee is required, by the employer or safety protocols for their equipment or work, to wear vapor barrier clothes (i.e., clothes significantly inhibiting sweat from evaporating into outside air, such as various chemical resistant or encapsulating suits), or personal protective equipment (such as protective jackets, suits, or coveralls) requiring an additional layer over regular clothes or covering all or almost all of the head and face.

(E) Acclimatization: The employee is in their first four days of work for the employer (which includes their first four days of work for the employer in over a month).

3.5 **Safety Procedures.** If at any point in the year a worksite temperature of at least 80 degrees is reasonably expected, then an employer shall implement the following.

3.5.1 Communication availability. Employers shall maintain effective communication means for

employees by voice, observation, or (if area reception is reliable) electronic means, so that when necessary for health or safety, employees can contact a supervisor, other designated individual, or emergency medical services. If an employer cannot regularly communicate with employees (e.g., range workers in an area lacking reliable reception), then it shall communicate as frequently as possible with such employees, and shall train the employee on how to obtain medical care in the event of an emergency.

3.5.2 Monitoring and receiving reports of heat illness or injury. Employers shall monitor, and receive reports of, signs or symptoms of heat illness or injury, by any of the following:

- (A) observation of up to 20 employees by a designated individual;
- (B) a mandatory buddy system assigning each employee to observe, at periodic intervals, one or more other employees;
- (C) regular communication with any employee working outside the presence of others, such as by radio or phone; or
- (D) any other effective means of monitoring and receiving reports.

3.5.3 Response to possible heat illness or injury. Employers shall respond to signs and symptoms of heat illness or injury, when reported by anyone or when observed by a supervisor or other designated individual, promptly and appropriate to the severity, by:

- (A) promptly relieving from duty an employee showing, or reported to have, such signs or symptoms (or, for an employee outside the presence of others, permitting them to relieve themselves from duty);
- (B) monitoring those signs or symptoms (or for employees outside the presence of others, checking in frequently to the maximum extent possible) and, when warranted, ensuring that they are not left alone or sent home without being offered on-site first aid and/or emergency services; and
- (C) implementing a Rule 3.5.4 emergency response for severe signs or symptoms, e.g., decreased consciousness, staggering, vomiting, disorientation, irrational behavior, convulsions, or (even after resting) an increased heart rate.

3.5.4 Emergency response. Employers shall:

- (A) designate at least one person at each worksite to contact emergency medical services when needed, and permit others to if that person is unavailable; and
- (B) ensure, in an emergency, that emergency medical services are contacted, and provided all necessary information, as immediately as possible (including contact information and directions to reach the employee(s)), and that (if necessary and appropriate) employees are transported to where responders can reach them.

3.5.5 Preventative measures. An employer shall allow and facilitate employee preventative measures, including by reminding employees of the availability of water, shade for use during breaks, and (if an employee believes it is needed to avoid or remedy overheating) cool-down rest in shade. Cool-down rest may be satisfied with rest or meal periods required by the COMPS Order or Rule 3, as long as other requirements of this Rule 3.5.5 are followed, and no cool-down rest is denied or delayed based on the scheduling or use of other rest or meal periods. An employee taking a preventative cool-down rest shall:

- (A) be monitored (or if outside of the presence of others, communicated with frequently to the maximum extent possible) and asked if they have signs or symptoms of heat illness or injury, and if symptoms persist after resting, the employer shall respond as these Rules require; and
- (B) not be sent back to work until any such signs or symptoms have abated, but in no event in less than 10 minutes after the employee reaches the shade.

3.6 Training. If at any point in the year a worksite temperature of at least 80 degrees is reasonably expected, then an employer shall implement the following.

3.6.1 Training shall be provided to all employees at least annually, and upon hiring for new employees, on the following:

- (A) environmental and personal risk factors for heat illness, including the added burden of heat on the body from exertion, clothing, and gear;
- (B) the importance of acclimatization in the first days of work in heat, drinking water, and promptly reporting their or others' signs or symptoms of heat illness or injury;
- (C) different types, signs, and symptoms of heat illness, including self-monitoring, and how signs or symptoms can progress from mild to serious or life-threatening;
- (D) basic first aid (including by the employees themselves), and the available emergency responses, to heat illness; and
- (E) the requirements of Rule 3 (Heat Illness and Injury Protection) and Rule 5.1 (Retaliation and Interference Prohibited), which may be satisfied by providing a document that satisfies the Rule 5.2 requirement of posted notice of rights, as well as how the employer is complying with Rule 3 (e.g., how it is providing required water, shade, and break time, as well as its safety procedures).

3.6.2 Supervisors and others designated to have any roles or responsibilities to implement any requirements in these Rules shall be trained on those roles or responsibilities.

3.6.3 An employer may comply with this Rule 3.6 by providing site-specific information on the topics in Rules 3.6.1(E) and 3.6.2, and for the non-site-specific topics in Rule 3.6.1(A)-(D), by providing training based on any one of the following heat safety programs, or another program with comparable information:

- “Heat Illness Prevention Training Guide, A Lesson Plan for Employers,” published by the federal Occupational Safety and Health Administration (as of publication of these rules, available in English at <https://www.osha.gov/index.php/heat-exposure/resources>);
- “Heat Education and Awareness Tools (HEAT) Facilitator’s Guide,” published by the University of Washington Pacific Northwest Agricultural Safety and Health Center (as of publication of these rules, available in English and Spanish at <https://deohs.washington.edu/pnash/heat-toolkit>); or
- “Heat Illness Prevention Employer Training Discussion Guides and Visual Aids,” published by the University of California Davis Western Center for Agricultural Health and Safety (as of publication of these rules, available in English and Spanish at <https://aghealth.ucdavis.edu/training/heat-illness>).

3.6.4 For any employees not fluent in English, the employer shall provide, in the employee’s primary language, either training or written materials covering the training content. The employer may ask the Division for help procuring written materials in that language.

Rule 4. Access to Key Service Providers.

4.1 Purpose. This Rule 4 provides, in addition to the access to key service providers and (for housed employees) access to visitors and to offsite services required by statute (C.R.S. § 8-13.5-202, copied below in Appendix A, and incorporated into this Rule 4 by reference), “additional times during which an employer may not interfere with an agricultural worker’s reasonable access to key service providers, including periods during which the agricultural worker is performing compensable work, especially during periods when the agricultural worker is required to work in excess of forty hours per week and may have difficulty accessing such services outside of work hours” (C.R.S. § 8-13.5-202(c)), including difficulty planning appointments with, communicating with, following up with, and reviewing information from key service providers.

4.2 Communication access to off-site providers.

4.2.1 Employees shall be provided and permitted to use during breaks a location with phone service and internet access that allows as much privacy and quiet as possible.

(A) If an employee living in employer-provided housing lacks a device for phone or internet access, then the employer shall provide a device when the employee needs to use one.

(B) If the worksite lacks phone or internet service, then the employer (1) shall permit an employee with their own transportation (as described in C.R.S. § 8-13.5-202(f)) to travel to such a site with service, or (2) shall, for an employee living in employer-provided housing without transportation of their own, provide transportation to a site with service within 24 hours of the employee's request (which may be the same transportation that satisfies the requirements of C.R.S. § 8-13.5-202(e) to provide workers transportation for service provider access, if the employee is provided adequate time for the activities identified in § 202(e)).

(C) If an employer cannot provide an employee with the communication access detailed in (A) and (B), then it shall provide meaningful access to key service providers by alternate means, including at the worksite.

4.2.2 In any workweek of over 40 hours, an employee who requests at least 24 hours in advance shall be permitted, at least once per week, to extend a meal period or other 30-minute break to up to 60 minutes (the extra time may be unpaid) to communicate with a key service provider of their choice during the provider's hours of operation. For range workers, an employer may require 72 hours' notice (except for health emergency needs) before permitting up to 60 minutes for such communication with a key service provider.

4.2.3 An employer shall promptly provide an employee all mail or other communications (written, electronic, or verbal) it receives that were sent to or left for the employee.

4.3 Additional break time to facilitate service provider access during long workweeks. An employer shall provide (in addition to other rest, meal, or other breaks provided by these Rules, the COMPS Order, or others statutes or rules) to employees other than range workers one additional paid break of 60 minutes in any workweek of over 60 hours worked, and two such paid breaks in any workweek of over 70 hours.

4.3.1 If an employer had no reason to believe an employee would exceed 60 or 70 hours until the last day of the week, it may provide the additional break time the following week.

4.3.2 During this additional break time, employees shall be permitted to leave the worksite and to use the time either to directly support their access to a key service provider's hours of operation, or as indirect support by using the time for other needs (meals, rest, other services, etc.) that may facilitate their access to key service providers at other times.

Rule 5. Enforcement.

5.1 Retaliation and Interference Prohibited. Retaliation for or interference with any protected activity or right under the ALRRA or these Rules, as defined by C.R.S. § 8-2-206 and Rule 2.11 of the Colorado WARNING Rules (7 CCR 1103-11), and pursuant to other provisions of the Colorado WARNING Rules applicable to retaliation or interference claims, is prohibited.

5.2 Notice of Rights. Employers "shall post notice of an agricultural worker's rights under [C.R.S. Title 8, Article 13.5] Part 2" (C.R.S. § 8-13.5-202(3)), in conformity with Rules 4.1.4, 4.3-4.4, and 4.6(A) of the Colorado WARNING Rules, 7 CCR 1103-11, which are incorporated into this Rule 5.2 by reference. This Rule 5.2 may be satisfied with (A) an up-to-date Agricultural Labor Rights and Responsibilities Poster published by the Division; (B) at any time such a poster is unavailable, an up-to-date version of an Interpretive Notice and Formal Opinion on agricultural labor rights and responsibilities published by the

Division; or (C) another document with the required information. Division publications are available at ColoradoLaborLaw.gov.

5.3 Complaints and Investigations. The Division may investigate possible violations of these Rules. Complaints within the scope of C.R.S. §§ 8-2-206 or 8-13.5-204 of the ALRRA may be filed in court. Complaints of any violations of the ALRRA or of these Rules may be filed with the Division and shall be governed by the Colorado WARNING Rules (7 CCR 1103-11) and any other Division rules that may apply based on the type of complaint or investigation. If a violation of these Rules is found, the Division will consider any showing by the employer of good-faith effort to comply to the maximum extent possible, in the Division's exercise of its discretion as to whether to investigate certain types of claims, and as to appropriate remedies for violations.

Rule 6. Effective Date. The effective date of these Rules is May 1, 2022.

APPENDIX A: EXCERPTS FROM RELEVANT STATUTES REFERENCED IN THESE RULES

8-13.5-202. Agricultural workers - right of access to key service providers - rules.

- (1) (a) An employer shall not interfere with an agricultural worker's reasonable access to visitors at the agricultural worker's employer-provided housing during any time when the agricultural worker is present at such housing.
- (b) An employer shall not interfere with an agricultural worker's reasonable access to key service providers at any location during any time in which the agricultural worker is not performing compensable work or during paid or unpaid rest and meal breaks, and with respect to health-care providers during any time, whether or not the agricultural worker is working.
- (c) To ensure that agricultural workers have meaningful access to services, the Director of the Division shall promulgate rules regarding additional times during which an employer may not interfere with an agricultural worker's reasonable access to key service providers, including periods during which the agricultural worker is performing compensable work, especially during periods when the agricultural worker is required to work in excess of forty hours per week and may have difficulty accessing such services outside of work hours. The rules must be proposed on or before October 31, 2021, and adopted on or before January 31, 2022.
- (d) An employer may require visitors accessing a work site to follow protocols designed to manage biohazards and other risks of contamination, to promote food safety, and to reduce the risk of injuries to or from livestock on farms and ranches except on the open range, if the same protocols are generally applied to any other third parties who may have occasion to enter the work site.
- (e) An agricultural employer that provides housing and transportation for agricultural workers shall, at least one day per week, provide transportation to the agricultural workers to a location where the workers can access basic necessities, conduct financial transactions, and meet with key service providers; except that transportation must be provided not less than one day every three weeks for range workers who are actively engaged in the production of livestock on the open range. This Subsection (1)(e) does not limit or restrict an agricultural worker's ability to travel using the agricultural worker's own means of transportation. Nothing in this Subsection (1)(e) requires an employer to violate a state or federal law or regulation.
- (f) If an agricultural worker has access to the worker's own vehicle and is permitted to park the vehicle on the employer's property, the employer is not required to provide transportation as set forth in Subsection (1)(e) of this Section.
- (2) No person other than the agricultural worker may prohibit, bar, or interfere with, or attempt to prohibit, bar, or interfere with, the access to or egress from the residence of any agricultural worker by any person, either by the erection or maintenance of any physical barrier, by physical force or violence or by the threat of physical force or violence, or by any order or notice given in any manner.
- (3) An agricultural employer shall post notice of an agricultural worker's rights under this part 2:
- (a) In a conspicuous location on the agricultural employer's premises, including in the agricultural worker's employer-provided housing; and
- (b) In all places where notices to employees, including agricultural workers, are customarily posted; and
- (c) electronically, including by e-mail and on an intranet or internet site, if the agricultural employer customarily communicates with agricultural workers by these means.



NOTICE OF PUBLIC HEARING CONCERNING PROPOSED RULES

Notice is hereby given of a public hearing to afford all interested persons an opportunity to be heard prior to adoption of the below **three sets of proposed rules**, under authority granted to the Division of Labor Standards and Statistics by the Administrative Procedure Act, C.R.S. § 24-4-103, and provisions of C.R.S. Title 24, Article 50 and Title 8, Articles 1-4, 6, 12, 13.3, 13.5 and 14.4.

(1) Agricultural Labor Conditions Rules, 7 CCR 1103-15. This new set of rules executes the mandate in the Agricultural Labor Rights and Responsibilities Act of 2021, Colorado Senate Bill 21-87 (“ALRRA”), that the Division “shall promulgate” the following new sets of rules:

- (A) “Rules that **require agricultural employers to protect agricultural workers from heat-related stress illnesses and injuries** when the outside temperatures reach eighty degrees or higher, with discretion to adjust requirements based on environmental factors, exposure time, acclimatization, and metabolic demands of the job” — yielding these proposed rules providing agricultural employees: (i) drinking water — of a quantity and quality recommended by professional guidance; (ii) access to shade — usable during breaks, whether artificial or natural, to the maximum extent possible; (iii) during increased risk conditions such as especially high heat — breaks spaced no more than two hours apart, and safety communications to workers; (iv) safety procedures — for symptoms of heat stress to be spotted, responded to appropriately, and communicated to those who can provide or procure assistance; and (v) training — on these rules and on basic prevention, treatment, and symptoms of heat stress.
- (B) “Rules regarding additional times during which an employer may not interfere with **an agricultural worker's reasonable access to key service providers**, including periods during which the agricultural worker is performing compensable work, especially during periods when the agricultural worker is required to work in excess of forty hours per week and may have difficulty accessing such services outside of work hours” — yielding these proposed rules providing agricultural employees: (1) communication access to key service providers by phone and internet; (2) additional break time for communication with such providers, unpaid in weeks over 40 hours but paid in in weeks over 60 hours; and (3) assurance that they receive mail or other communications sent to an employer for them.

(2) Colorado Whistleblower, Anti-Retaliation, Non-Interference, and Notice-Giving Rules (“Colorado WARNING Rules”), 7 CCR 1103-11. These rules amend the prior version of the Colorado WARNING Rules, the Division’s existing rules governing retaliation, interference, and notice of rights under several Division-enforced statutes, as follows (in addition to certain non-substantive edits):

- (A) defining key terms and provisions relevant to retaliation and interference protections that the ALRRA created, and requires the Division to execute and enforce;
- (B) implementing the ALRRA requirements for employers to provide agricultural employees notice of their rights under the ALLRA, as well as additional notice and training during a public health emergency;
- (C) amending the Division’s existing complaint and investigation procedures, and list of available remedies, to conform to complaints and investigations under the ALRRA;
- (D) where the Division has discretion as to whether to investigate a complaint (including but not limited to various non-wage-related ALRRA complaints), expanding from 30 to 90 days the Division’s time to decide whether to investigate, and clarifying when a complaint is deemed “received” for this deadline;
- (E) harmonizing and clarifying the scope and definition of “interference” and “retaliation” under the ALRRA and other existing statutes; and
- (F) adding definitions that previously were incorporated, by referencing federal law in the rules directly.

(3) State Labor Relations Rules, 7 CCR 1103-12. Rule 4.1.2 is amended to clarify the timeframe to file an unfair labor practice complaint with the Division as authorized in C.R.S. 8-3-110(16).

Public Hearing Information:

Date and Time of Hearing: **Thursday, December 9, 2021, from 3:00 pm until at least 6:00 pm.** Division leadership will stay until at least 6:00 pm, or longer if by that time anyone still wishes to speak, to assure opportunity for anyone who may wish to attend in the early evening. You need not arrive by a particular time or stay the entire meeting.

Written Comment Deadline for Colorado WARNING Rules and State Labor Relations Rules:
Monday, December 13, 2021, at 5:00 pm

Written Comment Deadline for Agricultural Labor Conditions Rules:
Monday, December 20, 2021, at 5:00 pm

The Division is administering this public hearing, and all interested persons are free to offer oral testimony and to listen to part or all of the hearing. However, due to the current public health crisis, **participation will be primarily by remote means**, with limited in-person participation at the Division by RSVP only and subject to (A) space limitations and (B) the possibility of a decision, which would be announced on the [rulemaking page](#) no later than 24 hours before the meeting, as to whether the public health situation permits in-person attendance or requires an exclusively remote hearing. While not required, we request and highly recommend that **anyone interested in oral testimony use this [rulemaking comment form](#) to RSVP**, because at the hearing, after those in person speak, we will first call on those who RSVP'd to speak, followed by testimony from others by remote means. A recording of the hearing will be publicly posted after the hearing on our [rulemaking page](#).

Written comments may be submitted through our online [rulemaking comment form](#), mailed to the below address, faxed to 303-318-8400, or emailed to michael.primo@state.co.us. Because **written comments become part of the same record as oral testimony**, and are reviewed by the same officials, you **may submit written comments in lieu of oral testimony**, but are free to participate by both means.

Instructions for Hearing Participation: Either of the below options will work to participate, but for orderly administration of participation, and to avoid possible audio feedback, please do not use both simultaneously. (*You do not need to have a Google account to access any of the below means.*)

- (A) **To Participate by Internet, Including Testifying:**
visit this "Meet" webpage: meet.google.com/qrt-vmrc-ezv
- (B) **To Participate by Phone, Whether Just to Listen or to Testify:**
call (US) +1 636-707-2265, and then enter this pin: 325 388 238#
- (C) **To Participate in Person** (633 17th Street, Denver, CO, 80202, Room 12A on the 12th floor)
RSVP via our [rulemaking comment form](#) to attend in person.

Please contact michael.primo@state.co.us with any questions about how to access either the hearing or its recording, or **if you need accommodations or translation services** to attend or participate. This hearing is held in accordance with the Colorado Administrative Procedure Act, C.R.S. § 24-4-101 et seq., and Colorado Open Meetings Law, C.R.S. § 24-6-401 (2021), to receive any testimony, written, views, or arguments that interested parties wish to submit regarding the proposed rules.

For resources in Spanish: visit LeyesLaboralesDeColorado.gov; submit comments on our [Spanish comment form](#); RSVP (optionally) to attend or speak on our [Spanish RSVP form](#); or call 303-318-8441 and ask for an employee who speaks Spanish.

***Para recursos en español:** visite [Leyes Laborales Colorado.gov](https://LeyesLaboralesDeColorado.gov); envíe comentarios por nuestro [formulario en español para comentarios](#); Para asistir o hablar, confirme su asistencia (opcionalmente) en nuestro [formulario RSVP](#) en español ; o llame al 303-318-8441 y pida un empleado que hable español.*

Copies of proposed rules, including redlined copies showing changes from prior versions, and statements of basis and purpose further detailing the proposed rules, are available at www.coloradolaborlaw.gov or by request to: **Division of Labor Standards and Statistics, 633 17th Street, Denver, Colorado, 80202.**

Notice of Proposed Rulemaking

Tracking number

2021-00703

Department

1200 - Department of Agriculture

Agency

1201 - Animal Health Division

CCR number

8 CCR 1201-13

Rule title

PUBLIC LIVESTOCK MARKETS VETERINARY INSPECTION

Rulemaking Hearing

Date

11/30/2021

Time

12:00 PM

Location

This meeting will be held via zoom - please see attached notice for link and call information

Subjects and issues involved

The purposes of these proposed revisions are to incorporate changes as a result of the Departments Regulatory Efficiency Review Process; and to increase clarity surrounding the obligations of a market veterinarian and the options of an animals owner.

Statutory authority

35-55-101 and 35-55-113(6)

Contact information

Name

Jenifer Gurr

Title

Chief Administrative Officer

Telephone

303-869-9002

Email

jenifer.gurr@state.co.us



NOTICE OF PUBLIC RULEMAKING HEARING

FOR AMENDMENTS TO

“Rules Pertaining to Public Livestock Markets Veterinary Inspection” 8 CCR 1201-13

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the Department of Agriculture will hold a public rulemaking hearing:

DATE: November 30, 2021
TIME: 12:00 pm
LOCATION: This hearing will be held via [Zoom](#)
CALL INFORMATION: 1-253-215-8782
MEETING ID: 824 6316 7400
PASSCODE: 892086

In order to maintain a proper hearing record you are encouraged to pre-register by completing this [Google form](#). If you do not have access to Google you may send your name and telephone number to Jenifer.Gurr@state.co.us. Pre-registration is not required to participate in the hearing.

The purposes of these proposed revisions are to incorporate changes as a result of the Department's Regulatory Efficiency Review Process; and to increase clarity surrounding the obligations of a market veterinarian and the options of an animal's owner.

The statutory authority for these rules §§ 35-55-101 and 35-55-113(6) C.R.S.

Any interested party may file written comment with the Commissioner's office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. Emailed comments should be sent to the hearing officer at Jenifer.Gurr@state.co.us. A copy of the proposed rule is available on the Department of Agriculture's website at www.colorado.gov/ag or may be obtained by calling 303-869-9004. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.



DEPARTMENT OF AGRICULTURE

Animal Health Division

PUBLIC LIVESTOCK MARKETS VETERINARY INSPECTION

8 CCR 1201-13

RULES PERTAINING TO PUBLIC LIVESTOCK MARKETS VETERINARY INSPECTION

Part 1. Definitions

- 1.1. "Actinobacillosis" or "Actinomycosis" means a localized, chronic, progressive, granulomatous abscess that most frequently involves the mandible, the maxillae, or other bony tissues in the head.
- ~~1.2. "Animal" means any species of animal, including those defined as "Livestock" that is consigned or delivered to any public livestock market to be offered for sale.~~
- ~~1.2. "Livestock" means horses, mules, cattle, burros, swine, sheep, goats, poultry, alternative livestock as defined in § 35-41.5-102(1) and any other animal presented to the market for sale.~~
- ~~1.3. "Body condition score" means a numerical score assigned to the animal concerning the amount of flesh the animal has on its body. Each species or class of animal has its own scoring system. For information on the scoring system relevant to a particular species, please contact the Department.~~
- ~~1.4. "Commissioner" means the Commissioner of Agriculture, Colorado Department of Agriculture or a designated employee of the Department of Agriculture.~~
- ~~1.35. "Department" means the Colorado Department of Agriculture.~~
- ~~1.46. "Euthanasia" means to produce a humane death by techniques accepted by the American Veterinary Medical Association.~~
- ~~1.5. "Livestock" means horses, mules, cattle, burros, swine, sheep, goats, poultry, and alternative livestock as defined in § 35-41.5-102(1)~~
- ~~1.6. "Market Veterinarian" means an individual who is currently licensed and in good standing with the State Board of Veterinary Medicine to practice veterinary medicine and is accredited by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, with a Category II accreditation.~~
- 1.7. "Metastatic" or "Metastasis" means the invasion or infiltration of other structures or tissue by a neoplasm.
- 1.8. "Neoplasia," "neoplasm," or "neoplastic" means new, abnormal tissue growth ~~which-that~~ is deleterious to the animal's health.
- 1.9. "Non-ambulatory" means the animal is unable to rise to its feet and walk with minimal stimulus.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in ~~red~~. Changes as a result of the rulemaking hearing are indicated in blue.

- 1.10. "Owner" means the person or entity owning the livestock and the owner's officers, members, employees, or agents.
- 1.11. "Urinary Calculi" means solid particles in the urinary system that cause the disease commonly known as water belly.
- ~~1.12. "Veterinarian" means an individual who is currently licensed and in good standing with the State Board of Veterinary Medicine to practice veterinary medicine and is accredited by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services.~~

Part 2. Notice

- 2.1. The following notice shall be posted:

LIVESTOCK OWNER NOTICE: ALL LIVESTOCK WILL BE VISUALLY INSPECTED PRIOR TO SALE BY THE MARKET'S VETERINARIAN- ANIMALS WHICH ARE DETERMINED TO BE BEYOND RECOVERY, DUE TO DISEASE, INJURY OR DISABILITY MAY NOT BE SOLD AT A PUBLIC LIVESTOCK MARKET PURSUANT TO: 35-55-113(4), C.R.S. You may be requested to remove such animal(s) from the livestock market if the market veterinarian's professional opinion is that the animal(s) you are presenting for sale are unacceptable under this law. Alternatively, the market veterinarian may euthanize such animal(s) if you do not choose to remove the animal(s).

- 2.2. This notice shall be posted at the public market office and the check-in dock.
- 2.3. The Department shall make a A leaflet printed form of this notice ~~shall be made~~ available upon request ~~to the Department~~.

Part 3. Veterinary Inspection Procedures

The following procedures ~~shall~~ apply:

- 3.1 A market veterinarian shall inspect all livestock and animals presented to a public livestock market for sale for the purpose of determining their condition of health and freedom from infectious or contagious animal diseases.
- 3.24. Veterinary inspection shall occur prior to sale, with a determination made by the market veterinarian whether any of the animals presented to the public livestock market for sale possesses es any of the diseases or injuries specified in Parts 4 or 5 below.
- 3.32. Should the market veterinarian determine that an animal presented to the public livestock market for sale possesses any of the diseases or injuries specified in Parts 4 or 5 below and should the market veterinarian determine that such disease or injury renders the animal injured, disabled, or diseased beyond recovery, the market veterinarian shall either humanely euthanize the animal or, direct the animal's consignor to remove the animal from the premises, except where the market veterinarian determines that the animal cannot be humanely removed from the premises.
 - 3.3.1. If the market veterinarian determines that the animal identified pursuant to Part 3.3 above may be humanely removed from the premises, the market veterinarian must make no less than one attempt to contact the consignor, whether by phone, or in-person.
 - 3.3.2. A consignor who receives notification from the market veterinarian as provided in 3.3.1 above and who does not, at the time of such notification, direct the market veterinarian to

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in ~~red~~. Changes as a result of the rulemaking hearing are indicated in blue.

euthanize the animal must immediately remove the animal from the premises. Removal must occur within no more than 12 hours from the point of notification described in 3.3.1.

3.3.3. The market veterinarian, in his or her sole discretion, may euthanize any animal whose consignor, or consignor's designee, has not removed the animal from the premises within 12 hours from the point of the market veterinarian's notification as described in 3.3.2.

~~The veterinarian shall make a reasonable effort over a two-hour period to contact the owner by phone or in person regarding an animal identified by the veterinarian pursuant to Parts 4 and 5 below.~~

~~3.3. Within twelve hours of notification, the owner may remove from the livestock market any animal identified by the veterinarian pursuant to Parts 4 and 5 below, or may direct the veterinarian to euthanize such animal.~~

3.3.4. If, after making no less than one attempt to contact an animal's consignor pursuant to 3.3.1 and if the animal's consignor has not responded to the market veterinarian's notification within two hours, the market veterinarian, in his or her sole discretion, shall determine whether, in the sole discretion of the veterinarian, the animal identified by the market veterinarian pursuant to Parts 3.3. above 4 and 5 below should be euthanized, to prevent further pain and suffering.

~~3.5. Any animal identified by the veterinarian pursuant to Parts 4 and 5 below which is not removed from the livestock market 14 hours after the initial veterinary inspection may be euthanized, in the sole discretion of the veterinarian.~~

3.46. The owner-consignor of any animal euthanized will pay the costs of the euthanasia and of any disposal cost associated with such euthanasia.

Part 4. Diseases ~~which that~~ shall render livestock diseased beyond recovery

The following diseases shall render livestock diseased beyond recovery for the purposes of these Rules:

4.1. Ocular neoplasia:

~~4.1.1. Unless the neoplastic lesions show no clinical signs of metastasis and have not destroyed the eye or eye-lids;~~

4.1.12. If the neoplastic lesions affect the eye and/or eye-lids and have destroyed the affected organ to the point that the affected area is not amenable to surgery;

4.1.23. If the neoplastic lesions show signs of local metastatic invasion from the primary site to the bone of the orbit or lymph nodes; or

4.1.34. If the following signs are present: abnormal swelling, discoloration, open necrotic regions with drainage, or deformation of tissue.

4.2. Other forms of neoplasia:

Other neoplasias, regardless of tissue origin, which exhibit significant involvement, including, but not limited to, the following signs: abnormal swelling, discoloration, open necrotic regions with drainage, or deformation of tissue.

Editing comments: Changes to this rule are indicated in ~~striketrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- 4.3. Any disease process~~;~~ or ~~body~~-condition~~;~~ that in the opinion of the market veterinarian has not or will not respond in a timely manner to treatment, or that renders an animal into a poor body condition including, but not limited to: Actinobacillosis, Actinomycosis, Pneumonia, and Urinary Calculi.
- 4.4. Any disease process or condition ~~which-that~~ has resulted in the presentation of a non-ambulatory animal.

Part 5. Injuries ~~which-that~~ shall render livestock injured beyond recovery

The following injuries shall render livestock injured beyond recovery for the purposes of this Rule:

- 5.1. A fracture of a long bone, other fractures~~,~~ or dislocation of a joint that renders~~s~~ the animal unable to bear weight on the affected limb without that limb collapsing.
- 5.2. Any injury ~~which-that~~ in the opinion of the market veterinarian has not or will not responded~~ed~~ to treatment and has resulted in the livestock being in ~~a~~ poor ~~a~~-body condition.
- 5.3. Any injury ~~which-that~~ has resulted in the presentation of a non-ambulatory animal.

Part 6. Euthanasia

- 6.1. Euthanasia shall be accomplished by or under the direction of the market veterinarian.
- 6.2. The market veterinarian will provide written notice within 24 hours to the owner and market of any euthanized animal citing the reason for euthanasia in such written notice.

Part 7. Disposal of euthanized animal carcasses

- 7.1. The owner ~~may request the return of the carcass and~~ may retrieve the carcass within six hours of euthanasia, except that the market veterinarian may refuse retrieval of the carcass if the market veterinarian euthanized the animal with barbiturates or any other chemical euthanasia solutions.
- 7.2. Unless the owner ~~requests return of and~~ retrieves the carcass as set forth immediately above, the carcass shall be disposed of pursuant to law ~~and as customary for the community~~. In the event that there is a disposal fee, the fee shall be borne by the owner.

Part 8. Statement of Basis and Purpose

- 8.1. Rules Adopted Prior to 2016

These Rules are adopted pursuant to the Public Livestock Markets provisions, specifically, §35-55-113(6), C.R.S.

The purposes of these Rules are to: define applicable terms; specify the requisite notice to animal owners; establish the procedures for inspection, removal and euthanization of animals; and designate diseases and injuries which are beyond recovery.

The statements of basis and purpose for some rule changes are no longer in the Department files and are presumably in the state archives.

- 8.2. Adopted June 8, 2016 – Effective July 30, 2016

Specific Statutory Authority

The specific statutory authority for this Rule is located in §§ 35-55-113(6), C.R.S., which grants authority to the Commissioner of Agriculture, upon approval by the Colorado Agricultural Commission, to adopt reasonable Rules for the administration of the Public Livestock Markets Act, § 35-55-101, et seq., and to adopt Rules to identify diseases that render livestock permanently disabled or the carcasses thereof permanently unfit for human consumption.

Purpose

The revisions to these Rules incorporate changes as a result of the Department's Regulatory Efficiency Review Process.

Factual Policy and Issues

In reviewing and updating these Rules, the reviewers updated the definitions Parts to clarify the meanings of key diseases or disorders; to remove the word "animal," as livestock markets do not operate to sell animals; to update information regarding the body-condition scoring to reflect that the Department would no longer incorporate body-condition scoring charts with the Rule; to strike "euthanize" to leave "euthanasia" as the proper term; to update the definition of "owner" to make it consistent with other Division of Animal Health Rule definitions; and to re-define "veterinarian" to indicate that for these Rules, "veterinarian" is someone who is also accredited by the USDA, Animal Plant Health Inspection Service.

Where the reviewers found provisions that were outdated or non-useful, the reviewers made changes. For instance, the Notice section of the Rule sets forth more simply and more clearly the actual notice that must be provided at all livestock markets regarding diseased, injured, or disabled animals. In Part 4, the reviewers clarified that both "disease" and "body condition" that do not timely respond to treatment render livestock "diseased beyond recovery." Similarly, the reviewers also changed 5.2 to indicate that livestock with an injury that results in a poor condition renders that livestock "injured beyond recovery." Finally, the reviewers removed paragraph B of Part 6 because the Commissioner is not authorized to set euthanasia costs state-wide or to interfere with such price-setting by independent veterinarians who perform such actions.

Additionally, the reviewers have removed all static charts regarding body condition scoring. Some of the formerly adopted charts did not provide a useful means of scoring certain species, and codifying such charts limits the Department's ability to rely on the most updated, precise charts that are available. Removing the charts permits the Department to respond to questions regarding body-condition scoring charts with the most accurate, updated, precise charts or methods available.

8.3. December 8, 2021 — January 30, 2022

Statutory Authority

The specific statutory authority for this Rule is located in § 35-55-113(6), C.R.S., which grants authority to the Commissioner of Agriculture, upon approval by the Colorado Agricultural Commission, to adopt reasonable rules for the administration of the Public Livestock Markets Act, § 35-55-101, et seq., and to adopt rules to identify diseases that render livestock permanently disabled or the carcasses thereof permanently unfit for human consumption.

Purpose

Editing comments: Changes to this rule are indicated in ~~striethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in ~~red~~. Changes as a result of the rulemaking hearing are indicated in ~~blue~~.

The revisions to these Rules incorporate changes as a result of the Department's Regulatory Efficiency Review Process.

Factual and Policy Issues

Because 35-55-113(1)(a) requires veterinary inspection of both livestock and animals, the reviewers defined "Animal" to identify those animals not named as "Livestock" in the definitions of the Act, 35-55-101(1), C.R.S.

To provide increased clarity surrounding the obligations of a market veterinarian and the options of an animal's owner once the market veterinarian determines that an animal must be euthanized or when the market veterinarian determines that an animal is unfit for sale but may be humanely removed from the livestock market, the reviewers added clarification to the rules to give a step-by-step procedure regarding how and when a market veterinarian is to notify the animal's owner and how long such owner has to respond to the market veterinarian before the market veterinarian may euthanize the animal as well as regarding collection of any carcass that has not experienced euthanasia by means of barbiturates or any other chemical euthanasia process.

Specific Purpose of the Rulemaking

In Part 1.0 the reviewers added the definition for "Animals" to clarify that all animals bought and sold at livestock markets are subject to veterinary inspection. The reviewers deleted the definition for "Body condition score" as that term is no longer used in the rule. The reviewers also changed the term "Veterinarian" to "Market veterinarian" to clarify that the inspection and veterinary medical decisions including treatment and euthanasia will be conducted by the market veterinarian. Additionally, the reviewers clarified that the market veterinarian must have a USDA type II accreditation.

The reviewers added a new Part 3.1 to parallel the statute's requirements that all animals, not just livestock, must be inspected by a market veterinarian for the purpose of determining the animals' health and freedom from infectious or contagious diseases.

In Part 3.3, the reviewers clarified the steps the market veterinarian must take upon reaching a determination that an animal must be euthanized, including what the steps necessary to notify the owner of the determination and the owner's options after euthanasia.

In Part 4.1, the reviewers provided additional clarity to describe when Ocular neoplasia would render an animal diseased beyond recovery.

In Part 6.2, the reviewers added the requirement that the market veterinarian must provide written notice within 24 hours to the owner and market of any euthanized animal, citing the reason for euthanasia in such written notice.

In Part 7.1, the reviewers added language to deny an owner's collection of a carcass of any animal euthanized by barbiturates or any other chemical euthanasia solutions.

Notice of Proposed Rulemaking

Tracking number

2021-00704

Department

1200 - Department of Agriculture

Agency

1202 - Inspection and Consumer Services Division

CCR number

8 CCR 1202-18

Rule title

Rules Pertaining to Hand Weeding and Hand Thinning by Agricultural Workers

Rulemaking Hearing**Date**

11/30/2021

Time

01:00 PM

Location

This meeting will be held via zoom - please see attached notice for link and call information

Subjects and issues involved

The purposes of these proposed rules are to comply with Senate Bill 21-87 by establishing rules concerning allowances, limitations, and variances for agricultural employers to permit certain hand weeding and/or thinning activities by agricultural workers. The rule defines key terms; establishes the requirements and process for requesting a variance that allows more than occasional or intermittent hand weeding by agricultural workers; and establishes allowances and limitations for hand weeding and hand thinning for agricultural employers actively engaged in the transition to certified organic agriculture while ensuring that agricultural workers are not at risk of acute, chronic, or debilitating injuries.

Statutory authority

8-13.5-203(2)(d) and (e)

Contact information**Name**

Jenifer Gurr

Title

Chief Administrative Officer

Telephone

303-869-9002

Email

jenifer.gurr@state.co.us



NOTICE OF PUBLIC RULEMAKING HEARING

FOR ADOPTION OF

“Rules Pertaining to Hand Weeding and Hand Thinning by Agricultural Workers” 8 CCR 1202-18

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the Department of Agriculture will hold a public rulemaking hearing:

DATE: November 30, 2021
TIME: 1:00 pm
LOCATION: This hearing will be held via [Zoom](#)
CALL INFORMATION: 1-253-215-8782
MEETING ID: 854 9413 0685
PASSCODE: 412121

In order to maintain a proper hearing record you are encouraged to pre-register by completing this [Google form](#). If you do not have access to Google you may send your name and telephone number to Jenifer.Gurr@state.co.us. Pre-registration is not required to participate in the hearing.

The purposes of these proposed rules are to comply with Senate Bill 21-87 by establishing rules concerning allowances, limitations, and variances for agricultural employers to permit certain hand weeding and/or thinning activities by agricultural workers. The rule defines key terms; establishes the requirements and process for requesting a variance that allows more than occasional or intermittent hand weeding by agricultural workers; and establishes allowances and limitations for hand weeding and hand thinning for agricultural employers actively engaged in the transition to certified organic agriculture while ensuring that agricultural workers are not at risk of acute, chronic, or debilitating injuries.

The statutory authority for these rules §§ 8-13.5-203(2)(d) and (e), C.R.S.

Any interested party may file written comment with the Commissioner's office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. Emailed comments should be sent to the hearing officer at Jenifer.Gurr@state.co.us. A copy of the proposed rule is available on the Department of Agriculture's website at www.colorado.gov/ag or may be obtained by calling 303-869-9004. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.



Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

DEPARTMENT OF AGRICULTURE

Inspection and Consumer Services Division

RULES PERTAINING TO HAND WEEDING AND HAND THINNING BY AGRICULTURAL WORKERS

8 CCR 1202-18

PART 1. DEFINITIONS

- 1.1 "Actively engaged in the transition to certified organic agriculture" means that land is being managed according to the rules implementing the National Organic Program ("NOP") at 7 CFR Part 205 (as incorporated herein by reference) for 36 months prior to harvest of the first organic crop and being certified organic by a United States Department of Agriculture ("USDA") NOP accredited certifier.
- 1.2 "Agricultural activities" are those services or activities included in section 203(f) of the federal Fair Labor Standards Act of 1983, 29 U.S.C. § 201 et seq., as amended, or section 3121(g) of the federal Internal Revenue Code of 1986, as amended (both as incorporated herein by reference).
- 1.3 "Agricultural property" means a contiguous or non-contiguous parcel of land on which agricultural activities are conducted and which is owned or leased by the same person or entity, including property leased from the federal or state government. Agricultural properties do not include properties owned or leased by the state or political subdivisions of the state, including state institutions of higher education, on which agricultural activities occur.
- 1.4 "Commissioner" means the Commissioner of the Colorado Department of Agriculture.
- 1.5 "Department" means the Colorado Department of Agriculture.
- 1.6 "Exempted Activity" means any activity described under §§ 8-13.5-203(2)(c)(I) through (VII), C.R.S., that is not subject to temporal or other limitations on hand weeding or hand thinning of weeds or other non-desirable plant life.
- 1.7 "Farm Record" means any record or other business-related information that identifies a farm's ownership or contains trade secrets, privileged information, or confidential commercial, financial, geological, or geophysical data. Such record or information can be in written, printed, photographic, electronic or digital format and can include, but is not required to include: crop information, financial information, purchase and sale information, operational protocols, or account numbers or unique identifiers issued by government or private entities.
- 1.8 "Organic System Plan" has the same meaning set forth in 7 C.F.R. § 205.2 (as incorporated herein by reference).
- 1.9 "Prolonged" means continuing for a long, uninterrupted period of time that lasts longer than is necessary to accomplish a given objective or end.

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

1.10 "Suitable and appropriate" means acceptable or right for a particular purpose or situation.

1.11 "Unnecessary" means not required to be done, achieved, or present, including not needed to achieve a given objective or end.

1.12 "Variance certificate" means a written or electronic document issued by the Colorado Department of Agriculture to an agricultural employer that permits more than occasional or intermittent hand-weeding of agricultural or horticultural products on an agricultural property(ies) owned or leased by the agricultural employer.

PART 2. VARIANCE PROCEDURE AND REQUIREMENTS

2.1 An agricultural employer must receive a variance certificate from the Department prior to having any agricultural worker, including workers working through a contract service, hand weed agricultural or horticultural products greater than 20 percent of the worker's weekly work time on an agricultural property(ies) owned or leased by an agricultural employer.

2.1.1 When determining whether an agricultural worker will hand weed "greater than 20 percent of the worker's weekly work time," the agricultural employer must account for the hours performed hand weeding on the entire agricultural property(ies), including time spent hand weeding on portions of the agricultural property(ies) where Exempt Activities occur.

2.2 The agricultural employer seeking a variance certificate must submit an application for a variance on a form provided by the Commissioner at least 10 business days prior to the commencement of hand weeding activities on the subject agricultural property(ies).

2.2.1 The application must include, but is not limited to, the following:

2.2.1.1 The name and contact information for the person or entity requesting the variance;

2.2.1.2 An explanation of why the variance is being requested;

2.2.1.3 An explanation of why, to the best of the agricultural employer's knowledge, the hand weeding performed under the requested variance will not involve prolonged and unnecessary stooping, kneeling, or squatting and does not create a risk of acute, chronic, or debilitating injuries to agricultural workers;

2.2.1.4 An explanation of why, to the best of the agricultural employer's knowledge, there is no suitable long-handled tool or other alternative means of performing the work that is suitable and appropriate to both the production of the agricultural or horticultural commodity and the scale of the operation;

2.2.1.5 Confirmation that the hand weeding to be performed under the variance certificate is not hand weeding that can be performed under any Exempt Activity;

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

2.2.1.6 Confirmation that an agricultural employer will not have any agricultural worker use a short-handled hoe for weeding and thinning in a stooped, kneeling or squatting position;

2.2.1.7 Confirmation that an agricultural employer will provide any agricultural worker engaged in hand weeding and hand thinning an additional five minute rest period in the middle of each work period;

2.2.1.8 Confirmation that the agricultural employer will provide gloves and knee pads, as necessary, to each agricultural worker engaged in hand weeding or thinning;

2.2.1.9 A description of any other procedures, methods, and strategies, including, but not limited to, agronomy practices and weed management methods to be applied on the subject agricultural property(ies), that the agricultural employer will use to protect agricultural workers from risk of acute, chronic, or debilitating injury during hand weeding or thinning conducted under the requested variance certificate; and

2.2.1.10 Any other information required by the Commissioner to administer §§ 8-13.5-203(d) and (e), C.R.S.

2.3 All variance certificates, including those issued to agricultural employers actively transitioning to organic agriculture, are valid for one calendar year.

2.4 All variance certificates apply to the agricultural employer and the agricultural property(ies) identified in the application, unless that property(ies) description has been modified as described in Part 2.6 below.

2.4.1 A separate variance certificate is required for additional properties not so identified or modified.

2.5 Variance certificates may not be assigned or transferred to a different agricultural employer.

2.6 If, after receipt of a variance certificate from the Department, the agricultural employer wishes to modify the agricultural property(ies) covered by the variance certificate, that agricultural employer must file a request to modify the variance certificate.

2.6.1 Any such request must be filed on a form provided by the Commissioner at least 10 business days prior to permitting more than occasional or intermittent hand weeding or thinning on the modified agricultural property(ies).

2.7 Variance certificates do not cover hand weeding during otherwise Exempt Activities.

2.8 Applications for a variance must be signed by an authorized representative of the agricultural employer who possesses the legal authority to make binding decisions for the agricultural employer.

2.9 Farm records and other business-related information shared with the Department, including information provided as part of the application process, are confidential

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in ~~red~~. Changes as a result of the rulemaking hearing are indicated in ~~blue~~.

pursuant to § 24-72-204, C.R.S., and 7 C.F.R. § 205.501(a)(10) (as incorporated herein by reference).

PART 3. SPECIAL REQUIREMENTS FOR AGRICULTURAL EMPLOYERS TRANSITIONING TO ORGANIC AGRICULTURE

3.1 An agricultural employer that is actively engaged in the transition to certified organic agriculture, but not yet certified organic by the USDA NOP or an accredited organic certifier, must request a variance from the Department pursuant to Part 2 above in order to have agricultural workers hand weed or hand thin more than occasionally or intermittently.

3.1.1 An agricultural employer that is actively engaged in the transition to certified organic agriculture is only eligible to receive a variance certificate for up to three consecutive years.

3.1.1.1 The Commissioner may issue a variance certificate for additional consecutive periods to such an agricultural employer when the agricultural employer establishes that a third party has applied prohibited substances or methods to the agricultural employer's property without the permission of the agricultural employer, such that the agricultural employer's transition to organic agriculture must be extended for another three years.

3.1.1.2 Nothing in this Part. 3.1 prohibits the Commissioner from exercising the Commissioner's discretion to issue variance certificates for additional consecutive periods upon a showing of extenuating circumstances by the agricultural employer.

3.2 Notwithstanding Part 3.1 above, variance certificates described in Part 2 above are not required if:

3.2.1 An agricultural employer's agricultural property is already USDA NOP certified and that agricultural employer has included and identified additional and specific fields or greenhouses in its Organic System Plan as transitioning from conventional to organic agriculture.

3.2.2 An agricultural employer is transitioning agricultural property from conventional to certified organic agriculture and is participating in a formal transition program with an accredited USDA organic certifier.

3.3 Nothing in this Part 3 requires an agricultural employer that is actively engaged in the transition to certified organic agriculture to request a variance for Exempt Activities.

PART 4. INCORPORATION BY REFERENCE

4.1 Material incorporated by reference does not include any later amendments or editions of the incorporated material. Copies of material incorporated by reference in these rules is available for public inspection during regular business hours. This incorporated material may be obtained at a reasonable charge or examined by contacting the Inspection and Consumer Services Division Director, Department of Agriculture, 305 Interlocken

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

Parkway, Broomfield, CO 80021. Further, the incorporated material may be examined at no cost on the Internet at:

7 C.F.R. Part 205 (2015): https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title07/7cfr205_main_02.tpl

29 U.S.C. § 201 et seq (2018): <https://www.law.cornell.edu/uscode/text/29/chapter-8>

7 U.S.C. § 3121 (2019): <https://www.law.cornell.edu/uscode/text/26/3121>

PARTS 5 – 6. RESERVED

PART 7. STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

7.1 Adopted December 8, 2021 - Effective January 30, 2022

STATUTORY AUTHORITY:

The Commissioner of Agriculture adopts these rules pursuant to §§ 8-13.5-203(2)(d) and (e), C.R.S.

PURPOSE:

To comply with Senate Bill 21-87 by establishing rules concerning allowances, limitations, and variances for agricultural employers to permit certain hand weeding and/or thinning activities by agricultural workers by:

1. Defining key terms;
2. Establishing the requirements and process for requesting a variance from the Colorado Department of Agriculture (“Department”) that allows more than occasional or intermittent hand weeding by agricultural workers; and
3. Establishing allowances and limitations for hand weeding and hand thinning for agricultural employers actively engaged in the transition to certified organic agriculture while ensuring that agricultural workers are not at risk of acute, chronic, or debilitating injuries.

FACTUAL AND POLICY ISSUES:

The factual and policy issues encountered while drafting these rules are as follows:

1. The Department identified multiple terms that were not defined in §§ 8-13.5-201 and 203, C.R.S. To provide clarity to the regulated community both as to the meaning of terms used in these rules and to the types of activities that are not subject to limitations on hand weeding or thinning (i.e., Exempt Activities), the Department has included definitions in Part 1.
2. The Department has excluded properties owned or leased by the state or political subdivisions of the state, including state institutions of higher education, from the

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- definition of agricultural property at Part 1.3 because neither the state nor political subdivisions of the state are regulated employers pursuant to § 8-3-104(12)(b), C.R.S. As such, the state and political subdivisions of the state, including institutions of higher education in the state, are not subject to limitations on hand weeding or thinning. However, individuals or entities who lease land from the state or a political subdivision of the state and who conduct agricultural activities on those leased lands are subject to these rules.
3. A variance certificate is not required if an agricultural employer only engages in activities that are already exempt from hand weeding and thinning limitations by statute. Specifically, §§ 8-13.5-203(2)(c)(I) through (VII), C.R.S., establishes classes of activities that are not subject to variance requirements ("Exempt Activities"). In other words, a variance certificate allowing agricultural workers to hand weed more than occasionally or intermittently is not required for Exempt Activities because those activities are not subject to temporal or other limitations on hand weeding or hand thinning of weeds. Part 2.7 therefore makes clear that variance certificates do not cover hand weeding during otherwise Exempt Activities.
 4. However, the Department understands that many agricultural employers conduct Exempt Activities and non-Exempt Activities on the same agricultural property(ies). Although agricultural employers do not need to seek a variance certificate for Exempt Activities, those employers must consider the hours spent hand weeding or thinning during those activities when determining if hand weeding during a worker's weekly work time will exceed the occasional or intermittent threshold, defined as "twenty percent or less of an agricultural worker's weekly work time." § 8-13.5-201(b), C.R.S. This is because the governing statute does not define "weekly work time," and the plain meaning of that phrase encompasses any and all work conducted as part of the worker's employment. Therefore, Part 2.2.1 requires that, when determining whether a variance certificate is required to hand weed more than occasionally or intermittently, the agricultural employer account for the hours performed hand weeding on the entire agricultural property(ies), including time spent hand weeding on portions of the agricultural property(ies) where Exempt Activities occur.
 5. Section 8-13.5-203(2)(e), C.R.S., only allows the Department to approve a request for a variance when the agricultural employer has established that three, specific criteria are met. As such, the burden is on the agricultural employer to establish that: i) the hand weeding performed under the variance does not involve prolonged and unnecessary stooping, kneeling, or squatting and does not create a risk of acute, chronic, or debilitating injuries for agricultural workers; ii) there is no suitable long-handled tool or other alternative means of performing the work that is suitable and appropriate to both the production of the agricultural or horticultural commodity and the scale of the operation; and iii) the applicant is not engaged in any of the seven other exempt activities listed at § 8-13.5-203(2)(c), C.R.S.
 6. This statutory mandate does not grant any inspection or enforcement authority to the Department concerning the variances. Therefore, neither Part 2 nor Part 3 of the Department's rules provide for pre-variance inspections, post-variance inspections, or oversight concerning whether an agricultural employer complies with the requirements necessary for the Department to issue a variance. Instead, the Department must rely on information provided by the agricultural employer to establish that the requirements for a variance are met. In so doing, the Department recognizes that the agricultural employer will be in the best position to, for example, analyze the suitability of various long-handled

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

or other tools to their operations or the appropriateness of hand weeding certain agricultural or horticultural commodities. Therefore, Parts 2.2.1.3 through 2.2.1.5 of the Department's rules require explanations from the applicant as to how the criteria described immediately above have been met.

7. Because the variance process includes a consideration of risk of acute, chronic, or debilitating injury to an agricultural worker, Parts 2.2.1.6 through 2.2.1.8 of the Department's rules require confirmation from the applicant that statutory requirements at §§ 8-13.5-203(2)(a), (3), and (4), C.R.S., setting forth protections afforded to agricultural workers have been met. Similarly, Part 2.2.1.9 requests information on other procedures or methods the agricultural employer intends to provide to protect agricultural workers from risk of acute, chronic, or debilitating injury.
8. A variance certificate applies to the specific agricultural employer and all agricultural properties identified in the application for a variance. The Department recognizes, however, that agricultural properties owned, leased, or otherwise worked may change in any given year. To account for this reality, Part 2.6 establishes a process by which an agricultural employer may modify the agricultural properties to which the variance certificate applies. This ensures that an agricultural employer's variance extends to new properties or parcels where hand weeding or thinning may occur, provided all requirements in Part 2.6 have been met.
9. Section 8-13.5-203(2)(d) charges the Department with promulgating rules that establish allowances and limitations for hand weeding and hand thinning for agricultural employers actively engaged in the transition to certified organic agriculture, while ensuring that agricultural workers are not at risk of acute, chronic, or debilitating injuries. The Department identified three classes of agricultural employers most likely to be transitioning to organic agriculture in Part 3 of its rules: i) those who are actively certified but are transitioning conventional fields to organic fields pursuant to their Organic System Plan; ii) those who are transitioning their operations or specific portions of their operations to organic agriculture pursuant to a formal transition program offered by an accredited certifier; and iii) those considering or operating in the three-year transition period required to become certified organic (i.e., where the fields or greenhouses have had no prohibited substances applied or methods used).
10. There is no way for the Department to track the identity or progress of the third category of agricultural employers described above. And, because § 8-13.5-203(d), C.R.S., does not grant the authority to the Department to inspect transitioning fields, the Department has determined that the most effective way to limit hand weeding in these instances is pursuant to the variance process described in Part 2 of the rules.
11. Section 8-13.5-203(c)(III), C.R.S., exempts certified organic operations from limits on hand weeding or thinning. Because transitioning agricultural employers operating under an existing Organic System Plan or under a formal transitioning program overseen by an accredited certifier are carefully monitored by USDA NOP or the certifier and because those transitioning operations will soon be certified organic, the Department has determined that no variance will be required for these groups of transitioning agricultural employers.
12. Part 3.1 establishes the general rule that agricultural employers actively engaged in the transition to certified organic agriculture are only eligible to receive a variance certificate for up to three consecutive years. This three-year limitation matches the three-year

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

period where a transitioning grower may not use or apply prohibited methods or substances to the transitioning land. However, the Department's experience as an organic certifier demonstrates that there are situations where this three-year period must be extended. For example, third parties may apply or otherwise allow prohibited substances to contact transitioning fields without the permission of the transitioning grower (e.g., pesticides applied to non-conventional fields drift onto transitioning fields; fire suppression activities require the application of prohibited substances to transitioning fields to stop the spread or threat of fire to other areas). Therefore, Part 3.1.1.1 allows the Commissioner to issue a variance certificate for additional consecutive periods to account for such situations. However, the Department cannot enumerate the myriad ways in which a transition to organic agriculture may be interrupted without the knowledge or permission of the transitioning grower. To address this issue, Part 3.1.1.2 allows the Commissioner to exercise his or her discretion to consider the extenuating circumstance(s) presented by the applicant and then exercise his or her discretion to issue variance certificates for additional consecutive periods

Notice of Proposed Rulemaking

Tracking number

2021-00705

Department

1200 - Department of Agriculture

Agency

1203 - Plant Industry Division

CCR number

8 CCR 1203-2

Rule title

RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PESTICIDE APPLICATORS' ACT

Rulemaking Hearing**Date**

11/30/2021

Time

10:30 AM

Location

This meeting will be held via zoom - please see attached notice for link and call information

Subjects and issues involved

The purpose of these proposed revisions are to incorporate new federal certification and training requirements pursuant to 40 C.F.R. Part 171 and to clarify existing Rule requirements.

Statutory authority

35-10-118(2)(a), (b), (c), (d), (3)(a), (4), (5) and (9)

Contact information**Name**

Jenifer Gurr

Title

Chief Administrative Officer

Telephone

303-869-9002

Email

jenifer.gurr@state.co.us

NOTICE OF PUBLIC RULEMAKING HEARING

FOR AMENDMENTS TO

“Rules and Regulations Pertaining to the Administration and Enforcement of the Pesticide Applicators’ Act” 8 CCR 1203-2

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the Department of Agriculture will hold a public rulemaking hearing:

DATE: November 30, 2021
TIME: 10:30 am
LOCATION: This hearing will be held via [Zoom](#)
CALL INFORMATION: 1-253-215-8782
MEETING ID: 817 3316 6360
PASSCODE: 476981

In order to maintain a proper hearing record you are encouraged to pre-register by completing this [Google form](#). If you do not have access to Google you may send your name and telephone number to Jenifer.Gurr@state.co.us
Pre-registration is not required to participate in the hearing.

The purpose of these proposed revisions are to incorporate new federal certification and training requirements pursuant to 40 C.F.R. Part 171 and to clarify existing Rule requirements.

The statutory authority for these rules §§ 35-10-118(2)(a), (b), (c), (d), (3)(a), (4), (5) and (9) C.R.S.

Any interested party may file written comment with the Commissioner's office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. Emailed comments should be sent to the hearing officer at Jenifer.Gurr@state.co.us. A copy of the proposed rule is available on the Department of Agriculture's website at www.colorado.gov/ag or may be obtained by calling 303-869-9004. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.



DEPARTMENT OF AGRICULTURE

Plant Industry Division

RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE PESTICIDE APPLICATORS' ACT

8 CCR 1203-2

Part 1. Construction of Terms, Definitions and Incorporations by Reference.

- 1.01. As used in these Rules, the singular includes the plural, the masculine gender includes the feminine and neuter, and vice versa. All terms used in these Rules shall have the meaning set forth for such terms in the Act.
- 1.02. As used in these Rules, unless the context otherwise requires:
- (a) “abut” means to join; to be contiguous, as where no other land, road, or street intervenes; “abut” includes two property sites that would otherwise be considered abutting, but for the fact that such sites are separated by an alley. As used herein, “alley” means a passage way within a block set apart for public use, vehicular travel, and local convenience to provide a secondary means of access to the rear or side of abutting lots or buildings.
 - (b) “category” shall include any sub-category thereof.
 - (c) “contiguous dwelling unit” means a dwelling unit that is contiguous with another dwelling unit, both of which units are owned, managed, leased, or subleased by the same landlord.
 - (d) “dwelling unit” means a structure or the part of a structure that is used as a home, residence, or sleeping place by a tenant.
 - (e) “engaged in the business of applying pesticides for hire” means: the evaluation of pest problems; the recommendation of pest controls and evaluation of results; the mixing, loading or application of pesticides; and/or the soliciting, advertising, offering or contracting to do any of the above, in return for money or anything of value, including goods or services. Notwithstanding anything to the contrary in the foregoing, the rendering of consultation services by an individual in evaluating pest problems, recommending pest controls and/or evaluating results, shall not be deemed to constitute the application of pesticides for hire, if said individual is not affiliated with, or soliciting business for, any person or business entity which performs the mixing, loading or application of pesticides.
 - (f) “in the possession of” means in the physical possession of the applicator or in a location at the site of the application, such as a service vehicle, that is readily accessible to the applicator.
 - (g) “fumigant” means any substance which by itself or in combination with other substances emits or liberates a gas or gases, fumes or vapors, and which gas or gases, fumes or vapors when liberated and used will destroy vermin, rodents, insects, and other pests, but are usually lethal, poisonous, noxious, or dangerous to human life.

Editing comments: Changes to this rule are indicated in ~~strike~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (h) "landlord" means the owner, manager, lessor, or sublessor of a residential premises.
- (i) "pasture" means land which is managed primarily for the production of forage for domestic livestock. Pasture typically receives intensive renovation and/or cultural treatments, such as tillage, fertilization, mowing, irrigation and weed control.
- (j) "proof of medical justification" means a statement signed by a physician licensed to practice medicine in Colorado pursuant to Article ~~24036~~ of Article 12, C.R.S. which states

I certify that the individual named above is a patient of mine and should be placed on the list of pesticide sensitive individuals. This individual has a documented sensitivity to certain pesticides and should not be exposed to them because of the reason(s) described below:
- (k) "property damage" includes, but is not limited to, injury to domestic animals, livestock and economically important insects.
- (l) "ready to use pesticide" means, any pesticide that requires no mixing or loading of a pesticide into a service container or other application device; such as but not limited to: aerosols and pre-mixed formulations in the original container.
- (m) "structure" means any building, regardless of its design or the type of material used in its construction, whether public or private, vacant or occupied, the foundation thereof, and the adjacent outside areas, and shall also include but shall not be limited to warehouses, trucks, boxcars, boats, airplanes, other vehicles, or the contents thereof, and fumigation vaults.
- (n) "tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.
- (o) "use" means any and all aspects of the handling of pesticides from the time a pesticide container is opened until disposal of the pesticide container, including without limitation, the mixing, loading, application, spill control, and disposal of a pesticide or its container.
- (p) "to use any pesticide in a manner inconsistent with labeling directions or requirements" includes, but is not limited to, for termiticides only, the use of a termiticide at any concentration less than that stated on the labeling.
- (q) "agricultural commodity" means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.
- (r) "device" means any device for which licensure as a commercial applicator is required pursuant to § 35-10-118(9.5). C.R.S. For purposes of these Rules, use of a pesticide includes the use of any such device by a commercial applicator.

- 1.03. Material incorporated by reference does not include any later amendments or editions of the incorporated material. Copies of material incorporated by reference in these Rules is available for public inspection during regular business hours. This incorporated material may be obtained at a reasonable charge or examined by contacting the Pesticide Section Chief, Department of Agriculture, 305 Interlocken Parkway, Broomfield, CO 80021. Further, the incorporated material may be examined at no cost on the Internet at:

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

14 CFR Part 137 (2017): <https://www.ecfr.gov/cgi-bin/text-idx?SID=78202a2b282637d0353bef1963d3eb97&mc=true&node=pt14.3.137&rgn=div5>

7 CFR Part 110 (2017): <https://www.ecfr.gov/cgi-bin/text-idx?SID=341d0f40e8a82f23d37560d37f1d3795&mc=true&node=pt7.3.110&rgn=div5>

40 CFR § 156.10(h) (2017): https://www.ecfr.gov/cgi-bin/text-idx?SID=0bf63629a0295f907ad146fa19191798&mc=true&node=se40.26.156_110&rgn=div8

29 CFR § 1910.1200 (2017): https://www.ecfr.gov/cgi-bin/text-idx?SID=86491cb903d67e9bba95d83941202d06&mc=true&node=se29.6.1910_11200&rgn=div8

40 C.F.R., PART 172 (2017): [HTTPS://WWW.ECFR.GOV/CGI-BIN/TEXTIDX?SID=6AC65677C44BBA253A0D63B16ED45E72&MC=TRUE&NODE=PT40.26.172&RGN=DIV5](https://www.ecfr.gov/cgi-bin/textidx?SID=6AC65677C44BBA253A0D63B16ED45E72&MC=TRUE&NODE=PT40.26.172&RGN=DIV5)

40 C.F.R., PART 180 (2017): [HTTPS://WWW.ECFR.GOV/CGI-BIN/TEXTIDX?SID=0EEE3CBC0A72651B5B0BF97FD64ABD54&MC=TRUE&NODE=PT40.26.180&RGN=DIV5](https://www.ecfr.gov/cgi-bin/textidx?SID=0EEE3CBC0A72651B5B0BF97FD64ABD54&MC=TRUE&NODE=PT40.26.180&RGN=DIV5)

40 C.F.R., 152.25 (2017): [HTTPS://WWW.ECFR.GOV/CGI-BIN/TEXTIDX?SID=0EEE3CBC0A72651B5B0BF97FD64ABD54&MC=TRUE&NODE=PT40.26.152&RGN=DIV5 #SE40.26.152_125](https://www.ecfr.gov/cgi-bin/textidx?SID=0EEE3CBC0A72651B5B0BF97FD64ABD54&MC=TRUE&NODE=PT40.26.152&RGN=DIV5#SE40.26.152_125)

[40 C.F.R. §§ 171.103\(C\) , 171.103\(D\), 171.105\(A\), AND 171.201\(D\) \(2017\): https://ecfr.io/Title-40/pt40.26.171#se40.26.171_1103](https://ecfr.io/Title-40/pt40.26.171#se40.26.171_1103)

Part 2. The Licensing System.

Subpart A Commercial Applicators

- 2.01. A person engaged in the business of applying pesticides must be licensed as a commercial applicator under the Act. To be licensed or to renew a license as a commercial applicator, any designated qualified supervisor(s) must be licensed in good standing in the category for which a commercial applicator's license is sought.
- 2.02. A person not engaged in the business of applying pesticides is not required to be licensed as a commercial applicator under the Act. For example, a person who evaluates and/or recommends pest controls while not engaging in the business of applying pesticides or working for a person who engages in the business of applying pesticides is not required to be licensed under the Act.
- 2.03. Each applicant for a license shall submit a signed, complete, accurate, and legible application, on a form provided by the Commissioner, which shall include, at a minimum: the name and address of the business, the name under which the business will operate (the doing business as name), the name of the person who is the primary contact, the address and telephone number of the location where the applicator records are to be kept, the name and identification numbers of all qualified supervisors employed or designated by the business, and any other information required on the form.
- 2.04. In addition to the application form ~~described above~~approved by the Commissioner, each applicant for a license or applicant for renewal of a license, shall submit the license fee set by the Commissioner. If the license fee does not accompany the application, the application for license or renewal of a license may be denied.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- 2.05. Each person applying as a corporation or other entity, shall submit a certificate of good standing from the Secretary of State.

~~2.05.5. Each individual or sole proprietorship that applies for a license must provide all information and documents required by the Commissioner to verify lawful presence in the United States pursuant to Section 24-76.5-103, C.R.S. Failure to provide all such information and documents in the manner specified by the Commissioner shall be grounds for denial of an application for a license or renewal of an existing license.~~

- 2.06. Each applicant shall submit to the Commissioner the name under which the business will operate. If the licensee operates under more than one name, each such name shall be listed with the Commissioner.

- 2.07. Beginning with license year 1994, the annual license fee for commercial applicators shall be \$350.00.

- 2.08. Each applicant for renewal of a license shall annually submit a signed, complete, accurate, and legible application on a form provided by the Commissioner, which shall include, at a minimum: the name and address of the business, the name of the person who is the primary contact, the address and telephone number of the location where the applicator records are to be kept, the name and identification numbers of all qualified supervisors employed by the business, and any other information required on the form.

- 2.09. Each applicant for a license shall provide file evidence of liability insurance ~~on forms provided by to~~ the Commissioner.

- 2.10. Each applicant for renewal of a license in all categories, shall have on file at the time of submission of an application for renewal of a license evidence of liability insurance which is in force at the time of application.

- 2.11. Each commercial applicator shall have on file with the Commissioner evidence of liability insurance ~~on forms provided by the Commissioner~~ at the time any pesticide application is performed.

- 2.12. Adequate Supervision:

(a) A licensee must have at least one qualified supervisor for every fifteen (15) technicians, of which no more than eight (8) may be unlicensed technicians. For purposes of the provision, the term "unlicensed technician" means a technician who does not have a certified operator license

(b) A responsible qualified supervisor must be available while any technician under their supervision is using a pesticide. For purposes of this provision, the term "available" means able to communicate verbally with the technician and the Department and to respond appropriately to any emergency.

(c) A qualified supervisor may act in a supervisory capacity for one or more commercial applicator businesses at any given time, but only for the licensure category(ies) the qualified supervisor holds.

(d) A qualified supervisor may supervise one or more technicians employed by multiple commercial applicator businesses, so long as the aggregate number of technicians supervised from among those commercial applicator businesses does not exceed 15 technicians at any one point.

Editing comments: Changes to this rule are indicated in ~~striketrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- 2.13. A commercial applicator who conducts ~~such~~ business at two or more business locations shall obtain a license for each location at which it employs one or more permanent employees engaged in the application of pesticides for hire. For purposes of this paragraph, “business locations” means any physical location at or through which the functional operations of business regularly occur, including, but not limited to, financial transactions, arrangement of contracts, or assignment of work, and excluding buildings or locations used solely for storage of equipment or supplies or telephone answering services.
- 2.14. A commercial applicator may not apply pesticides aerially without an endorsement on its license by the Commissioner permitting such applications. In order to obtain such endorsement, the applicant or licensee shall present evidence that at least one pilot employed or to be employed by said applicant, currently holds a commercial agricultural aircraft operator certificate issued by the Federal Aviation Administration, U.S. Department of Transportation, pursuant to 14 CFR, ~~P~~part 137 (2017) (as incorporated herein by reference). If the employment of said pilot or pilots is terminated for any reason, the ~~L~~icensee shall immediately cease aerial application of pesticides unless and until it is in compliance with this Rule.
- 2.15. A business not engaged in the business of applying pesticides for hire, and not licensed under the Act, may solicit and enter into a written contract which incidentally requires one or more pesticide applications only in accordance with the provisions of this Part 2.15~~Section~~. Examples of such contracts, but not by way of limitation, are maintenance and paving contracts. If such business hires a licensed commercial applicator to perform the pesticide application as a subcontractor, then the primary contractor need not itself be licensed under the Act. If the primary contractor does not hire a licensed commercial applicator to perform such applications, then the primary contractor must obtain a license prior to entering into the primary contract. Entry into any such contract that does not have an express written statement that the contractor will subcontract with a licensed commercial applicator to perform the pesticide application(s) called for in the contract, shall constitute a violation of § 35-10-117(1)(c), C.R.S. Failure to include such a statement in any solicitations, whether oral or written, to enter into such a contract shall constitute a separate violation of § 35-10-117(1)(c), C.R.S.
- 2.16. A commercial applicator not licensed in a category (“contractor”) may solicit and enter into a written contract with a customer to perform pesticide applications in said category only if the contractor subcontracts with a commercial applicator licensed in said category (“subcontractor”) to perform the pesticide application in that category. In this case, the subcontractor shall be responsible for all aspects of the application. If the contractor hires the subcontractor to perform the pesticide application, then the contractor need not itself be licensed in the category. If the contractor does not hire a subcontractor to perform such applications, then the contractor must obtain a license in said category prior to entering into any contract with a customer for any pesticide application in said category. Entry into any such contract that does not have an express written statement that the contractor will subcontract with a subcontractor licensed to perform the pesticide application(s) called for in the contract, shall constitute a violation of § 35-10-117(1)(c), C.R.S. Failure to include such a statement in any solicitation, whether oral or written, to enter into such a contract shall constitute a separate violation of § 35-10-117(1)(c), C.R.S.
- 2.17. A commercial applicator licensed in a category (“contractor”) may enter into a contract with a customer to perform pesticide applications in said category. The contractor may subcontract with another commercial applicator licensed in the same category (“subcontractor”) to perform the pesticide application under the primary contract. In this case, both the contractor and subcontractor shall be responsible for all aspects of the application. For example and not by way of limitation: both applicators are required to keep records of the application; both applicators are responsible for any notification required under the act or these Rules; and both applicators are responsible for the proper application of any pesticides.

Subpart B Registered Limited Commercial Applicators and Registered Public Applicators

- 2.18. Any person who in the course of conducting a business only in or on property owned or leased by the person or the person's employer ("limited commercial applicator") is engaged in applying restricted use pesticides, and any agency of the state, any county, city and county, or municipality, or any other local governmental entity or political subdivision ("public applicator") which applies restricted use pesticides shall register with the Commissioner.
- 2.19. An entity which does not apply restricted use pesticides but otherwise qualifies as a limited commercial applicator or a public applicator may register with the Commissioner.
- 2.20. A limited commercial applicator or public applicator which exclusively applies general use pesticides is not required to register with the Commissioner unless they have so designated in accordance with Part§ 2.19.
- 2.21. Any limited commercial applicator or public applicator registered pursuant to the Act and these Rules shall be governed by the Act and these Rules for all pesticide applications including those involving general use pesticides.
- 2.22. The limited commercial applicator or public applicator shall designate on its application one or more individuals, who are or will be employed by it in the capacity of qualified supervisor, to take the examination for each category and subcategory for which the registration is sought.
- 2.23. To be registered as a limited commercial applicator or public applicator, the designated qualified supervisor must be licensed in good standing and must meet all qualifications including, but not limited to, the experience and/or educational qualifications set forth in these Rules for each of the categories in which he or she will take the examination. For purposes of this Part 2.23Section, the term "good standing" includes but is not limited to, the fact that the qualified supervisor's license has not expired pursuant to § 35-10-116 (1), C.R.S.
- 2.24. Each applicant for a registration shall submit a signed, complete, accurate, and legible application, on a form provided by the Commissioner, which shall include, at a minimum: the name and address of the applicant, the name of the person who is the primary contact, the address and telephone number of the location where the applicator records are to be kept, the name and identification numbers of all qualified supervisors employed by the applicant, and any other information required on the form.
- 2.25. In addition to the application form ~~described above~~approved by the Commissioner, each applicant for registration, shall submit the registration fee set by the Commissioner. If the registration fee does not accompany the application, the application for registration may be denied.
- 2.26. Each person applying as a corporation or other entity, shall submit a certificate of good standing from the Secretary of State.
- 2.27. The registration required pursuant to the Act shall expire on December 31 of the same year the registration is granted.
- 2.28. A registered limited commercial applicator or a registered public applicator may not apply pesticides aurally without an endorsement on its registration by the Commissioner permitting such applications. In order to obtain such endorsement, the limited commercial applicator or a public applicator shall present evidence that at least one pilot employed or to be employed by said limited commercial applicator or a public applicator, currently holds a commercial agricultural aircraft operator certificate issued by the Federal Aviation Administration, U.S. Department of Transportation, pursuant to 14 CFR, Part 137 (2017) (as incorporated herein by reference). If the

Editing comments: Changes to this rule are indicated in ~~strike through~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

employment of said pilot or pilots is terminated for any reason, the limited commercial applicator or a public applicator shall immediately cease aerial application of pesticides unless and until it is in compliance with this Rule.

- 2.29. A limited commercial entity or a public entity may designate separate sections, divisions, agencies, or their equivalent to be registered.
- 2.30. Adequate Supervision:
- a) A registered limited commercial applicator or a registered public applicator must have at least one qualified supervisor for every fifteen (15) technicians, of which no more than eight (8) may be unlicensed technicians. For purposes of the provision, the term "unlicensed technician" means a technician who does not have a certified operator license.
 - b) A responsible qualified supervisor must be available while any technician under their supervision is using a pesticide. For purposes of this provision, the term "available" means able to communicate verbally with the technician and the Department and to respond appropriately to any emergency.
 - (c) A qualified supervisor may act in a supervisory capacity for one or more commercial applicator businesses at any given time, but only for the licensure category(ies) the qualified supervisor holds.
 - (d) A qualified supervisor may supervise one or more technicians employed by multiple commercial applicator businesses, so long as the aggregate number of technicians supervised from among those commercial applicator businesses does not exceed 15 technicians at any one point.
- 2.31. If before the expiration of a registration, a registered limited commercial applicator or registered public applicator wants to withdraw registration, said applicator may withdraw from registration. Notice of withdrawal must be in writing and is not effective until 10 days from receipt by the Commissioner. If before the original expiration of a registration the applicator wants to be registered, the applicator must submit a new application and submit a new registration fee.

Subpart C Qualified supervisors and certified operators

- 2.32. A person working for a person who is or should be licensed as a commercial applicator, registered limited commercial applicator, or registered public applicator and who without supervision, evaluates pest problems, or recommends pest controls using pesticides, or uses any pesticide, or sells application services, or supervises others in any of these functions must be licensed as a qualified supervisor.
- 2.33. A person who applies any restricted use pesticide without the on site supervision of a qualified supervisor must be licensed as a certified operator.
- 2.34. Each qualified supervisor and certified operator applying for a license or the renewal of a license must be 18 years of age and shall ~~submit complete and file with the Commissioner~~ an application on a form provided by the Commissioner, prior to the date of expiration of any current license ~~on a form furnished by the Commissioner, and~~ which contains, at a minimum, the following: the applicant's identification number, if any, his or her name, the name, address, telephone number, date of birth, and license or registration number of his or her employer, if any, and any other information required on the form.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- 2.35. The Commissioner may require verification of any fact, including but not limited to, any experience or education claimed on any application, and may investigate the truthfulness and accuracy of any and all information submitted by an applicant.
- 2.36. Upon a showing of exceptional circumstances by an applicant, the Commissioner may waive part of the experience requirements specified in these Rules. The Commissioner may accept, with sufficient verification, valid relevant field experience obtained in this state or any other state.
- 2.37. Each applicant for license as a qualified supervisor or certified operator, shall take and pass a general examination and any examinations required for the category for which the applicant has applied.
- 2.38. ~~Each individual who applies for a license must provide all information and documents required by the Commissioner to verify lawful presence in the United States pursuant to Section 24-76.5-103, C.R.S. Failure to provide all such information and documents in the manner specified by the Commissioner shall be grounds for denial of an application for a license or renewal of an existing license. Repealed~~
- 2.39. Except as provided in Part§ 2.45 of these Rules, each applicant for a license as a qualified supervisor or certified operator shall pay a fee to be determined by the Commissioner. Said fee must be paid separately from any other fee, including but not limited to, any fee for examination as a qualified supervisor or certified operator or any fee for licensure as a commercial applicator.
- 2.40. The qualified supervisor(s) employed by a licensee shall be responsible for the complete supervision of all pest control recommendations, soliciting, mixing, loading, and application of pesticides for the licensee in the licensure category(ies) the Qualified Supervisor(s) hold(s).
- 2.41. The anniversary date of a qualified supervisor's license or certified operator's license shall be the birth date of the licensee.
- 2.42. Both qualified supervisors and certified operators will be licensed by category and must take and pass both a general exam and a category specific exam.
- 2.43. In order for a licensed qualified supervisor or licensed certified operator to become licensed in additional categories, the applicant must take and pass the examination in the new category.
- 2.44. If a qualified supervisor possesses all of the qualifications for licensure as a qualified supervisor in an additional category for which such person is not licensed, except for the required experience, such person shall be licensed as a certified operator in such additional category without payment of the application fee for the certified operator's license.
- 2.45. If a licensed qualified supervisor or licensed certified operator applies for licensure in an additional category, said qualified supervisor or certified operator shall not be required to pay an additional application fee for licensure in a new category. The applicant shall be required to pay an examination fee.
- 2.46. Any category added after the qualified supervisor or certified operator is originally licensed or renewed shall expire on the date of expiration of the original license.
- 2.47. In order to qualify for renewal of a license, any licensed qualified supervisor or licensed certified operator must either take and pass the general exam and any category specific exams for his category or complete any continuing education required pursuant to ~~p~~Part 4 of these Rules. Any renewal of a license shall be determined on a category basis. Any license that is not renewed on

or before the expiration date of the license may be reinstated within one hundred eighty days after the expiration date upon:

- (a) Application and payment of a reinstatement fee as determined by the Commissioner; and
 - (b) Proof that all renewal requirements have been satisfied as of the expiration date of the license.
- 2.48. An individual certified or licensed by another jurisdiction as a commercial pesticide applicator may obtain a certified operator license in Colorado without passing any examination, but only for the unexpired term of the certification or license issued by such other jurisdiction. Application for such licensure shall require proof of current certification or licensure in good standing in the other jurisdiction and payment of an application fee pursuant to Part§ 2.39. Any application for licensure pursuant to this ~~Part 2.48Section~~ may be denied for any reason other than passage of any exam. If issued, said license shall expire on the expiration date of the certification or license issued by the other jurisdiction. Upon the expiration of the license issued pursuant to this Part 2.48Section, the individual may renew the certification or license issued by the other jurisdiction and re-apply to become a certified operator in Colorado as permitted by this Part§ 2.48, or apply for a license in Colorado and satisfy all requirements therefore, including, but not limited to, taking and passing each examination applicable to such licensure.

Subpart D Private Applicators

- 2.49. Any person who uses or supervises the use of a restricted use pesticide for purposes of producing any agricultural commodity on property owned or leased by the applicator or the applicator's employer or, if the pesticide is applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person must be a licensed private applicator. The holder of a private applicator license is only authorized to use restricted pesticides for the purpose of producing an agricultural commodity as defined in Part 1, Rule 1.02(m).
- 2.50. Each applicant for a private applicator license or renewal of a license must be 18 years of age and shall submit an application on a form provided by the Commissioner, prior to the date of expiration of any current license, shall complete and file with the Commissioner an application on a form furnished by the Commissioner, and which contains, at a minimum, the following: the applicant's identification number, if any, his or her name, address, telephone number, date of birth, photocopy of their identification, and any other information required on the form. ~~Licenses issued by the Environmental Protection Agency prior to January 1, 2007 cannot be renewed.~~
- 2.51. The Commissioner may require verification of any fact, including but not limited to, type of agricultural commodity production claimed on any application, and may investigate the truthfulness and accuracy of any and all information submitted by an applicant.
- 2.52. Each applicant for a private applicator license shall take and pass an examination.
- 2.53. Each applicant for a private applicator license shall pay a fee to be determined by the Commissioner. Said fee must be paid separately from any other fee, including but not limited to, any fee for examination as a private applicator.
- 2.54. A licensed private applicator shall be responsible for the supervision of any unlicensed person working under his or her direction, who mixes, loads, or applies a restricted use pesticide, for purposes of producing any agricultural commodity on property owned or leased by the applicator or the applicator's employer. For the purposes of this Part 2.54Section, supervision of any unlicensed person working "under his or her direction" shall mean work performed by an

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

individual acting under the instruction and control of a licensed private applicator, even if the licensed private applicator is not physically present at the work site at the time the work is performed.

- 2.55. The anniversary date of a private applicator license shall be the birth date of the licensee.
- 2.56. In order for a licensed private applicator to become licensed as a qualified supervisor or certified operator, the applicant must take and pass both a general exam and a category specific exam and meet any requirements outlined in Part 2, Subpart C₁ of these Rules.
- 2.57. If a licensed private applicator applies for licensure as a qualified supervisor or certified operator, the private applicator shall be required to pay an additional examination fee and application fee for licensure.
- 2.58. In order to qualify for renewal of a license, a licensed private applicator must either take and pass the private applicator exam or complete any continuing education required pursuant to Part 4 of these Rules. A license that is not renewed on or before the expiration date of the license may be reinstated within one hundred eighty days after the expiration date upon:
- (a) Application and payment of a reinstatement fee as determined by the Commissioner; and
 - (b) Proof that all renewal requirements have been satisfied as of the expiration date of the license.
- 2.59. An individual certified or licensed by another jurisdiction outside Colorado as a private applicator may obtain a Colorado private applicator license without passing any examination, but only for the unexpired term of the certification or license issued by such other jurisdiction. Application for such licensure shall require proof of current certification or licensure in good standing in the other jurisdiction and payment of an application fee pursuant to ~~Part~~§ 2.53. Said license shall expire on the expiration date of the certification or license issued by the other jurisdiction. Upon the expiration of the license issued pursuant to this ~~Part 2.59~~Section, the individual may renew the certification or license issued by the other jurisdiction and re-apply to become a private applicator in Colorado as permitted by this ~~Part~~§ 2.59, or apply for a license in Colorado and satisfy all requirements therefore, including, but not limited to, taking and passing an examination applicable to such licensure.
- 2.60. Private pesticide applicator licensure classification: Category 401, Private Pesticide Applicator Pest Control, is for the application of restricted use pesticides for the purpose of producing any agricultural commodity on property owned or leased by the applicator or the applicator's employer or, when the pesticide is applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

Subpart E Licensure Actions, Suspension, Denial, Revocation

- 2.61. Any of the following actions shall constitute grounds for the suspension, restriction, refusal to renew, denial, or revocation of a license or certification, whether alone or in conjunction with violations of any provision of the act or of any other provision of these Rules:
- (a) The application of pesticides in a negligent or willful manner which creates, either by pesticide residue or by direct damage, a hazard to property, which shall include without limitation, crops, ornamental plants, and animals (including economically important insects).

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (b) The application of pesticides in a negligent or willful manner which endangers human health.
- (c) The creation of a situation from improper handling of pesticides, including spillage, leakage, vapors or disposal, which constitutes a hazard to the health, welfare or safety of any person, the general public, any animal or animals (including economically important insects), any crops, any ornamental plants, or the environment.

Part 3. Examination.

- 3.01. The Commissioner, or his or her designated administrator, shall administer a general examination and/or an examination in each category established by these Rules. Each examination must meet all core standards for all categories in accordance with 40 C.F.R. §§ 171.103(c), 171.103(d), and 171.105(a). Each examination is for the purpose of licensing as a qualified supervisor, certified operator, or private applicator. An individual may take such examinations for the purpose of obtaining a license.
- 3.02. Each applicant for examination shall file an application for examination on a form provided by the Commissioner and shall pay a fee to be determined by the Commissioner. Said fee must be paid separately from any other fee, including but not limited to, any fee for application for licensure as a qualified supervisor, certified operator, or private applicator or any fee for licensure as a commercial applicator.
- 3.03. Each applicant shall be required to obtain the grade designated as passing on each ~~s~~Section of the examination (s) under which he or she wishes to qualify. All examinations shall be graded uniformly.
- 3.04. Each applicant for examination shall complete an identification form, provided by the Commissioner, for the Commissioner's use in identifying persons who take the examinations. The information on the identification form shall consist of that which is reasonably necessary or appropriate for ensuring the integrity of the examination process, such as the physical description of the applicant.
- 3.05. Examinations shall be graded without reference to the application or personal identification forms which have been completed by the applicant.
- 3.06. The Commissioner shall keep an applicant's test results on file for a period of one year from the date of examination. Such results may be used by an applicant for licensing during that period of time. If an applicant fails to complete the licensing process within one year of the examination date, he or she shall be required to take new examinations in all applicable categories in which he or she wishes to be licensed.
- 3.07. The Commissioner may furnish, for a fee, study guides for the use of persons preparing for the examinations given under the Act. The fees for this material shall be sufficient to cover the cost of printing and postage.
- 3.08. Examination security provisions:
 - (a) No applicant or licensee testing in any qualified supervisor or certified operator licensure category shall use any outside information not provided by the Commissioner or his designee while taking a closed book examination, remove any examination question or answer sheets from the room where the examination is given, nor shall any applicant or licensee cause any examination question or answer to be disseminated to any person not employed by the Commissioner by any means whatsoever.

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (b) No applicant or licensee testing for a private applicator license, or person proctoring a private applicator test session, shall cause any examination question or answer to be disseminated to any person not employed by the Commissioner by any means whatsoever. No person other than the applicant or licensee may complete the private applicator examination form.

Part 4. Continuing Education Requirements.

Subpart A General Continuing Education Requirements for Qualified Supervisor and Certified Operator

- 4.01. In order to renew a license without examination, each qualified supervisor and each certified operator must obtain the following credits prior to the expiration of his license:
 - (a) 2 credits in the subject area of applicable state, federal, and local laws and regulations;
 - (b) 1 credit in the subject area of pesticides and their families;
 - (c) 1 credit in the subject area of applicator safety;
 - (d) 1 credit in the subject area of public safety;
 - (e) 1 credit in the subject area of environmental protection;
 - (f) 1 credit in the subject area of use of pesticides; ~~and~~
 - (g) 1 credit for each licensed category in the subject area of pest management except for those categories described in Part 4.01(h)subsection (h) of this § 4.2 below; and
 - (h) 2 credits for each of the following licensed categories: residential/commercial pest control, turf pest control and ornamental pest control.
- 4.02. In order for a qualified supervisor or a certified operator attending a course to receive relicensing or continuing education credit:
 - (a) the course must be approved in advance by the Commissioner;
 - (b) requests for approval must be in submitted by the course sponsor to the Commissioner on writing a form provided by the Commissioner;
 - ~~(c) requests for approval must be submitted by the sponsors;~~
 - ~~(ce)~~ requests for approval must be submitted no less than ~~thirty~~fifteen days prior to the course; and
 - ~~(de)~~ requests for approval ~~must~~shall include: ~~the proposed agenda, the identity of all speakers at pertinent course(s) and a synopsis of the topics to be addressed in each course for which credit is being requested.~~
 - (1) The proposed agenda, with the length of time for each session and a synopsis of the topics to be addressed in each course for which credit is being requested;

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (2) The identity of all speakers for each pertinent course. Upon request, the course sponsor must provide the Commissioner with speaker credentials confirming licensure or expertise in the subject matter for which the speaker will provide training. The Commissioner may deny approval of a speaker if the credentials or experience does not relate to the subject matter the speaker will teach; and
 - (3) An explanation of the process the course sponsor will use to confirm the identity of each course attendee.
 - (e) Core category recertification sessions, as indicated in Subparts C – H of this Part 4, must be no less than 30 minutes in length. Pest Management recertification sessions, as indicated in Subpart I of this Part 4, must be no less than 60 minutes in length. Multiple sessions may be grouped sequentially to meet the minimum time requirements if the course sponsor can show attendance can be tracked across grouped sessions.
 - (f) Attendance at approved recertification courses must be open to any person holding a Colorado pesticide applicator license, subject to space limitations.
- 4.03. If the Commissioner receives a request for continuing education approval at least sixty days prior to the course date, the Commissioner will notify applicators of the approval for continuing education credits. The Commissioner will not provide notification of such approval if the request for its approval was received less than sixty days prior to the course.
- 4.04. The list of those attending each approved course shall be sent by the sponsor to the Commissioner no later than 7 days after the conclusion of the course. The sponsor must provide each licensed attendee confirmation of attendance of the course no more than 7 days after the conclusion of the course. It is the attendee's individual's responsibility to confirm that his or her name appears on the attendance list for each course or session attended. The course sponsor must provide attendance confirmation to the Commissioner in writing or electronically, using a form provided by the Commissioner or in a format preapproved by the Commissioner when he or she attends an approved course.
- 4.05. A course will be approved for continuing education credit if, in the opinion of the Commissioner, it covers at least one topic from the following subject areas adequately to justify the approval for credit. (Subject areas and subtopics are listed in Subpart C - I of this Section.) Failure to meet any required recertification submission provision in this Part 4 may be grounds for course denial or future course denial.

Subpart B General Continuing Education Requirements For Private Applicators

- 4.06. In order to renew a license without examination, each private applicator must obtain the following credits prior to the expiration of his or her license:
- (a) 2 credits in the subject area of applicable state, federal and local laws and regulations;
 - (b) 1 credit in the subject area of pesticides and their families;
 - (c) 1 credit in the subject area of applicator safety;
 - (d) 1 credit in the subject area of public safety;
 - (e) 1 credit in the subject area of environmental protection; and
 - (f) 1 credit in the subject area of use of pesticides.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in ~~red~~. Changes as a result of the rulemaking hearing are indicated in ~~blue~~.

- 4.07. In order for a private applicator attending a course to receive relicensing or continuing education credit:
- (a) the course must be approved in advance by the Commissioner;
 - (b) requests for approval must be submitted by the course sponsor to the Commissioner on a writing a form provided by the Commissioner;
 - (c) ~~requests for approval must be submitted by the sponsors~~;
 - (~~cd~~) requests for approval must be submitted no less than ~~thirty~~fifteen days prior to the course; and
 - (~~de~~) requests for approval must~~shall~~ include: ~~the proposed agenda, the identity of all speakers at pertinent course(s) and a synopsis of the topics to be addressed in each course for which credit is being requested.~~
 - (1) The proposed agenda, with the length of time for each session and a synopsis of the topics to be addressed in each course for which credit is being requested;
 - (2) The identity of all speakers for each pertinent course. Upon request, the course sponsor must provide the Commissioner with speaker credentials confirming licensure or expertise in the subject matter for which the speaker will provide training. The Commissioner may deny approval of a speaker if the credentials or experience do not relate to the subject matter the speaker will teach; and
 - (3) An explanation of the process the course sponsor will use to confirm the identity of each course attendee.
 - (~~e~~) Core category recertification sessions, as indicated in Subparts C – H of this Part 4, must be no less than 30 minutes in length. Multiple sessions may be grouped sequentially to meet the minimum time requirements if the course sponsor can show attendance can be tracked across grouped sessions.
 - (~~f~~) Attendance at approved recertification courses must be open to any person holding a Colorado pesticide applicator license, subject to space limitations.
- 4.08. If the Commissioner receives a request for continuing education approval at least sixty days prior to the course date, the Commissioner will notify applicators of the approval for continuing education credits. The Commissioner will not provide notification of such course approval if the request for its approval was received less than sixty days prior to the course.
- 4.09. The list of those attending each approved course shall be sent by the sponsor to the Commissioner no later than 7 days after the conclusion of the course. The sponsor must provide each licensed attendee confirmation of attendance of the course no more than 7 days after the conclusion of the course. It is the attendee's individual's responsibility to confirm that his or her name appears on the attendance list for each course or session attended. The course sponsor must provide attendance confirmation to the Commissioner in writing or electronically, using a form provided by the Commissioner or in a format preapproved by the Commissioner when he or she attends an approved course.
- 4.10. A course will be approved for continuing education credit if, in the opinion of the Commissioner, it covers at least one topic from the following subject areas adequately to justify the approval for credit. (Subject areas and subtopics are listed in Subparts C – H of this Section.) Failure to meet

Editing comments: Changes to this rule are indicated in ~~striketrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

any required recertification submission provision in this Part 4 may be grounds for course denial or future course denial.

Subpart C Applicable State, Federal, and Local Laws and Regulations

- 4.11. State, federal and local regulations dealing with: pesticides, application, disposal, notification, transportation, registration, uses, licensing, worker protection, endangered species, storage, residues and tolerances, emergency planning and right to know, advertising, record keeping, business practices, insurance, training standards, supervision, agricultural chemicals and groundwater, or consumer protection.
- 4.12. Compliance problems/actions, analysis of most frequent violations, and discussions of specific problems and actions.

Subpart D Pesticides and Their Families

- 4.13. Pesticide label and labeling including: label requirements, label terminology, and effect of failure to comply with label requirements.
- 4.14. Pesticides in general including: families and types, mode of action, and other properties.
- 4.15. Formulation of pesticides: types, properties, advantages, limitations, toxicity, dilution, mixing, and uses.
- 4.16. Semiochemicals for pest detection and control.
- 4.17. Adjuvants and additives.
- 4.18. Specific pesticide characteristics and concepts including: compatibility, synergism, persistence, environmental fate, resistance, mode of action (contact, systemic, etc.), mobility, leachability, potential for biological concentration and/or accumulation, volatility, solubility, inert ingredients and/or carriers, and phytotoxicity.
- 4.19. National trends on pesticide problems.

Subpart E Applicator Safety

- 4.20. Safe use of pesticides by the applicator including: label requirements, transportation, mixing, loading, disposal, equipment cleanup, spill management, storage, application, and precautions to prevent exposure and injury.
- 4.21. Applicator protection including selection, care, and maintenance of protective clothing and safety equipment.
- 4.22. Human health effects including: acute and chronic toxicity, hazard determination, routes of exposure, symptoms of pesticide poisoning, and allergies.
- 4.23. First aid and emergency actions for pesticide exposure and use related injuries.
- 4.24. Reference sources pertinent to applicator safety including: Material Safety Data Sheet(s) (MSDS), telephone hotlines, emergency procedures, and label requirements.
- 4.25. Major label revisions and national trends and updates relevant to applicator safety.

- 4.26. Responsibilities of qualified supervisors, certified operators, technicians and other employees.

Subpart F Public Safety

- 4.27. Safe use of pesticides by the applicator including: label requirements, transportation, mixing, loading, disposal, equipment cleanup, spill management, storage, application, and precautions to prevent exposure and injury.
- 4.28. Human health effects including: acute and chronic toxicity, hazard determination, routes of exposure, symptoms of pesticide poisoning, and allergies.
- 4.29. Reference sources pertinent to public safety including: Material Safety Data Sheet (s) (MSDS), telephone hotlines, emergency procedures, and label requirements.
- 4.30. Major label revisions and national trends and updates relevant to public safety.
- 4.31. Responsibilities of qualified supervisors, certified operators, technicians and other employees.
- 4.32. Public education about pesticides and pesticide application, public relations, communication and trouble shooting.
- 4.33. Pesticide sensitivities, allergies, and phobias including chemophobia and entomophobia.

Subpart G Environmental protection

- 4.34. Precautions to protect the environment and minimize the effects of pest management on it, including: identification of meteorological and climatic factors affecting application (drift, runoff, etc.); identification of terrain, soil, substrata influence on possible surface and ground water contamination; recognition of sensitive areas and organisms that could be affected by application, drift and runoff such as endangered species, wildlife, ornamentals, beneficial insects, humans, and domestic animals; identification of methods of spill prevention, control, and cleanup; observation of preharvest intervals; timing of applications for specific pest controls; and pesticide storage and transportation.
- 4.35. Major label revisions and national trends and updates relevant to environmental protection.
- 4.36. Responsibilities of qualified supervisors, certified operators, technicians and other employees.

Subpart H Use

- 4.37. Mixing and loading including: proper mixing and loading techniques, label requirements, closed systems, adjuvants for drift control and other purposes, measuring, pH of water and other factors to consider, procedures for spill prevention, control and clean up, site location and construction, prevention of contamination, and security.
- 4.38. Application including: proper application techniques, techniques to control off target movement, new application techniques, procedures for spill prevention, control and clean up, label requirements.
- 4.39. Equipment including: calibration, selection of correct equipment for the job, maintenance and care, clean up, new equipment.

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- 4.40. Storage and disposal including: bulk storage, label requirements, site requirements such as ventilation, containment, procedures for spill prevention, control and clean up, disposal of containers, rinsate, excess material, security, fire prevention, posting, temperature, product separation to prevent cross contamination.
- 4.41. Responsibilities of qualified supervisors, certified operators, technicians and other employees.
- 4.42. Major label revisions and national trends and updates relevant to pesticide use.
- 4.43. Practical demonstration of use methods and techniques.

Subpart I Pest Management

- 4.44. Identification and biology including: principles of host and pest identification and recognition of such organisms, principles of site/habitat identification, damage and/or symptoms caused by pests, recognition of beneficial organisms, understanding host, pest and beneficial life cycles and susceptible stages, and evaluate environmental conditions and ecology on host and pest biology.
- 4.45. Pest management criteria including: determining economic or aesthetic threshold levels, consideration of environmental impact of control methods, selection of control method, post-treatment evaluation, ability to integrate various pest management methods, comparative effectiveness of management methods and techniques, sampling and survey techniques, host and pest resistance, effects of control methods on host and off target organisms, timing of control alternatives, and pest management history.
- 4.46. Chemical control methods and practices including: select material, formulation, and/or equipment, determine dosage of selected control, selection of proper pesticides and adjuvants for a particular job, and timing of pesticide application.
- 4.47. Alternative control methods and practices including: mechanical, biological, cultural, and physical methods, and timing of control methods.
- 4.48. References for decision making for pest management.
- 4.49. Major label revisions, evolution of pest management, and national trends and updates relevant to pest management.

Part 5. Technician Training.

Subpart A General

- 5.01. Definitions. For purposes of this ~~P~~part 5 unless the context otherwise requires:
 - (a) “Applicator technician” means a technician whose job includes the use of pesticides;
 - (b) “Experienced technician” means a technician who has been trained and has the following minimum experience within the past 3 years: for applicator technicians doing structural applications, 6 months of experience including time in training, for applicator technicians doing agricultural, turf, ornamental or turf and ornamental applications, 1 season of experience including time in training, and for sales technicians, 1 season of sales experience;

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (1) “New hire experienced technician” means any technician who has met the experience requirements, outlined in ~~Part~~Rule 5.01(b) ~~of this Part 5~~, within the last 3 years, but is a new employee of a commercial applicator, registered limited commercial applicator, or registered public applicator.
- (2) “On-going experienced applicator technician” means an individual who has met the definition of an experienced technician and continues to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator.
- (c) “Sales technician” means a technician whose sole job is selling application services; and
- (d) “Selling application services” means the sale of a pesticide application. Selling application services does not include the sale of an evaluation service, inspection service, or recommendation service. To qualify as a sale of an application service, the seller must make an evaluation of pest problems or a recommendation of pest controls using pesticides. A seller does not make an evaluation of pest problems or a recommendation of pest controls using pesticides if the seller answers questions from a customer using an answer sheet prepared by a licensed qualified supervisor.
- (e) “Flagger technician” means an individual employed and compensated by the applicator who designates, with a flag or any other identification, the alignment of a pesticide application during the application of pesticides at that site.

5.02. Scope of ~~P~~part 5.

- (a) A person will not be considered a technician for purposes of these Rules if said person uses, sells, or recommends a general use pesticide while under the on site supervision of a qualified supervisor.
- (b) A person who evaluates any pest problem while under the on site supervision of a qualified supervisor will not be considered a technician.
- (c) Use or sales of Restricted Use pesticide by a technician:
 - (1) A person must be a trained technician or must be training to be a technician if said person uses, a restricted use pesticide while under the on site supervision of a qualified supervisor.
 - (2) A person must be training to be a technician to sell or recommend a restricted use pesticide while under the on site supervision of a qualified supervisor.
 - (3) A person must be a trained technician to sell or recommend a restricted use pesticide while under the supervision of a qualified supervisor.
- (d) A person must be a technician or must be training to be a technician if said person uses, sells, or recommends a general use pesticide while on the job with a certified operator or experienced technician.
- (e) A person may not use, sell, or recommend, general use pesticides unaccompanied by a qualified supervisor, certified operator, or experienced technician without completing the training required by these Rules.

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (f) For the purposes of determining if a person is experienced and/or trained, upon a showing of exceptional circumstances by a commercial applicator, the Commissioner may waive all or part of the experience and training requirements specified in these Rules. The Commissioner may accept, with sufficient verification, valid relevant field experience and training obtained from sources other than the commercial applicator in this state or any other state so long as safety is not compromised and the person has the necessary pertinent application skills,
- (g) The amount of time given to each topic covered by these Rules is discretionary with the trainer. However, the technician's training must be relevant to each technician's job duties.
- (h) Each commercial, registered limited commercial, or registered public applicator licensed or registered in any category shall record the training provided to each technician on a form or forms provided by the Commissioner. Any such form(s) must be completed in full in order to comply with this Part 5.02(h)~~maintain a form established by the Commissioner for each technician trained by said commercial applicator.~~
- (i) Each commercial, registered limited commercial, or registered public applicator licensed or registered in any category may give a written examination to trained technicians to determine the comprehension of subjects covered by the training. However, said examination shall not in any manner substitute for any of the training required by these Rules.
- (j) This Part 5 shall not apply to limited commercial applicator and public applicators not registered with the Department pursuant to Section 35-10-109, C.R.S., which are regulated by Part 16 of these Rules.
- (k) All technician training conducted under this Part 5 and its Subparts must conform with all noncertified applicator training requirements in 40 C.F.R. § 171.201(d) (2017) (as incorporated herein by reference).
- (l) A commercial, registered limited or registered public applicator must obtain training records to verify that any new-hire experienced technician has met all the training requirements in this Part 5. These records must be maintained as part of the technician's training record in accordance with Part 5.02(m) below.
- (m) Each commercial, registered limited commercial, or registered public applicator must maintain the training record(s) as follows:
 - (1) The original training record reflecting all required classroom and on-the-job training hours, in accordance with Part 5 and its subparts for the category being trained in, must be maintained for the entirety of the technician's employment and for three years after the technician's separation from the employer;
 - (2) The on-going training record reflecting all required training hours and topics, in accordance with Part 5 and its subparts for the category being trained in, must be maintained for a minimum of three years from the date training was conducted.
 - (3) A copy of all training records must be provided to the applicator technician upon request and must be provided to the Commissioner upon request.

Subpart B Agricultural

Editing comments: Changes to this rule are indicated in ~~striketrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- 5.03. Except as otherwise expressly provided in these Rules, each applicator technician and flagger technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in any agricultural category shall have at a minimum 36 hours of training:
- (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and
 - (b) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.04. Except as otherwise expressly provided in these Rules, each sales technician working for a commercial applicator licensed in any agricultural category shall have at a minimum 36 hours of training:
- (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 16 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. No more than 8 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety; and
 - (c) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor.
- 5.05. Except as otherwise expressly provided in these Rules, each on-going experienced applicator technician, flagger technician, and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in any agricultural category shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in § 5.03 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.06. Except as otherwise expressly provided in these Rules, each new hire experienced technician and flagger technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in any agricultural category shall have at a minimum 16 hours of training:

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
- (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of agricultural pesticide application experience within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
- (c) The remaining 4 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
- (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart C Turf

5.07. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have at a minimum 36 hours of training:

- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
- (b) At least 4 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
- (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.

5.08. Each sales technician working for a commercial applicator licensed in the turf category shall have at a minimum 40 hours of training:

- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pesticide label and labeling, and public safety;
- (b) At least 8 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
- (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf pesticide application

experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety.

- 5.09. Each technician who acts as both a sales technician and an applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have at a minimum 48 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
 - (b) At least 16 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of turf pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.10. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of turf pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in Part§ 5.09 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.11. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the turf category shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of turf pesticide application experience within the last 2 years which training shall cover: use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (c) The remaining 4 hours shall be divided between classroom and the job site as the need is determined by the qualified supervisor; and

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart D Ornamental

5.12. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have at a minimum 40 hours of training:

- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
- (b) At least 8 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
- (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.

5.13. Each sales technician working for a commercial applicator licensed in the ornamental category shall have at a minimum 48 hours of training:

- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pesticide label and labeling, and public safety;
- (b) At least 16 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
- (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety.

5.14. Each technician who acts as both a sales technician and as an applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have at a minimum 56 hours of training:

- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;

Editing comments: Changes to this rule are indicated in ~~striketrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (b) At least 24 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.15. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of ornamental pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in Part 5.14 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.16. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the ornamental category shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of ornamental pesticide application experience within the last 2 years. Said training shall cover: use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (c) The remaining 4 hours shall be divided between classroom and the job site as the need is determined by the qualified supervisor; and
 - (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart E Turf and Ornamental

- 5.17. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have at a minimum 60 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;

Editing comments: Changes to this rule are indicated in ~~striketrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (b) At least 12 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 40 hours of which shall be on the job training. At least 16 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. No more than 24 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.18. Each sales technician working for a commercial applicator licensed in both the turf category and the ornamental category shall have at a minimum 64 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pesticide label and labeling, and public safety;
 - (b) At least 24 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 32 hours of which shall be on the job training, at least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed qualified supervisor or licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. No more than 24 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety.
- 5.19. Each technician who acts as both a sales technician and as an applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have at a minimum 80 hours of training:
- (a) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, and public safety;
 - (b) At least 32 hours of which shall be classroom-instructional training covering: pest management and host and pest identification; and
 - (c) At least 40 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. No more than 32 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- 5.20. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have, during each year of employment after the first season of experience, at a minimum, the following on- going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of turf and ornamental pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in Part§ 5.19 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.21. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in both the turf category and the ornamental category shall have at a minimum 16 hours of training:
- (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of turf and ornamental pesticide application experience within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (c) The remaining 4 hours shall be divided between classroom and the job site as the need is determined by the qualified supervisor; and
 - (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Subpart F Structural

- 5.22. Each applicator technician and sales technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of wood destroying organism pest control, fumigation, or residential/commercial pest control shall have at a minimum 160 hours of training:
- (a) At least 32 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 120 hours of which shall be on the job training. At least 60 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 year of structural pesticide application experience within the last 2 years. No more than 60 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, applicator safety, pesticide label and labeling, host and pest identification, and public safety;

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (c) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
 - (d) Successfully complete a written examination prepared and given by the commercial applicator showing overall comprehension of the subject matter of the training.
- 5.23. Each on-going experienced applicator technician and sales technician continuing to work for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of wood destroying organism pest control, fumigation, or residential/commercial pest control shall have during each year of employment after the first season of experience, at a minimum, the following on-going training:
- (a) 2 hours per month of training which training shall over a period of 6 months include at least 3 hours of classroom-instructional training. 9 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor. Said classroom-instructional training and on the job training shall be conducted by either a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 year of structural pesticide application experience within the last 2 years. Said training shall cover those areas enumerated in Part§ 5.22; and
 - (b) Successfully complete a written examination prepared and given by the commercial applicator showing overall comprehension of the subject matter of the training.
- 5.24. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of wood destroying organism pest control, fumigation, or residential/commercial pest control shall have at a minimum 32 hours of training:
- (a) At least 16 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and
 - (b) At least 16 hours of which shall be the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 year of structural pesticide application experience within the last 2 years which training shall cover: use, equipment and calibration, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
 - (c) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.
- 5.25. Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have at a minimum 36 hours of training:
- (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and

- (b) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.
- 5.26. Each sales technician working for a commercial applicator licensed in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have at a minimum 36 hours of training:
 - (a) At least 12 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety;
 - (b) At least 16 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. No more than 8 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety; and
 - (c) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor.
- 5.27. Each on-going experienced applicator technician and sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have, during each year of employment after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. The qualified supervisor shall determine from those topics enumerated in Part§ 5.25 the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- 5.28. Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in the structural categories of outdoor vertebrate pest control, stored commodities treatment, Post-Harvest Potato Pest Control, wood preservation and wood products treatment, or interior plant pest control shall have at a minimum 16 hours of training:
 - (a) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (b) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator which licensed certified operator has at least 1 season of structural pesticide application experience within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
- (c) The remaining 4 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
- (d) Experienced sales technicians are not required to complete training in use, equipment and calibration nor applicator safety.

Part 6. Records.

Subpart A Recordkeeping Requirements for Commercial, Registered Limited Commercial and Registered Public Applicators

- 6.01. Licensed commercial applicators, shall maintain accurate and legible office records of each application of pesticides made for hire. Commercial applicators using devices shall maintain records in accordance with Part 15.07 of these Rules.
- 6.02. Registered limited commercial and registered public applicators shall maintain accurate and legible office records of each application of pesticides.
- 6.03. Except for device applications as provided in Part 6.01, such records shall include all of the following information:
 - (a) Name and address of person for whom application was made.
 - (b) Location where application was made, if different from ~~Part number~~ 6.03(a). The location of a field should be fully described. In the case of roadside weed control applications, the record should include the county or state road number and the portion of roadside treated, described by reference to mileage markers or prominent geological features such as road intersections, river or creek crossings, or the like.
 - (c) Target pest. This means the specific pest for which the application was made. A general term is acceptable only if the pesticide label specifically refers to that exact term (such as "broadleaf weeds").
 - (d) Site, crop, commodity or structure treated.
 - (e) Specific pesticide applied. This shall be accomplished by recording the EPA registration number of the pesticide product. The brand name of the pesticide product and the name and address of its manufacturer may also be included in this record.
 - (f) Dilution rate. This is the amount of formulated product or active material per unit of volume of carrier specified as such. In the case of a product applied out of the container without mixing, the entry should be "no dilution", "aerosol", or "RTU" (ready to use), as applicable.
 - (g) Application rate. This is the total gallons or pounds of the final tank mix applied per unit of area or volume. In the case of "crack and crevice" structural treatment, the entry should indicate "crack and crevice". The entry for a livestock application should indicate "dip" or

“spray”, as appropriate. In the case of an application of a pesticide labeled “spray until wet,” “spray to runoff,” or the like, the entry should indicate the nature of the application in language consistent with the label directions.

- (h) Carrier, if other than water.
 - (i) Date and time of application. The record shall indicate the time, within at least one-half hour accuracy, when the application was started or stopped. Each applicator's records shall be kept consistently and clearly, in such a manner as to allow ready determination as to whether a noted time indicates the beginning or end of the application. An entry merely stating “A.M.” or “P.M.” is not sufficient to comply with this Rule.
 - (j) Name and license number of the person who made or supervised the application (i.e., technician, certified operator, qualified supervisor). If a restricted use pesticide application is performed by an applicator technician, the record of application shall include the names of both the technician and the responsible on-site qualified supervisor.
 - (k) Endangered Species Protection Bulletin for the county and month in which the application was made for any pesticide product used, when required by the label. If there is not an active Endangered Species Bulletin use limitation for the county and month in which the application was made, no Endangered Species Protection Bulletin is required to be maintained in the applicator's records. For purposes of complying with this Partsubsection 6.03(k), a single Endangered Species Bulletin record may be applied to multiple applications that are subject to that Bulletin.
- 6.04. Any applicator performing wood destroying insect control, for the control of termites, shall keep, in addition to record keeping requirements outlined in PartSection 6.03 above, the following information:
- (a) For all commercial pre-construction treatments, the licensee must maintain records of square footage treated per application site, flow rate of the application equipment, and the start and stop time for the treatment. If a physical barrier is used, the square footage of the physical barrier shall be recorded and a diagram describing the installation shall be provided.
 - (b) Each post construction termite liquid and bait treatment record shall include:
 - (1) A diagram, blueprint, or building plat and a description of the structure or structures to be treated, including the following:
 - (~~ia~~) Approximate measurements as accurately as practical;
 - (~~ii~~~~b~~) Areas of known current termite activity;
 - (~~iii~~~~e~~) Areas of known previous termite activity;
 - (~~iv~~~~d~~) Areas of known conditions conducive to termite activity;
 - (~~v~~~~e~~) Areas to be treated and by what means, (i.e.: slab injection, trenching).
 - (2) A copy of the signed customer contract and any warranty information provided to the customer, including any job specific exclusions, limitations or amendments.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (3) An original or legible copy of the original label for any pesticide used.
- (4) The signature of approval on the proposed treatment diagram by a qualified supervisor licensed in the wood destroying organism category who is employed by or associated with the applicator making the proposal.
- (5) For termite baiting programs:
 - (~~ia~~) The number and locations of baiting and monitoring stations to be installed;
 - (~~iib~~) All service inspections of termite bait stations must be kept as part of that customer's service record and service frequency must be performed as recommended by the manufacturer's label requirements.

Subpart B Recordkeeping Requirements for Private Applicators

- 6.05. Licensed private applicators shall maintain accurate and legible records of each restricted use pesticide application in accordance with all regulations of the United States Department of Agriculture's federal pesticide recordkeeping requirements set forth in the Code of Federal Regulations, at 7 C.F.R., Part 110 (2017) (as incorporated herein by reference), ~~incorporated herein by reference (later amendments not included)~~. Pursuant to §35-10-111 of the Act, such records shall be retained for a period of two years from the date of the pesticide application.

Part 7. Business Practices, Equipment Identification, Notices.

7.01. Equipment identification.

- (a) For the purposes of subparagraphs (b) and (c) below, the term "company business name" includes any name or trademark registered with the Colorado Secretary of State, any doing business as name as submitted in the licensee's application, and any company logo that clearly communicates the licensee's business name.
- (b) Commercial applicator equipment identification:
 - (1) All motor vehicles, trailers, and mobile application equipment while used by or on behalf of any licensee for applying or carrying pesticides shall be identified by displaying thereon, in letters not less than two inches high, the company business name and, in letters not less than one inch high, the city and state of said licensee's place of business. Such lettering on a licensee's equipment shall be clearly legible, and shall not be rendered difficult to read or illegible by means of paint fading, scuffing, wear and tear, damage, or any other cause. Any motor vehicle so identified shall be identified on both sides of the vehicle. This Part 7.01(b)(1) Rule shall not apply to aircraft, small capacity sprayers with less than a ten-gallon capacity, and application equipment mounted on vehicles marked in accordance with these Rules.
 - (2) Vehicles with a spray tank holding more than a ten-gallon capacity that due to the size or design of the vehicle do not provide sufficient surface area to comply with the identification requirements outlined in Part 7.01(ba)(1) shall be identified by displaying thereon, in letters not less than one inch high, the company business name of said licensee. Such lettering on a licensee's equipment shall be clearly legible, and shall not be rendered difficult to read or illegible by means of paint

fading, scuffing, wear and tear, damage, or any other cause. Any motor vehicle so identified shall, at a minimum, be identified on one side of the vehicle.

~~(cb)~~ Public applicator equipment identification:

- (1) Any public applicator registered with the Department shall identify all motor vehicles, trailers, and mobile application equipment while used by or on behalf of such registrant for applying or carrying pesticides by displaying, in letters not less than two inches high, the city or state name, or a logo identifying the registered public entity they represent. Such lettering on a registrant's equipment shall be positioned and maintained so as to be clearly legible, and shall not be rendered difficult to read or illegible by means of paint fading, scuffing, wear and tear, damage, or any other cause. Any motor vehicle so identified shall be identified on both sides of the vehicle. This Part 7.01(c)(1)Rule shall not apply to aircraft, small capacity sprayers with less than a ten-gallon capacity, and application equipment mounted on vehicles marked in accordance with these Rules.
- (2) Vehicles with a spray tank holding more than a ten-gallon capacity that due to the size or design of the vehicle do not provide sufficient surface area to comply with the identification requirements outlined in Part 7.01(c)(1) shall be identified by displaying thereon, in letters not less than one inch high, the city or state name, or logo, identifying which public entity they represent. Such lettering on a registrant's equipment shall be clearly legible, and shall not be rendered difficult to read or illegible by means of paint fading, scuffing, wear and tear, damage, or any other cause. Any motor vehicle so identified shall, at a minimum, be identified on one side of the vehicle.

- 7.02. All licensees must inform the Commissioner, in writing, of any change in their address or telephone number.
- 7.03. Each qualified supervisor or certified operator must notify the Commissioner in writing when he or she begins employment with a commercial, registered limited commercial, or registered public applicator, terminates employment, or when he or she changes branches, divisions, satellite offices or employers. Such notification shall be within 15 days of said employment, termination, or change.
- 7.04. Each commercial, registered limited commercial, and registered public applicator must notify the Commissioner in writing when a qualified supervisor in its employ terminates employment, or changes branches, divisions or satellite offices, or when adding a qualified supervisor to its staff. Such notification shall be within 15 days of said termination, change, or addition.
- 7.05. The original product container with labeling or a copy of the pesticide label and any associated labeling for the intended use, for each product in use shall be in the possession of the commercial, registered limited commercial, or registered public applicator employee at the site of application whenever a pesticide application is performed. This Part 7.05Rule shall not apply to aerial applicators, private applicators, or Endangered Species Protection bulletins referenced on the label.

Part 8. Agricultural Applicators.

- 8.01. The agricultural classification includes the following categories:
 - (a) Category 101: Agricultural Insect Control: the application of pesticides to agricultural plants, including applications performed on pastures, croplands and non-crop agricultural

lands, to control invertebrate pests, including insects, mites, slugs, snails, and nematodes.

- (b) Category 102: Agricultural Plant Disease Control: the application of pesticides to agricultural plants, including applications performed on pastures, croplands and non-crop agricultural lands, to control plant diseases.
- (c) Category 103: Agricultural Weed Control: the application of pesticides to agricultural lands, including pastures, croplands and non-crop agricultural lands, to control weeds.
- (d) Category 104: Seed Treatment: the application of pesticides to seeds.
- (e) Category 105: Livestock Pest Control: the application of pesticides to livestock.
- (f) Category 106: Forest Pest Control: the application of pesticides in forests, forest nurseries, forest seed producing areas managed for the production of timber and other forest products or maintained as wood vegetation for such indirect benefits as protection of catchment areas or public recreation, including windbreaks and downed timber. For applications in forested areas within fifty (50) feet of a residential or commercial structure, an applicator must also hold the ornamental pest control category in accordance with Part 9 of these Rules and comply with all of the posting and notification requirements in Section 35-10-112, C.R.S., of the Pesticide Applicators' Act. This additional certification in the ornamental pest control category shall not apply to aerial applicators or ground applications made by federal, state, or local governments on property they own. This category does not apply to pesticide applications made to control vertebrate pests.
- (g) Category 107: Rangeland Pest Control: the application of pesticides to land which is not managed for turf, pasture or forest on which the vegetation is predominantly native plant species or introduced species managed as native species such as grasses, grass-like plants, forbs or shrubs. Rangelands include but are not limited to natural grasslands, shrublands, deserts, tundras, and meadows. For applications performed in rangeland areas within fifty (50) feet of a residential or commercial structure, an applicator must also hold the turf pest control category in accordance with Part 9 of these Rules and comply with all of the posting and notification requirements in Section 35-10-112, C.R.S., of the Pesticide Applicators' Act. This additional certification in the turf pest control category shall not apply to aerial applicators or ground applications made by federal, state, or local governments on property they own. This category does not apply to pesticide applications made to control vertebrate pests.
- (h) Category 108: Aquatic Pest Control: the application of pesticides to standing or running water when made to control weeds, amphibians, fish and other pests in water, except for pesticide applications which are included in the "Public Health" category, at PartRule 8.01(j).
- (1) Category 113: Metam sodium for root control in sewers: the application of metam sodium in sewers to control roots. For purposes of this sub-category, "sewer" shall mean any artificial conduit for the transmission of wastewater to a wastewater treatment plant.
- (i) Category 109: Industrial and Right-of-Way Weed Control: the application of pesticides to maintain roads, sidewalks, trails, paths, utility lines, railways, parking lots, drilling rigs, substations, open irrigation and drainage structures or similar areas and adjacent land within right of ways associated with such areas for the purpose of establishing or maintaining definable cover or bare ground.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (j) Category 110: Public Health Pest Control: the application of pesticides for control of disease vectors, except vertebrates.
 - (k) Category 111: Research and Demonstration: the application of pesticides in the course of conducting field research or demonstration. No license or certification will be issued in this category unless the applicant also obtains licensing or certification, in the specific category listed in these Rules, which is appropriate to the research activity.
- 8.02. Applicants for licensing as a qualified supervisor in the agricultural pest control categories, except the metam sodium for root control in sewers sub-category, must have the following field experience or equivalents. Such field experience must have been obtained within the five years immediately preceding the date of the applicant's application for licensing.
- (a) Said applicant shall have obtained a minimum of eight months field experience in agricultural pest control.
 - (b) If said applicant has earned college or university credit in agricultural pest control or related fields, such credit may be combined with field experience in agricultural pest control in order to qualify for licensing as a qualified supervisor, as follows:
 - (1) Two years college credit and two months field experience in agricultural pest control; or
 - (2) One year college credit and five months field experience.
- 8.03. Commercial applicators classified in the agricultural categories shall provide the following notices of pesticide applications.
- (a) Prior to each application, the customer shall be informed of: (1) the pesticide(s) to be applied, (2) the site of application, (3) applicable re-entry intervals, (4) applicable grazing intervals, (5) applicable pre-harvest interval, and (6) any precautionary statements contained on the applicable pesticide label(s). This notice may be oral.
 - (b) After the application, the applicator shall promptly furnish the customer with a written notice which states: (1) the pesticide(s) applied; (2) the amount of each pesticide applied; (3) the date of application; (4) the site of application; (5) applicable re-entry intervals; (6) applicable grazing intervals; (7) applicable crop rotation intervals; and (8) any precautionary statements contained on the pesticide label(s).
 - (c) An applicator may furnish the information specified in ~~PartsSections~~ 8.03. (a)(3) through (6), and/or ~~Parts~~ 8.03. (b)(5) through (8) above, by giving the customer a copy of the applicable pesticide label(s).
 - (d) In the event that a commercial applicator classified in the agricultural categories performs an application at a site which is occupied by someone other than the applicator's customer, the applicator shall be responsible for giving the notices required by ~~PartsSections~~ 8.03(a) and (b) above to the person(s) who are occupying the site, as well as to the customer: This ~~PartSection~~ 8.03(d) does not apply to applications to crops or to large-scale pest control programs.
 - (e) Notices in this ~~PartRule~~ 8.03 may be provided electronically when the following conditions have been met.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (1) Commercial applicators must obtain a written request from each customer and occupant confirming their request to obtain any notice required by ~~thesethis~~ Rules electronically.
- (2) A commercial applicator must maintain a record of the written request(s) for electronic notices from each customer and occupant.
- (3) A commercial applicator that does not have a record of the written request(s) for electronic notices on file at the time of an application must provide a notice as outlined in ~~Partthe 8.03(a) - (d)-of this Rule 8.03.~~

~~(f) Commercial, registered limited commercial, or registered public applicators must comply with all applicable signage requirements for aquatic applications in Part 13 below.~~

8.04 An applicant for licensing in the sub-category of metam sodium for root control in sewers shall satisfy each of the following requirements:

- (a) In addition to any other required examination, an applicant must take and pass the specific examination for this sub-category, but not the examination for the aquatic pest control category.
- (b) An applicant for licensing as a qualified supervisor in this sub-category must have the following field experience or equivalents. Such field experience must have been obtained within the five years immediately preceding the date of the applicant's application for licensing.
 - (1) An applicant shall have obtained a minimum of 40 hours of field experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers; or
 - (2) If an applicant has a Level 2 or 3 wastewater collection certification issued by the Colorado Water Distribution and Wastewater Collection Systems Council, or a Class A, B, or C wastewater treatment plant operator certification issued by the Colorado Department of Public Health and Environment pursuant to Title 25, Article 9 of the Colorado Revised Statutes, the applicant shall have obtained a minimum of 20 hours of field experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers.
- (c) Each applicator technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in this sub-category shall have at a minimum 32 hours of training:
 - (1) At least 8 of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety; and
 - (2) At least 24 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. No more than 16 hours of said on the job training may be conducted by an experienced technician

trained by the applicator. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety.

- (d) Each sales technician working for a commercial applicator licensed in this sub-category shall have at a minimum 32 hours of training:
 - (1) At least 8 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety;
 - (2) At least 16 hours of which shall be on the job training. At least 8 hours of this training shall be conducted by a licensed qualified supervisor or a licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. No more than 8 hours of said on the job training may be conducted by an experienced technician trained by the applicator. Said training shall cover: environmental precautions, pesticides and their families, pest management, pesticide label and labeling, host and pest identification, and public safety; and
 - (3) The remaining 8 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor.
- (e) Each applicator technician or sales technician continuing to work for the same commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in this sub-category shall have after the first season of experience, at a minimum, the following on-going training: 4 hours of training conducted by a licensed qualified supervisor or licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. The qualified supervisor shall determine from those topics enumerated above in ~~Partssub-sections~~ 8.04-(c) (1) and (2) the training required. Said training may be either classroom-instructional or on the job training as determined by the qualified supervisor.
- (f) Each new hire experienced technician working for a commercial applicator, registered limited commercial applicator, or registered public applicator licensed or registered in this sub-category shall have at a minimum 16 hours of training:
 - (1) At least 4 hours of which shall be classroom-instructional training covering: applicable State, Federal, and local laws and regulations, environmental precautions, use, equipment and calibration, pesticides and their families, pest management, applicator safety, pesticide label and labeling, host and pest identification, and public safety;
 - (2) At least 8 hours of which shall be on the job training conducted by a licensed qualified supervisor or a licensed certified operator, which licensed certified operator has at least 20 hours of experience in the application of pesticides in sewers, including, but not limited to, metam sodium for root control in sewers, within the last 2 years. Said training shall cover: environmental precautions, use, equipment and calibration, pesticides and their families, pest management,

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

applicator safety, pesticide label and labeling, host and pest identification, and public safety;

- (3) The remaining 4 hours shall be divided between classroom-instructional training and on the job training as the need is determined by the qualified supervisor; and
- (4) Experienced sales technicians are not required to complete training in use, equipment and calibration, nor applicator safety.

Part 9. Ornamental Applicators.

9.01. The ornamental classification includes the following categories:

- (a) Category 206: Turf Pest Control: the application of pesticides to: (1) managed turf to control invertebrate pests, including insects, mites, slugs, snails, and nematodes, or to control plant diseases or weeds; or (2) ornamental beds to control weeds; ~~(3) xeriscaped or similar areas covered in mulch or other media to control weeds; or (4) sidewalks, driveways, paved areas other than parking lots or bare ground located on private or public property and that are not located in the zoned right-of-way to control weeds.~~
 - ~~(1) Managed turf or ornamental beds located in a zoned right-of-way may be treated under this Category 206 or Category 109, as defined under Part 8.01(i).~~
 - ~~(2) When making applications to managed turf or ornamental beds in right-of-way areas, all notification requirements applicable to Category 206 apply.~~
 - ~~(3) Managed turf for this Part 9 is defined as ground cover that is watered, mowed, seeded, or regularly maintained for defined ground cover.~~
- (b) Category 207: Ornamental Pest Control: the application of pesticides to ornamental trees, shrubs, beds, flowers and other ornamental plants, except turf or indoor ornamental plants, to control invertebrate pests, including insects, mites, slugs, snails and nematodes, or to control plant diseases.

9.02. Applicants for licensing as a qualified supervisor in the turf category, described in ~~Part~~§ 9.01 (a) must have the following experience or equivalents. Such field experience must have been obtained within the two years immediately preceding the date of the applicant's application for licensing. Experience in the application of pesticides gained by the applicant in the maintenance of his own home shall not constitute experience which will satisfy experience requirements imposed by these Rules.

- (a) Said applicant shall have obtained at least four months of field experience in turf pest control.
- (b) If said applicant has earned college or university credit in turf pest control or related fields, such credit may be combined with field experience in order to qualify for licensing, as follows:
 - (1) Two years college credit and one month field experience; or
 - (2) One year college credit and two and one-half months field experience.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- 9.03. Applicants for licensing as a qualified supervisor in the ornamental category described in Part~~§~~ 9.01(b) must have the following field experience or equivalents. Such field experience must have been obtained within the five years immediately preceding the date of the applicant's application for licensing. Experience in the application of pesticides gained by the applicant in the maintenance of his own home shall not constitute experience which will satisfy experience requirements imposed by these Rules.
- (a) Said applicant shall have obtained at least eight months field experience in ornamental pest control, gained within not less than two calendar years.
 - (b) If said applicant has earned college or university credit in ornamental pest control or related fields, such credit may be combined with field experience in order to qualify for licensing as a qualified supervisor, as follows:
 - (1) Two years college credit and four months field experience; or
 - (2) One year college credit and six months field experience in ornamental pest control.
- 9.04. Commercial applicators classified in the ornamental category shall provide the following notices of pesticide application:
- (a) Except as provided below, at the time any pesticide is applied, the commercial applicator shall leave for each customer, or for an individual at each location where an application was made if different from the customer's address, a printed or legibly written statement disclosing the fact that a pesticide has been applied, naming the pesticide or pesticides applied, the date of application, and containing such precautionary statements appearing on the pesticide's label as are necessary or appropriate to avoid endangering the health of persons or animals, or to avoid an unreasonable risk of harm to property.
 - (b) When any pesticide is applied at a commercial property site where an owner of the site or an agent of an owner of the site is not present at the site, the commercial applicator shall, promptly after the application, furnish the customer with a written statement that states: (1) the pesticide(s) applied; (2) the date of application; and (3) such precautionary statements appearing on the pesticide's label as are necessary or appropriate to avoid endangering the health of persons or animals, or to avoid an unreasonable risk of harm to property. This precautionary information may be furnished by giving the customer a copy of the label(s) of any pesticide applied.
 - (c) When any pesticide is applied at a multi-unit dwelling site where an owner of the site or an agent of an owner of the site is not present at the site, the commercial applicator shall, promptly after the application, furnish the customer with a written statement containing the information required in Part~~subsection~~ 9.04 (b) above and shall post notice-of-application signs containing the information required by § 35-10-112(2)(d), C.R.S.
 - (d) Notices in this Part~~Rule~~ 9.04 may be provided electronically when the following conditions have been met.
 - (1) Commercial applicators must obtain a written request from each customer or an individual at each location where an application was made if different from the customer's address, confirming their request to obtain any notice required by ~~these~~this Rules electronically.

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (2) A commercial applicator must maintain a record of the written request(s) for electronic notices from each customer or an individual at each location where an application was made if different from the customer's address.
- (3) A commercial applicator that does not have a record of the written request(s) for electronic notices on file at the time of an application must provide a written notice as outlined in Part~~the~~ 9.04(a) through (c)~~-of this Rule 9.04~~.
- (4) Electronic notices are not sufficient to meet the requirement in this Part~~Rule~~ 9.04(c) for posting a written notice-of-application sign at any multiunit dwelling site when common areas have been treated and the owner of the site or agent of the owner of the site is not present at the site.

(e) Commercial, registered limited commercial, or registered public applicators must comply with all applicable signage requirements in Parts 12 and 13 below.

Part 10. Structural Applicators.

10.01. The structural pest control classification includes the following categories.

- (a) Category 301: Wood Destroying Organism Pest Control: the application of pesticides to control termites, carpenter ants, powder post beetles, fungi, and/or other wood destroying organisms in structures and/or adjacent outside areas.
- (b) Category 302: Outdoor Vertebrate Pest Control: the application of pesticides intended for preventing, destroying, repelling or mitigating any reptile, bird, feral dogs and cats, moles, voles, bats, wild carnivores, rabbits, skunks, amphibian pests not in water and any other vertebrate pest, except rats and mice.
- (c) Category 303: Fumigation: the application of a fumigant to one or more rooms in a structure or to the entire structure at a desired concentration and for a length of time necessary for the control of rodents and/or insect pests, including the application of a fumigant to a localized space or harborage within a structure for local insect and/or rodent control.
- (d) Category 304: Residential/Commercial Pest Control: the application of pesticides or bait stations intended for use for preventing, destroying, repelling or mitigating structural pests, including without limitation insects and rodents. However, this category does not include the application of fumigants or actions taken to control wood destroying organisms, outdoor vertebrates, or grain storage pests.
- (e) Category 305: Stored Commodities Treatment: the application of pesticides for the treatment of pests in raw grain stored in facilities which are not used for animal or human habitation; the application of plant growth regulators to agricultural commodities stored in facilities which are not used for animal or human habitation; and the application of pesticides to commodity processing equipment or commodity storage facilities (not including offices or other structures). This category does not cover applications made to control pests in potato storage facilities covered by category 308.
- (f) Category 306: Wood Preservation and Wood Products Treatment: the application of pesticides to prevent, destroy, repel or mitigate pests in wood or wood products which are, or are capable of being, incorporated into a structure, not including downed timber prior to bark removal or sawing.

- (g) Category 307: Interior Plant Pest Control: the application of pesticides to house plants and other indoor ornamental plants kept or located within structures occupied by humans, including, but not limited to houses, apartments, offices, shopping malls, other places of business and other dwelling places, to control invertebrate pests that adversely affect such plants, including insects, mites, slugs, snails and nematodes; and to control plant diseases.
 - (h) Category 308: Post-Harvest Potato Pest Control: the application of pesticides for the treatment of pests in raw potatoes stored in facilities which are not used for animal or human habitation; the application of plant growth regulators to potatoes stored in facilities which are not used for animal or human habitation; and the application of pesticides to potato processing equipment or potato storage facilities (not including offices or other structures).
 - (1) Applicators holding a valid Category 305, Stored Commodities Treatment, as of January 1, 2016, will be awarded the category 308 license with no further examination. The category 308 licensure category will be valid until the expiration date of the applicator's current license. If the applicator's license expires prior to January 1, 2017, license category 308 will also be awarded when such license is renewed, so long as all category 305 continuing education credit requirements have been met prior to the expiration of the license.
 - (2) On or after January 1, 2016, any applicator wishing to obtain the Category 308 category must take and pass the Stored Potato Treatment category examination and pay any necessary fees.
 - (3) Applicators wishing to renew the category 308 license after December 31, 2016, will need to obtain one (1) continuing education category credit in the Post-Harvest Potato Pest Control category prior to the expiration of their current license.
- 10.02. An applicant for licensing as a qualified supervisor in the structural pest control categories of wood destroying organisms, residential/commercial pest control, and fumigation must have the following field experience or equivalents. Such field experience must have been obtained during the five years immediately preceding the date of the applicant's application for licensing. Experience using pesticides gained while the applicant was maintaining his own home, or performing janitorial or maintenance duties for another in a residential, industrial or commercial location will not satisfy experience requirements imposed by these regulations.
- (a) Said applicant must have obtained at least twenty-four months field experience in structural pest control. In addition, an applicant for licensing as a qualified supervisor in the structural pest control category of wood destroying organisms must have obtained, within the two years immediately preceding the date of the applicant's application for licensing, at least 100 hours of verifiable field experience in termite control. A minimum of 30 of said 100 hours must consist of verifiable "hands-on" field experience covering drill and inject and other post-treat methods and applications. Any or all of the 100 hours may be obtained in courses approved by the Commissioner.
 - (b) If said applicant has earned college or university credit in structural pest control or related fields, such credit may be combined with field experience in related categories of structural pest control in order to qualify for licensing as a qualified supervisor, as follows:
 - (1) Four years college credit and four months field experience; or

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (2) Three years college credit and nine months field experience; or
 - (3) Two years college credit and fourteen months field experience; or
 - (4) One year college credit and nineteen months field experience.
- 10.03. An applicant for licensing as a qualified supervisor in the structural pest control categories of outdoor vertebrates, wood preservation and wood products treatment, stored commodities treatment, Post-Harvest Potato Pest Control, or interior plant pest control must have the following field experience or equivalents. Such field experience must have been obtained within the five years immediately preceding the date of the applicant's application for licensing:
 - (a) Said applicant must have obtained at least eight months field experience in the related categories of structural pest control.
 - (b) If said applicant has earned college or university credit in the related categories of structural pest control, such credit may be combined with field experience in related categories of structural pest control in order to qualify for licensing as a qualified supervisor, as follows:
 - (1) Two years college credit and two months field experience; or
 - (2) One year college credit and five months field experience.
- 10.04. At the time of a pesticide application, a commercial applicator licensed in any structural pest control category shall leave for each customer, a printed or legibly written notice stating the name of each pesticide applied, the date applied, and such precautionary statements from the label of the pesticide or device as are necessary or appropriate to avoid endangering human or animal health, or to avoid creating an unreasonable risk of damage to property.
- 10.05. In the event that the customer is not the occupant, at the time of a pesticide application a commercial applicator licensed in any structural pest control category shall leave for the occupant, a printed or legibly written notice stating the name of each pesticide applied, the date applied, and such precautionary statements from the label of the pesticide or device as are necessary or appropriate to avoid endangering human or animal health, or to avoid creating an unreasonable risk of damage to property.
- 10.06. Notices in Rule 10.04 and 10.05 may be provided electronically when the following conditions have been met.
 - (a) Commercial applicators must obtain a written request from the customer or the occupant, as required, confirming their request to obtain any notice required by this Rule electronically.
 - (b) A commercial applicator must maintain a record of the written request(s) for electronic notices from each customer or occupant.
 - (c) A commercial applicator that does not have a record of the written request(s) for electronic notices on file at the time of an application must provide a written notice as outlined in Rules 10.04 and 10.05.
- 10.07. When making pesticide applications within a multiunit dwelling site and the owner of the site or agent of the owner of the site is not present at the site, a commercial applicator must post a written notice at the primary entrance(s) to interior common area(s) that has been treated. The

notice shall state the name of each pesticide applied, the date applied, and such precautionary statements from the label of the pesticide or device as are necessary or appropriate to avoid endangering human or animal health, or to avoid creating an unreasonable risk of damage to property. Electronic notices may not be used to meet this requirement.

10.08. Bed Bug Reporting Requirements in accordance with C.R.S. 38-12-1003 and 1004:

- (a) A commercial applicator, qualified supervisor, or certified operator inspecting a tenant's dwelling unit or any dwelling unit contiguous to a tenant's dwelling unit in single-family or multi-unit dwellings, in accordance with C.R.S. 38-12-1003, must provide a report of all bed bug activity that the commercial applicator, qualified supervisor, or certified operator identifies within the dwelling or any contiguous dwelling unit at the time of inspection, to the landlord within twenty-four hours of the inspection. Including:
 - (1) Units affected by bed bug activity; and
 - (2) Remediation recommendations.
- (b) A commercial applicator, qualified supervisor, or certified operator inspecting a tenant's dwelling unit or any dwelling unit contiguous to a tenant's dwelling unit in single-family or multi-unit dwellings, in accordance with C.R.S. 38-12-1004, shall advise the tenant that any furniture, clothing, equipment, or personal property identified as having bed bug activity should not be removed from the dwelling unit until a pest control agent retained by the landlord determines that any bed bug treatment determined to be necessary has been completed.
- (c) A commercial applicator, qualified supervisor, or certified operator providing any report in accordance with C.R.S. 38-12-1003 shall retain a copy of any such report required in Section 10.08 (a) for three years.

Part 11. Storage.

Subpart A Storage Requirements for Commercial, Registered Limited Commercial, Registered Public Applicators

- 11.01. All commercial, registered limited commercial, or registered public applicators shall store pesticide concentrates and dilute mixtures using methods which are reasonably calculated to prevent the contamination of other products by means of volatilization, leakage, breakage or other causes, and which are reasonably calculated to avoid the creation of an unreasonable risk of harm to persons, property, domestic or wild animals, or the environment.
- 11.02. Pesticide storage areas shall be kept clean and orderly, and pesticide containers shall be positioned so that they are not exposed to unreasonable risk of damage to the containers or their labels.
- 11.03. Indoor pesticide storage areas shall be secured from access by unauthorized persons, including the general public, and locked when the building is unoccupied by an applicator or his employees.
- 11.04. Outdoor pesticide storage areas shall be fenced or walled, and locked. Pesticides and pesticide containers shall be covered or otherwise protected from the elements, in a manner which is reasonably calculated to minimize the risk of damage to labels, and to avoid the creation of an unreasonable risk of harm to persons, property or domestic or wild animals.

Editing comments: Changes to this rule are indicated in ~~strikethrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- 11.05. Pesticide storage areas shall be marked with a sign or signs, in letters at least one inch high, warning that pesticides are stored within and communicating the highest toxicity category any person may be exposed to within the storage area (i.e.: Danger, Danger skull and crossbones, Warning, Caution), such as: "Danger, Pesticide Storage, Authorized Personnel Only." Signage must also provide emergency contact information, in letters at least one half inch high and must state: "In case of emergency, contact: (name) at (telephone number)." Compliance with this Rule 11.05 is not necessary for any person who has marked their pesticide storage areas with signs that comply with local fire department requirements. Applicators must obtain written confirmation from the local fire department if no sign(s) is required and maintain this record for inspection by the department.
- 11.06. Each commercial, registered limited commercial, or registered public applicator storing pesticides shall inform the local fire department of the location of the pesticide storage, and shall provide the fire department with safety data sheets for all pesticides held at the location.
- 11.07. Each commercial, registered limited commercial, or registered public applicator who stores pesticides shall have available, at each storage location, in good working order, one or more fire extinguishers rated for chemical fires, and materials for use in cleaning up pesticide spills.
- 11.08. A service container that is not at all times in the immediate custody or control of a qualified supervisor, certified operator, or technician shall have prominently displayed thereon the following information from the label affixed to the pesticide's original container: the common name of each active ingredient, if there is such a common name, or the chemical name of each active ingredient; the EPA Registration Number; each and every human hazard signal word shown on the label, and the name of the commercial, registered limited commercial, or registered public applicator. For purposes of this Section 11.08, "service container" shall mean any container holding pesticide, whether in a concentrated or diluted form, other than the pesticide's original container, that is of a size and capacity that permits it to be carried or moved by only one individual, unaided by any tool or apparatus; and "human hazard signal word" shall mean those human hazard signal words required by the U.S. Environmental Protection Agency in its rules and regulations at 40 C.F.R. § 156.10(h) (2017) (as incorporated herein by reference), to be shown on the front panel of the label affixed to the pesticide's original container. Compliance with this Rule is not necessary if the service container is marked in compliance with the rules and regulations of the occupational safety and health administration, U.S. Department of Labor at 29 C.F.R. § 1910.1200 and appendices A through E, inclusive, thereto (2017) (as incorporated herein by reference), applicable to hazard communication for chemicals.

Subpart B Storage Requirements for Licensed Private Applicators

- 11.09. All licensed private applicators shall store pesticide concentrates and dilute mixtures using methods which are reasonably calculated to prevent the creation of an unreasonable risk of harm to persons, property, domestic or wild animals, or the environment.
- 11.10. Pesticide containers shall be stored so that they are not exposed to unreasonable risk of damage to the containers or their labels.
- 11.11. Pesticides and pesticide containers, stored in outdoor pesticide storage areas, shall be covered or otherwise protected from the elements, in a manner which is reasonably calculated to minimize the risk of damage to labels, and to avoid the creation of an unreasonable risk of harm to persons, property or domestic or wild animals.

Part 12. Registry of Pesticide-Sensitive Persons.

Editing comments: Changes to this rule are indicated in ~~striketrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- 12.01. Persons who apply to be placed on the pesticide-sensitive registry, which registry is hereby established, shall complete and submit an application for said registry. Said application shall be on a form provided by the Commissioner. The application shall include a statement of proof of medical justification by a physician licensed in the state of Colorado.
- 12.02. Persons who apply to be placed on the registry or who apply for renewal of their registration, shall list those addresses which abut their residence.
- 12.03. Each registration shall expire on November 1 of each year.
- 12.04. Each person shall report to the Commissioner, on a form provided by the Commissioner, any change to the information provided in such person's application or in such reports previously submitted, within fifteen days of such change.
- 12.05. Each person shall make an application to renew his registration on or before the first working day of November for the year of renewal. Said application shall be on a form provided by the Commissioner. The renewal application form shall include a statement of proof of medical justification by a physician licensed in the state of Colorado, which must be submitted every two years.

Subpart A Ornamental Notification

- 12.06. A commercial, registered limited commercial, or registered public applicator shall take reasonable actions to give notice of the date and approximate time of each and every turf or ornamental pesticide application, prior to the application, to any person who resides on property which abuts the property to be treated and whose name is on the published registry. Notification of each pesticide application to such an abutting property, including the address or location of the property to be treated, must be communicated to the pesticide sensitive person. An applicator may meet this requirement by making not less than two attempts to notify any owner or tenant who is on the registry. Such attempts shall be made as early as practicable but not later than twenty-four hours before the application.
- 12.07. Notice may be by any method, including telephone, mail or personal notification. If attempts at notification by the applicator fail, and a pesticide application is necessary, the commercial, registered limited commercial, or registered public applicator shall attempt to notify the resident in person immediately prior to the application. Notice of the application and attempts at notification shall be placed on the door of the person requesting notification if all notification attempts fail.

Subpart B Structural Notification

- 12.08. A commercial, registered limited commercial, or registered public applicator shall take reasonable actions to give notice of the date and approximate time of any wood-destroying, residential/commercial, or interior plant pest control pesticide application, made to multi-unit dwellings, prior to the application, to any person who resides in the multi-unit dwelling to be treated and whose name is on the published registry unless otherwise noted in 12.10 of this Section.
- 12.09. An applicator may meet the notification requirement by making not less than two attempts to notify any owner or tenant who is on the registry. Such attempts shall be made as early as practicable but not later than twenty-four hours before the application. Notice may be by any method, including telephone, mail or personal notification. If attempts at notification by the applicator fail, and a pesticide application is necessary, the commercial, registered limited commercial or registered public applicator shall attempt to notify the resident in person

immediately prior to the application. Notice of the application and attempts at notification shall be placed on the door of the person requesting notification if all notification attempts fail.

- 12.10. The following circumstances do not require notification, as outlined in 12.08 of this Section, by structural applicators:
- a) Emergency structural applications needed to ensure the safety or welfare of the general public, where it is not reasonably possible to comply with the notification requirements outlined in §12.08.
 - (1) Applications specified in this Section, 12.10(a), require the applicator to attempt to notify any owner or tenant who is on the registry immediately prior to the application.
 - (2) Upon completion of the pesticide application, the applicator shall leave for each person on the registry, a printed or legibly written notice stating the name of each pesticide applied, the date and time the application was made, placement of the treatment, and such precautionary statements from the label of the pesticide that are necessary or appropriate to avoid endangering the pesticide sensitive person's health.
 - (3) The notification requirement in this Section (a) is in addition to the requirements for the notice of application outlined in Sections 10.04 and 10.05 of these Rules.
 - b) The use of rodenticide baits or insecticide baits that are in any of the following formulations: gel baits, solid baits, granular, or self-contained bait stations that prevent contact with the insecticide or rodenticide. Applications shall only be applied to common areas, in a manner where no physical contact can be made with the pesticide, or units, other than the pesticide sensitive person's individual dwelling unit. Compliance with the notice of application requirements in Sections 10.04 and 10.05 of these Rules are still required.

Part 13. Notification of Pesticide Applications.

- 13.01. Any commercial, registered limited commercial, or registered public applicator making a pesticide application in any turf or ornamental category shall post, at the time of application, at least one sign as specified in § 35-10-112(c), C.R.S., notifying the public of the application.
- 13.02. The bottom of each notice-of-application sign must project at least 18 inches above the ground and the top of the sign shall be no higher than 48 inches above the ground. This provision does not apply to notice of application signs required to be posted at golf course clubhouses, set forth in Part 13.04.
- 13.03. The sign must be posted on a lawn or yard at the property boundary between two feet and five feet from the sidewalk; if there is no sidewalk, between two and five feet from the road; or, if there is no road, between two and five feet from the property boundary. When landscaping or other conditions would make a sign inconspicuous or illegible if the sign were posted within the distances specified in this paragraph, the sign shall be posted in a similar manner such that it is conspicuous and easily legible to any adult or child entering or passing the property on foot.
- 13.04. For greenbelts, parks, golf courses, athletic fields, playgrounds, common property of multi-unit residential and commercial properties, or other similar recreational or common property, the signs must be posted immediately adjacent to areas within the property where pesticides have been applied in a manner that is conspicuous and easily legible to any adult or child entering the

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

treated area(s). For applications on a golf course, the applicator shall post a sign at the clubhouse and at the first tee and the tenth tee notifying the public of the application. Notification signs at golf course clubhouses must be placed in a manner that is conspicuous and easily legible to any adult or child entering the treated area(s).

- 13.05. Any commercial, registered limited commercial, or registered public applicator making an aquatic pesticide application in any body of water with any legal public access shall post a sign notifying the public of the application at each place of legal public access.

Part 14. Invoice Statement.

- 14.01. Each commercial applicator shall include the following statement in at least 10 point legible type on the front, either at the top or bottom, of each customer invoice.

Commercial applicators are licensed by the Colorado Department of Agriculture.

- 14.02. This requirement may be met by any means other than handwriting or hand-printing including without limitation, printing, printed sticker, stamping, or typewriting.

Part 15. Enforcement.

- 15.01 The phrase “substantial danger or harm to public health and safety, to property, or to the environment” as used in § 35-10-121(2.5), C.R.S. means the existence of a condition which could reasonably be expected to cause, or the actual occurrence of:

- (a) physical illness, injury, or death to one or more individuals;
- (b) damage to property, either real or personal; or
- (c) any adverse impact on land, air or water resources that is appreciable and not immediately reparable.

- 15.02 Any person who uses any pesticide classified for restricted use must be licensed as a qualified supervisor, certified operator, or private applicator in accordance with the Act and these Rules, except:

- (a) any technician not licensed as a certified operator who is applying restricted use pesticides under the on-site supervision of a qualified supervisor or mixing and loading restricted use pesticides under the supervision of a qualified supervisor, and;
- (b) any person working under the supervision of a licensed private applicator for the purposes of raising an agriculture commodity.

(c) Any non-certified technician or person working under the supervision of a licensed private applicator must be at least 18 years old, except that a non-certified applicator must be at least 16 years old if all of the following requirements are met:

- (1) The non-certified applicator is using the restricted use pesticide under the direct supervision of a private applicator who is an immediate family member.
- (2) The restricted use pesticide is not a fumigant, sodium cyanide, or sodium fluoroacetate.

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

(3) The non-certified applicator is not applying the restricted use pesticide aerially.

- 15.03 Any person who supervises the use of any pesticide classified for restricted use must be licensed as a qualified supervisor or private applicator in accordance with the Act and these Rules.
- 15.04 A qualified supervisor, certified operator or private applicator shall not use or supervise the use of a restricted use pesticide in any category of licensure the person does not hold.
- 15.05 Any person who operates any device for hire that produces a pesticide as defined in § 35-10-103(10) C.R.S., must be licensed as a commercial applicator and be licensed as or employ or contract with a qualified supervisor in the appropriate licensure category. It is a violation of these Rules for a commercial applicator to use any such device in a manner inconsistent with labeling directions or these Rules, or in an unsafe or negligent manner.
- (a) No such device may be used to treat any pest within a structure, unless otherwise allowed pursuant to Part 15.05(c) ~~below of this subsection~~;
 - (b) Such devices may only be used to control burrowing rodents, unless otherwise allowed pursuant to Part 15.05(c) ~~below of this subsection~~;
 - (c) The Commissioner may approve the use of such device in sites or to control pests other than those listed in Part 15.06(a) if he determines that such use will not pose a risk to the public health or safety. Such use shall be subject to additional requirements or restrictions the Commissioner deems necessary.
- 15.06 Any commercial applicator using a device for hire that produces carbon monoxide for the control of burrowing rodents must abide by the following application requirements and restrictions in addition to any device labeling directions:
- (a) This Part 15.06 applies to commercial applications of carbon monoxide by means of a device to burrow openings of the following rodent species that are located within the specified distances from enclosed structures that are occupied or may be occupied by humans or animals.
 - (1) Pocket gopher: within 150 feet of such structures;
 - (2) Prairie dog: within 100 feet of such structures;
 - (3) Ground squirrel: within 20 feet of such structures;
 - (4) Rat: within 20 feet of such structures;
 - (5) Vole: within 11 feet of such structures;
 - (6) Field mice: within 8 feet of such structures;
 - (7) Any burrowing rodent species not listed in this Part 15.06(a): within 150 feet of such a structure.
 - (b) Any commercial applicator using a device to make applications of carbon monoxide to control burrowing rodents within the distances specified in Part 15.06(a) ~~of this Section~~ must abide by the following application requirements and restrictions:

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (1) All persons or animals occupying any enclosed structure within the distances specified for the type of rodent burrow being treated in Part 15.06(a)~~-of this Section~~ must be evacuated from the structure during the application.
- (2) If any existing carbon monoxide detectors installed in the structure activate during a burrowing rodent application, all applications within the distances specified for the type of rodent burrow being treated in Part 15.06(a)~~-of this Section~~ from the structure must cease immediately.
- (3) Following any application listed in Part 15.06(a)~~-of this Section~~, applicators must enter and monitor the structure at least one hour after the application has concluded to verify that carbon monoxide levels have not risen above 9 ppm.
- (4) Monitoring must be done with a carbon monoxide monitor that can detect carbon monoxide levels as low as 9 ppm. All structures must, through monitoring for carbon monoxide levels by the applicator, be verified to have carbon monoxide levels no higher than 9 ppm prior to any re-entry by the occupant.
- (5) Upon any detection of carbon monoxide above 9 ppm, either from detection equipment installed in a structure or from the applicator's own monitoring equipment, all applications within the distances from the structure specified for the type of rodent burrow being treated in Part 15.06(a)~~-of this Section~~ must cease immediately and the following actions must be performed:
 - (~~ia~~) The applicator must open all exterior doors of the structure and begin aerating the structure immediately.
 - (~~iib~~) After one hour of aeration, the applicator must enter the structure and verify that carbon monoxide levels have fallen to 9 ppm or less throughout the structure and remain at 9 ppm or less for one hour. If at any time during the monitoring process the applicator's monitoring equipment detects carbon monoxide levels over 25 ppm, the applicator must leave the structure immediately, continue to aerate the structure, and repeat the monitoring process every hour until carbon monoxide levels fall and remain at 9 ppm or less throughout the structure for one hour.
 - (~~iiie~~) Any detection of carbon monoxide above 9 ppm must be recorded in the applicator's records, including: (1) the time the detection occurred; (2) the level detected if known; (3) the time that levels were confirmed to have fallen to 9 ppm or less throughout the structure and; (4) the name of the applicator that performed the monitoring.
- (6) In addition to the written notice required by Parts 10.04 and 10.05 of these Rules, applicators shall provide written precautionary information about carbon monoxide poisoning to the occupant or owner, including the following statement:

"Should you or a family member experience any symptoms associated with carbon monoxide poisoning within 24 hours of this treatment, such as headache, dizziness, weakness, nausea, vomiting, chest pain, or confusion, remove the person from the area where the onset of symptoms occurred and call 911 or seek medical attention."

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- 15.07 Commercial applicators shall maintain accurate and legible office records of all carbon monoxide device applications made for hire. Such records shall include all of the following information:
- (a) Name and address of the person for whom the application was made.
 - (b) Location where carbon monoxide application was made, if different from Part 15.07(a) ~~of this Section~~. The location of a field application should be fully described. In the case of roadside carbon monoxide applications, the record should include the county or state road number and the portion of roadside to which burrowing rodent treatments were applied, described by reference to mileage markers or prominent features such as road intersections, river or creek crossings.
 - (c) Specific rodent pest for which the carbon monoxide device application was made.
 - (d) Location of rodent burrow(s) to which carbon monoxide was applied.
 - (1a) Areas treated within the distances specified in Part 15.06(a) must be recorded by specifying the number of burrow openings treated and the location of each in relation to the structure (e.g.: One prairie dog burrow opening 90 feet West of the residence).
 - (2b) Applications made further than the distances specified in Part 15.06(a) may be recorded with a description of where the applications occurred on the property (e.g.: 10 acres located in the Northeast corner of property).
 - (3e) An applicator may map the area(s) treated to meet this requirement; each application location made to a rodent burrow within the distances specified in Part 15.06 must be noted individually on the map.
 - (e) Records shall indicate that the specific pesticide applied is carbon monoxide.
 - (f) Date and time of application. The record shall indicate the time when the application was started and completed, in hour and minutes, with accuracy within 15 minutes.
 - (g) Name of the person(s) who made the application (i.e., technician, certified operator, qualified supervisor).
 - (h) If any detections of carbon monoxide occur, the information required in Part 15.06 (b)(5)(iii) of this Section.

Part 16. Non-registered Limited Commercial Applicator and non-registered Public Applicator training requirements

- 16.01. This Part 16 applies to all limited commercial applicators and public applicators, as defined in Sections 35-10-103 (8) and (12), C.R.S., that are not registered with the Department pursuant to Section 35-10-109, C.R.S.
- 16.02. Any owner or designee of a non-registered limited commercial applicator and any employee of a non-registered public applicator must be trained prior to:
- (a) The use of any general use pesticide that requires mixing or loading of a pesticide into a separate service container or application device.

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (b) The use of any ready-to-use general use pesticide on the property of schools, children's day care facilities, hospitals and health care facilities required to obtain a license from the Colorado Department of public Health and Environment pursuant to Section 25-3-101, C.R.S., and in children's playground areas.

16.03 Training is not required for the following uses of general use pesticides:

- (a) The use of any anti-microbial pesticides such as those intended to disinfect, sanitize, reduce or mitigate growth or development of microbiological organisms.
- (b) The use of use of any ready-to-use general use pesticide in areas other than those specified in Rule 16.02(b).

16.04. Non-registered limited commercial applicator owners or their designee and all non-registered public applicator employees, before making any pesticide applications as specified in Rule 16.02, must obtain training in all of the following subjects; laws and regulations, pesticides and their families, applicator safety, public safety, environmental protection and the use of pesticides. Persons that are required to be trained may meet these training requirements by:

- (a) holding a current qualified Supervisor, Certified Operator or Private Applicator license in any licensure category; or
- (b) Taking and passing the qualified Supervisor or Certified Operator General Core examination or the private applicator examination within the last five years prior to the application of a pesticide; or
- (c) Doing one of the following;
 - (1) Taking and passing the Department's on-line pesticide training course; or
 - (2) attending any continuing education courses that cover the required subjects and are approved by the Commissioner; or
 - (3) completing any other training that covers all of the above subjects and is approved by the Commissioner.

16.05. Training must be completed, at a minimum, within 3 years prior to the date of any application.

16.06. Training records for each person making applications must be maintained for a period of 3 years by the limited commercial applicator or public applicator.

Part 17. The Use of Pesticides in the Production of Cannabis

17.01. Definition and Construction of Terms for purpose of this Part 17, as used in these Rules unless the context otherwise requires:

- (a) "Cannabis" means a plant of the genus Cannabis and any part of the plant.
- (b) "Human consumption" means the consumption of cannabis by a person through oral ingestion, absorption through the skin, inhalation through smoking, vaporization or other means.

Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

- (c) “Tolerance” means a level of pesticide residue in or on food that the Environmental Protection Agency has determined with reasonable certainty will not pose a hazard to public health when used in accordance with label directions.
- 17.02. Pesticide Use on Cannabis: These Rules establish the criteria under which certain pesticides may be legally used on cannabis in the State of Colorado. To assist cannabis growers, the Department will publish a list of pesticides that it has determined meet these criteria. As of the effective date of these Rules, there are currently no pesticides that are specifically labeled or have pesticide residue tolerances established for use on cannabis by the federal government or the State of Colorado. The Colorado Department of Agriculture does not recommend the use of any pesticide not specifically tested, labeled and assigned a tolerance for use on cannabis because the health effects on consumers are unknown.
- 17.03. Any pesticide used in the cultivation of cannabis must be registered with the Colorado Department of Agriculture, except for purposes of research and demonstration conducted in accordance with 40 CFR Part 172 (2017) (as incorporated herein by reference). Notwithstanding any other requirements in this Part 17, a pesticide on the list published pursuant to part 17.02 that was registered at the time of purchase, but was not renewed with the Department in the subsequent registration year, may be used within that subsequent registration year until gone, unless the Department has determined that use is prohibited in accordance with Part 17.05.
- 17.04. Any pesticide registered with the Colorado Department of Agriculture may be used in accordance with its label or labeling directions for the cultivation of cannabis in the State of Colorado under the following conditions, provided that:
- (a) For products registered by the Environmental Protection Agency under Section 3 of the Federal Insecticide, Fungicide, Rodenticide Act, no person may use a pesticide product in the cultivation of cannabis unless:
 - (1) All active ingredients of the pesticide product are exempt from the requirements of a tolerance, as established under 40 C.F.R. Part 180, Subparts D and E (2017) (as incorporated herein by reference);
 - (2) The pesticide product label allows use on the intended site of application. The term “site” for purposes of this ~~Part 17.04~~Rule includes any location or crop to which the application is made;
 - (3) The pesticide product label expressly allows use on crops or plants intended for human consumption; and
 - (4) The active ingredients of the pesticide product are allowed for use on tobacco by the Environmental Protection Agency.
 - (b) Notwithstanding Part 17.04(a)(3) the Commissioner has the authority to permit the use of a pesticide product, whose label~~that~~ does not expressly allow use on crops intended for human consumption if:
 - (1) The active and inert ingredients are exempt under 40 C.F.R. Part 180, Subparts D and E (2017) (as incorporated herein by reference);
 - (2) The pesticide product label allows use on the intended site of application; and
 - (3) The active ingredients of the pesticide product are allowed for use on tobacco.

Editing comments: Changes to this rule are indicated in ~~strike~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in ~~red~~. Changes as a result of the rulemaking hearing are indicated in ~~blue~~.

- (c) ~~If t~~The pesticide product label specifically allows use on cannabis, such use is permitted.
 - (d) For 25(b) minimum risk pesticide products as defined in 40 CFR ~~§~~ 152.25(f) (2017) (as incorporated herein by reference), ~~no person may use a minimum risk pesticide product in the cultivation of cannabis unless~~ the pesticide product label allows use on the intended site of application and allows use on crops or plants intended for human consumption.
 - (e) For pesticide products with a Colorado Special Local Need registration, issued under Section 24(c) of the Federal Insecticide, Fungicide and Rodenticide Act, ~~no person may use such a product in the cultivation of cannabis unless~~ the Colorado Special Local Need label allows use on cannabis.
- 17.05. The Commissioner may prohibit the use of any pesticide product for the cultivation of cannabis if the Commissioner determines that such use poses a significant threat to public health and safety or the environment.

Part 18. Statements of Basis, Specific Statutory Authority & Purpose

18.21. Adopted December 8, 2021 – Effective January 30, 2022

Statutory Authority

The amendments to these Rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture (“Department”) pursuant to the Commissioner’s authority under the Pesticide Applicators’ Act (the “Act”), §§ 35-10-118(2)(a), (b), (c), (d), (3)(a), (4), (5) and (9) C.R.S.

Purpose

The purpose of these Rules is to incorporate new federal certification and training requirements pursuant to 40 C.F.R. Part 171 and to clarify existing Rule requirements. Specifically, the revisions to the Rules:

1. Update Part 1.02(j) to reflect that Article 36 of Title 12, C.R.S., was renumbered in 2019 and now exists at Article 240;
2. Amend Part 1.03 to incorporate by reference additional provisions from the Code of Federal Regulations;
3. Repeal Parts 2.05.5 and 2.38 consistent with Senate Bill 21-077 (Remove Lawful Presence Verification Credentialing);
4. Amend Parts 2.09 and 2.11 to clarify how applicants provide insurance information to the Department;
5. Create Parts 2.12(c) and (d) and 2.30(c) and (d) to clarify the meaning of adequate supervision by qualified supervisors;
6. Amend Part 2.34 and 2.50 to clarify qualified supervisor/certified operator and private applicator application requirements, respectively, including information on the age and date of birth of the applicant;
7. Amend Part 2.40 to clarify that qualified supervisors may only provide supervision in the licensure category or categories that he or she holds;

Editing comments: Changes to this rule are indicated in ~~striketrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in ~~red~~. Changes as a result of the rulemaking hearing are indicated in ~~blue~~.

8. Amend Part 3.01 to adopt certification standards that meet or exceed federal standards for commercial and private applicators;
9. Amend Parts 4.01, 4.02, 4.04, 4.07 and 4.09 to clarify and update the process for submission of continuing education courses to the Department in a manner that meets federal recertification requirements in 40 C.F.R. § 171.107(b)(2)(iii);
10. Amend Parts 4.05 and 4.10 to clarify the requirements for approval or denial of continuing education courses;
11. Amend Part 5.02(h) to clarify that all training records must be recorded on forms provided by the Department and that those forms must be completed in full in order for a commercial, registered limited commercial, or registered public applicator to comply with the Department's Rules;
12. Create Part 5.02(k) to comport certification and training requirements for technicians with new federal requirements at 40 C.F.R. § 171.201(d);
13. Create Part 5.02(l) requiring licensed or registered applicators to obtain training records for certain new technicians when those new technicians are hired and to maintain those records consistent with the Rules;
14. Create Part 5.02(m) establishing record retention and record sharing requirements, as well as identifying the records to which those requirements apply;
15. Amend Part 6.03(j) to include the license number as information that must be included on application records;
16. Create Part 7.01(a) to define the term "company business name" as that term appears in Parts 7.01(b) and (c);
17. Create Parts 8.03(f) and 9.04(e) to cross-reference notification and signage requirements appearing in Parts 12 and 13 of the Rules;
18. Amend Part 9.01(a) to clarify sites of application allowed under Category 206, Turf Pest Control;
19. Update Part 13.01 to cross-reference statutory requirements for notification at § 35-10-112(c), C.R.S.;
20. Update Part 13.02 to clarify that signage height requirements do not apply to notices required to be placed in a golf course clubhouses;
21. Update Part 13.04 to clarify notice requirements for gold course clubhouses;
22. Create Part 15.02(c) to adopt private applicator supervision standards that meet or exceed federal standards;
23. Amend Part 17.03 to clarify when existing stocks of certain pesticide products may be used after the product becomes unregistered;
24. Amend Part 17.04 to clarify that no person may use pesticide products on Cannabis if those pesticide products do not meet the conditions specified in Rule; and
25. Correct non-substantive typographical, formatting, and grammatical errors throughout the Rules.

Factual and Policy Issues

The factual and policy issues encountered when developing these Rules include:

1. Article 36 of Title 12, C.R.S., was renumbered in 2019 and now exists at Article 240. Part 1.02(j) was updated to reflect the correct statutory provision
2. When an agency incorporates material by reference in its Rules, it must comply with § 24-4-103(12.5)(a), C.R.S. Various edits to these Rules reflect those requirements.
3. On May 27, 2021, Governor Jared Polis signed Senate Bill 21-077 into law. SB21-077 repealed requirements at § 24-34-107, C.R.S., that required individuals applying for licenses with the Department to provide evidence of lawful presence in the United States. As a result, the Department is repealing Parts 2.05.5 and 2.38 concerning the requirement to establish lawful presence as a condition of licensure.
4. Parts 2.09 and 2.11 concern requirements that applicants for licensure provide proof of insurance on a form provided by the Commissioner. However, over the past decade, insurance providers have expressed concern over the language in the Department's form. This causes delay in processing applications. The Department is aware that the information it requests is often covered by industry forms, such as the ACORD form. Therefore, the Department is revising Parts 2.09 and 2.11 to provide flexibility to applicants and to allow the Department to accept standard forms, including the ACORD form, issued by insurance carriers.
5. Part 2.12 of the Rules, concerning adequate supervision of technicians by a qualified supervisor, was last reviewed in 2008. Since then, the pesticide applicator industry has evolved, such that a qualified supervisor is often employed by more than one commercial applicator business. This has caused confusion in the industry concerning the number of technicians that can be supervised by one qualified supervisor, especially when that qualified supervisor is linked to multiple commercial applicator businesses. The new Parts 2.12(c) and (d) clarify and confirm that a qualified supervisor may supervise one or more technicians employed by multiple commercial applicator businesses, so long as the aggregate number of technicians supervised never exceeds 15 at any one time.
6. On January 4, 2017, the U.S. Environmental Protection Agency published revised certification standards for pesticide applicators (82 Fed. Reg. 952), which standards became effective on March 6, 2017. To comply with these new federal standards, the Department must promulgate and revise its rules pertaining to certification and training of pesticide applicators consistent with the revised State Certification Plan submitted to EPA on March 6, 2020. Therefore, the Department is revising Parts 2.34 and 2.50 of the Rules to reflect requirements in 40 C.F.R. §§ 171.103(a)(1) and 171.105(g), specifically adopting a minimum age requirement for commercial and private applicator certification of at least 18 years old.
7. Over the past few years, there has been some confusion surrounding the types of activity that a qualified supervisor may supervise. Therefore, the Department is revising Part 2.40 to make clear that a qualified supervisor is only responsible for (and can only provide) supervision in the specific categories of licensure that he or she holds.
8. As described above, EPA revised its federal standards for the certification and training of licensed pesticide applicators in 2017. States must adopt certification standards that meet or exceed these federal standards. Therefore, the Department is amending Part 3.01 to require compliance with federal certification standards set forth in 40 C.F.R. §§ 171.103 and 105 for commercial and private applicators.

Editing comments: Changes to this rule are indicated in ~~striketrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in ~~red~~. Changes as a result of the rulemaking hearing are indicated in ~~blue~~.

9. Colorado must also meet federal continuing education requirements at 40 C.F.R. §§ 171.107(b)(2)(i) – (iii) when approving, verifying the content of, and confirming an applicator's attendance at continuing education courses (each a "CEC"). EPA updated these requirements in 2017, and the Department is updating Parts 4.02, 4.04, 4.05, 4.07, 4.09, and 4.10 accordingly. The Department is also providing clarification on the timing and process for a course sponsor to seek approval for CECs. Specifically:
 - a. Revisions to Parts 4.02(b) and 4.07(b) clarify that requests for approval must be submitted on a form provided by the Commissioner;
 - b. Revisions to Parts 4.02(c) and 4.07(c) increase the number of days required to submit CECs to the Department for approval, allowing the Department sufficient time to review and respond to the increasing number and complexity of CEC approval requests that it receives;
 - c. Revisions to Part 4.02(d) and 4.07(d) provide clarity on what information must be provided to the Department to ensure that the content and quality of each proposed session complies with the Rules;
 - d. A new Part 4.02(e) and Part 4.07(e) confirm the session length(s) required to comply with the Rules;
 - e. A new Part 4.02(f) and Part 4.07(f) require that, subject to space availability, all courses must be open to all Colorado licensees in order to ensure equitable CEC opportunities for all Colorado licensees;
 - f. Revisions to Part 4.04 and Part 4.09 describe the method by which a course sponsor must provide attendance confirmation to each attendee and the manner in which course sponsors verify course attendance for each attendee with the Commissioner; and
 - g. Revisions to Part 4.05 and 4.10 clarify when the Department may deny a CEC request.
10. As described above, EPA updated its standards in 2017 for training of applicators and for documenting that training, requiring that commercial applicators maintain, provide upon request, and verify training documentation for noncertified applicators and their qualifications. As such, consistent with 40 CFR §§ 171.201(d) and 171.303(b)(7)(vi), the Department is adding the following Parts to the Rules:
 - a. Part 5.02(h) to require that training be documented on a form provided by the Commissioner;
 - b. Part 5.02(k), which requires that all noncertified applicator training meets all provisions set forth in 40 C.F.R. § 171.201(d), which specifies subject matter that must be covered;
 - c. Part 5.02(l), which requires that an employer must obtain training records for a new hire experienced technician to ensure that the new hire experienced technician has met all of the training requirements established in the Rules; and
 - d. Part 5.02(m), which defines the records that make up a technician's training record, sets training record retention periods, and establishes a requirement that records be made available to the technician or the Commissioner upon request.
11. EPA also establishes recordkeeping requirements for commercial, registered limited commercial, and registered public applicators. In 2017, EPA updated the relevant standards at 40 C.F.R. §

- 171.303(b)(7)(vi)(I). Therefore, the Department is updating Part 6.03(j) accordingly, now requiring that commercial applicators record the name and certification number of those making or supervising pesticide applications.
12. Recently, the Department learned that commercial applicators and private applicators interpreted the term “company business name” in multiple ways when complying with Part 7.01 (Equipment Identification), sometimes including names or visual representations on equipment that differed from the name provided to the Department originally. Because the term “company business name” is not defined in Part 7.01, ambiguity exists with respect to whether the vehicle identification must be the company’s legal name, a trade name, a company logo, etc. Therefore, the Department is adding Part 7.01(a) to define the term “company business name” to include any name or trade name or trademark registered with the Colorado Secretary of State, any doing business as name as submitted in the licensee’s application, and any company logo that clearly communicates the licensee’s business name.
 13. The Department’s Rules include requirements for notifying persons of pesticide applications in Part 12 and for posting specific signage with information on the pesticide application in Part 13. Because notification requirements are also referenced in Articles 8 and 9, and to ensure that the other notification and signage requirements in Rule are not overlooked, the Department is adding Parts 8.03(f) and 9.04(e) to cross-reference notification and signage requirements in Parts 12 and 13.
 14. In 2010, the Department revised Part 8.01(i) concerning Category 109 to specify permitted sites of application within the Industrial and Right-of-Way Weed Control category. These sites included sidewalks, trails, paths, parking lots, and certain paved areas. This created confusion in the regulated community concerning whether Category 109 also covered areas that were abutted by or surrounded by turf because turf is covered under Category 206. Therefore, the Department is revising Part 9.01(a), Turf Pest Control, to provide additional clarity on what sites of application are allowed under Category 206 as compared with Category 109. Specifically, the Department is expanding Category 206 to allow application on certain managed turf, ornamental beds, xeriscaped areas, and sidewalks, driveways, etc. not located in a zoned right-of-way (which would fall under Category 109).
 15. Part 13, Notification of Pesticide Applications, outlines specific flagging requirements for turf and ornamental applications. To provide additional clarification, the Department is proposing an amendment to Part 13.01 to add a reference to notification flags specified in statute.
 16. Part 13, Notification of Pesticide Applications, outlines specific flagging requirements for turf and ornamental applications. Part 13.02 generally describes the required height of signs, but separate requirements exist for golf course clubhouses. To address this confusion, the Department is amending Part 13.02 to clarify that the height requirements do not apply when posting in golf course clubhouses and amending Part 13.04 to clarify signs posted at golf course clubhouses must be placed in a manner that is conspicuous and easily legible to those entering treated areas.
 17. In 2017, EPA revised its requirements at 40 C.F.R. §§ 171.201(2)(iii)(A)(B) and (C) related to the supervision of restricted use pesticide applications made by private applicators who are 16 years of age. Accordingly, the Department has created Part 15.02(c) to identify under what circumstances a 16-year-old noncertified applicator may apply a restricted-use pesticide.
 18. On March 30, 2016, the Department adopted Rules to outline the criteria for which pesticides were allowed for use in Cannabis cultivation. Part 17.03 requires that only registered pesticides be allowed for use in the cultivation of cannabis. However, Part 17.03 does not account for existing stocks policies at the state and federal level that allow for the limited use of existing

Editing comments: Changes to this rule are indicated in ~~striketrough~~ for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.

stocks after a product becomes unregistered (absent a finding that the product poses a significant threat to public health and safety or the environment, in which case existing stocks cannot be used). Therefore, the Department is amending Part 17.03 to allow for the use during the subsequent registration year of an unregistered pesticide product that appeared on the Department's list of pesticides allowed for use on Cannabis at the time of purchase, but was not re-registered with the Department for the subsequent registration year. This change will allow end users to use any remaining unregistered pesticide product, but only during the registration year following the manufacturer's failure to renew the registration. This limited ability to use remaining stocks of an unregistered product does not extend to products that the Department has determined pose a significant threat to public health and safety or the environment.

19. The Department is also amending Part 17.04 to clarify that certain uses of pesticide products on cannabis are considered unlawful acts. Specifically, the Department is clarifying that it is unlawful for a person to use a registered pesticide in the production of cannabis when that product does not meet the criteria set forth in Rule – namely, the pesticide must met all requirements of Part 17.04(a)(1) – (4), Part 17.04(b)(1) – (3), Part 17.04(d), or Part 17.04(e).

Notice of Proposed Rulemaking

Tracking number

2021-00712

Department

2505,1305 - Department of Health Care Policy and Financing

Agency

2505 - Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

CCR number

10 CCR 2505-10

Rule title

MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY

Rulemaking Hearing**Date**

12/10/2021

Time

09:00 AM

Location

303 East 17th Avenue, 11th Floor, Denver, CO 80203

Subjects and issues involved

see attached

Statutory authority

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021)

Contact information**Name**

Chris Sykes

Title

Medical Services Board Coordinator

Telephone

3038664416

Email

chris.sykes@state.co.us



COLORADO

Department of Health Care Policy & Financing

Medical Services Board

NOTICE OF PROPOSED RULES

The Medical Services Board of the Colorado Department of Health Care Policy and Financing will hold a public meeting on Friday, December 10, 2021, beginning at 9:00 a.m., in the eleventh floor conference room at 303 East 17th Avenue, Denver, CO 80203. Reasonable accommodations will be provided upon request for persons with disabilities. Please notify the Board Coordinator at 303-866-4416 or chris.sykes@state.co.us or the 504/ADA Coordinator hcpf504ada@state.co.us at least one week prior to the meeting.

A copy of the full text of these proposed rule changes is available for review from the Medical Services Board Office, 1570 Grant Street, Denver, Colorado 80203, (303) 866-4416, fax (303) 866-4411. Written comments may be submitted to the Medical Services Board Office on or before close of business the Wednesday prior to the meeting. Additionally, the full text of all proposed changes will be available approximately one week prior to the meeting on the Department's website at www.colorado.gov/hcpf/medical-services-board.

This notice is submitted pursuant to § 24-4-103(3)(a) and (11)(a), C.R.S.

MSB 21-08-04-B, Revision to the Medical Assistance Act Rule concerning Consumer Directed Attendant Support Services EVV Compliance, Section 8.510

Medical Assistance. Revision to Consumer Directed Attendant Support Services to incorporate Electronic Visit Verification requirements, establish responsibilities and policies for client or Authorized Representative non-compliance.

The authority for this rule is contained in 21st Century Cures Act, 42 U.S.C. § 1396b(l); Sections 25.5-1-301 through 25.5-1-303, C.R.S. § 25.5-6-1102 et seq (2021).

MSB 21-05-24-B, Revision to the Medical Assistance Rule concerning Maternity Services Episode Based Payments, Section 8.733

Medical Assistance. The Department implemented a maternity bundled payment program in 2020 with a detailed program rule in place under the Medical Assistance Rule concerning Maternity Services Episode Based Payments, Section 8.733. The goal of the program is to improve maternal health outcomes by improving care quality and health equity while reducing cost. The program gives providers performance linked opportunities to earn extra incentive payments besides the fee-for-service reimbursement for maternity services. A few key program implementation updates have been implemented during the first program year (Nov. 2020 – Oct. 2021), including specifying mandatory participation timeline, adding mental health considerations into the current threshold setting process, and delaying downside risk implementation. This rule update aims to include those program updates and fix a few language alignment issues.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021).

MSB 21-07-20-C, Revision to the Rural Health Center Rules Concerning Reimbursement, Section 8.740

Medical Assistance. This rule revision will update Rural Health Center reimbursement and rate setting. This rule revision will clarify the Alternative Payment Rate setting methodology, interim rate setting for new Rural Health Clinics, Prospective Payment System rate setting for new Rural Health Clinics, and establish a scope of service rate adjustment process for Rural Health Clinics.

The authority for this rule is contained in 1902(bb) SSA and Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021) and 25.5-6-1203, C.R.S. (2021).

MSB 21-10-29-A, Revision to the Medical Assistance Rule concerning Qualifications of Case Managers, Sections 8.393.1.J.; 8.519.5. and 8.603.9

Medical Assistance. The rules at 8.393.1.J.; 8.519.5.; 8.603.9 outline the education and experience qualifications for case managers in the SEP, HCBS and CCB systems. Currently there is a workforce shortage impacting the system and the department is requesting changes to the qualifications to allow for more avenues to qualify as a case manager, hoping to increase the pool of candidates.

The authority for this rule is contained Section 25.5-10-209.5, C.R.S.; Sections 25.5-1-301 through 25.5-1-303, C.R.S..

MSB 21-10-29-B, Revision to the Medical Assistance Act Rule concerning Long-Term Home Health and Private Duty Nursing Prior Authorization Requirements, Sections 8.520.8, 8.540.2 and 8.540.7

Medical Assistance. Update the long-term home health and private duty nursing rules to resume prior authorization on a tiered schedule over the course of ten months.

The authority for this rule is contained in 21st Century Cures Act, 42 U.S.C. § 1396b(l); Sections 25.5-1-301 through 25.5-1-303, C.R.S. § 25.5-6-1102 et seq (2021).

Notice of Proposed Rulemaking

Tracking number

2021-00710

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-1

Rule title

OVERVIEW OF CHILD WELFARE SERVICES

Rulemaking Hearing

Date

12/03/2021

Time

09:00 AM

Location

Location Pending State's response to COVID-19. Anticipated to be held entirely online.

Subjects and issues involved

The Colorado Department of Human Services Division of Child Welfare is updating Volume 7 to include rules to add a definition for medium as it relates to the severity of an allegation of abuse and/or neglect. The term medium is used in the Comprehensive Child Welfare Information System and County Notification letters as a severity level for abuse and neglect and medium IS NOT currently defined in Volume 7. This discrepancy creates a notice issue and could lead to administrative law judges overturning findings if it is determined that the alleged perpetrator did not receive proper notice of the finding made against them.

NOTE: Due to the ongoing COVID-19 situation, it is anticipated that this meeting will take place entirely online. Please check here for any updates on location/connection: <https://cdhs.colorado.gov/sbhs>

Statutory authority

26-1-107, C.R.S.; 19-3-216, C.R.S.

Contact information

Name

James Connell

Title

Intake and Assessment Administrator

Telephone

303.866.3661

Email

james.connell@state.co.us

Title of Proposed Rule: Severity Level for Allegations of Abuse and Neglect
CDHS Tracking #: 21-10-27-02
Office, Division, & Program: _____ **Rule Author:** James Connell **Phone:** 303-866-3661
E-Mail: _____
James.Connell@state.co.us

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

- a. ☒ Board ☐ Executive Director
 b. ☒ Regular ☐ Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

- ☒ AG Initial Review
 ☒ Initial Board Reading
 ☐ AG 2nd Review
 ☐ Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

- Number _____ Amended Rules
1 _____ New Rules
 _____ Repealed Rules
 _____ Reviewed Rules

What month is being requested for this rule to first go before the State Board?	December 2021
What date is being requested for this rule to be effective?	February 2022
Is this date legislatively required?	no

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ **Date:** _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates:
 1st Board 12/2021
 2nd Board 1/2021
 Effective Date 2/2021

Title of Proposed Rule: Severity Level for Allegations of Abuse and Neglect

CDHS Tracking #: 21-10-27-02

Office, Division, & Program: Rule Author: James Connell

Phone: 303-866-3661

E-Mail:

James.Connell@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

*Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. **1500 Char max***

The Colorado Department of Human Services Division of Child Welfare is updating Volume 7 to include rules to add a definition for "medium" as it relates to the severity of an allegation of abuse and/or neglect. The term "medium" is used in the Comprehensive Child Welfare Information System and County Notification letters as a severity level for abuse and neglect and "medium" IS NOT currently defined in Volume 7. This discrepancy creates a notice issue and could lead to administrative law judges overturning findings if it is determined that the alleged perpetrator did not receive proper notice of the finding made against them.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

☐
☐

to comply with state/federal law and/or

to preserve public health, safety and welfare

Justification for emergency:

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2020)	State Board to promulgate rules.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
19-3-216, C.R.S. (2020)	State Board shall promulgate rules to determine whether there is child abuse or neglect or if a child is neglected or dependent.

Does the rule incorporate material by reference?

☐

Yes

☒

No

Does this rule repeat language found in statute?

☐

Yes

☒

No

If yes, please explain.

Title of Proposed Rule: Severity Level for Allegations of Abuse and Neglect

CDHS Tracking #: 21-10-27-02

Office, Division, & Program: Rule Author: James Connell

Phone: 303-866-3661

E-Mail:

James.Connell@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Persons found responsible for the abuse and neglect will understand what "medium" means in relation to the severity of abuse or neglect findings. County departments will benefit from defining medium as it relates to severity level.

No populations are anticipated to be adversely impacted by this rule.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

In 2020, child welfare departments made founded findings and provided notification to individuals responsible for abuse and/or neglect in 7,779 assessments. The definition clarifies what a "medium" severity level means as it relates to founded abuse and/or neglect.

3. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just "no impact" answer should include "no impact because...."***

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

No State Fiscal Impact because there is no cost associated with the changes. Current state staff will work with the training team to revise existing training for assessments that are included as part of the annual training budget.

County Fiscal Impact

No County Fiscal Impact because counties are already required to determine severity levels for allegations of abuse and neglect.

Federal Fiscal Impact

No Federal Fiscal Impact as there are no Federal costs associated with the rule changes.

Other Fiscal Impact (such as providers, local governments, etc.)

No other fiscal impact.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

Title of Proposed Rule: Severity Level for Allegations of Abuse and Neglect

CDHS Tracking #: 21-10-27-02

Office, Division, & Program: Rule Author: James Connell

Phone: 303-866-3661

E-Mail:

James.Connell@state.co.us

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. Answer should NEVER be just “no alternative” answer should include “no alternative because...”

An alternative identified to rule making was a change to the Comprehensive Child Welfare Information System, which is complex, has a cost associated, and an unknown timeframe for which it could be completed.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.000.2		New	"MEDIUM," A TERM FOUND IN THE COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM THAT WHEN USED FOR THE PURPOSES OF DETERMINING SEVERITY LEVEL, HAS THE SAME MEANING AS THE TERM "MODERATE."	Brings the term "medium" into alignment with the term "moderate".	

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Child Protection Task Group (which includes participants from small, medium, and large counties, the Administrative Review Division, and the Child Protection Ombudsman Office), Child Welfare Sub-PAC

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Child Protection Task Group (which includes participants from small, medium, and large counties, the Administrative Review Division, and the Child Protection Ombudsman Office), Child Welfare Sub-PAC

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

☐ Yes ☒ No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

☒ Yes ☐ No

Name of Sub-PAC	Child Welfare Sub-PAC		
Date presented	09/22/2021		
What issues were raised?	none		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous		
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

☒ Yes ☐ No

Date presented	10/7/21		
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Unanimous		
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

☐ Yes ☒ No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

7.000.2 Definitions

“MEDIUM,” A TERM FOUND IN THE COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM THAT WHEN USED FOR THE PURPOSES OF DETERMINING SEVERITY LEVEL, HAS THE SAME MEANING AS THE TERM “MODERATE.”

Permanent Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-14

Rule title

1 CCR 301-14 RULES FOR THE ADMINISTRATION OF THE PUBLIC SCHOOL
TRANSPORTATION FUND 1 - eff 12/15/2021

Effective date

12/15/2021

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE PUBLIC SCHOOL TRANSPORTATION

FUND 1 CCR 301-14

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

0.00 Statement of Basis and Purpose.

The basis for these rules is found in Article 51 of Title 22, CRS. The state board has the responsibility to establish rules and regulations to implement the provisions of this article.

The purpose of these rules is to:

- Establish regulations and procedures for administration of the public school transportation fund.
- Establish regulations and procedures regarding determination of current operating expenditures, mileage count and revenues received by districts for providing pupil transportation.

1.0 Definition of Terms

- 1.1** "Capital Outlay" means an expenditure in excess of \$1000 and with a useful life of more than one year, for pupil transportation vehicles or facilities.
- 1.2** "Department" means the Colorado Department of Education.
- 1.3** "District" means any public school district organized under the laws of Colorado, except a junior college district.
- 1.4** "Local Board of Education" means the board of education of a district.
- 1.5** "Pupil" means a person under age 21 as of the official mileage count date who has not met the graduation requirements of his/her district as of the official mileage count date.
- 1.6** "Pupil Transportation Vehicle" means any vehicle used in whole or in part for the purpose of providing pupil transportation.
- 1.7** "State Board" means the Colorado State Board of Education.

2.0 General

- 2.1** The Department shall prepare necessary forms and appropriate directions related thereto, which a district shall use to provide the data required by the Department to meet its responsibilities relating to the administration of the public school transportation fund.

2.01(1) A district annually shall submit a form CDE-40 no later than September 15 to be eligible to receive reimbursement from the Public School Transportation Fund for prior year's pupil transportation costs.

3.0 Official Mileage Count Date

- 3.1** The official mileage count date shall be the same as the pupil enrollment count date, as defined in section 22-54-103 (10.5) (a), C.R.S.3.02 Determination of the official mileage count date shall not be

affected by a district's decision to not have a school day on the official mileage count date as defined above.

4.00 Current Operating Expenditures

The term "current operating expenditures" means actual expenditures, not including encumbrances, incurred during the entitlement period by a district in transporting pupils from home to school, school to school, and school to home, both in state and to and from an adjoining state. 4.01(1) A district shall include employment costs of pupil transportation vehicle drivers including Public Employee's Retirement Association (PERA) and/or other retirement plan costs, and health and other fringe benefits.

4.01(2) A district shall include employment costs of personnel paid exclusively for pupil transportation supervision and support services, including Public Employee's Retirement Association (PERA) and/or other retirement plan costs, and health and other fringe benefits.

4.01(3) A district shall include a percentage of employment costs of personnel with non-pupil transportation responsibilities as well as specific pupil transportation responsibilities, including Public Employee's Retirement Association (PERA) and/or other retirement plan costs, and health and other fringe benefits.

4.01(4) A district shall include expenditures for professional development directly related to pupil transportation.

4.01(4)(a) A district may include expenditures directly related to the cost of attending annual state or national school transportation workshops or conferences, including registration fees and related travel expenses.

4.01(4)(b) A district shall not include expenditures for awards banquets or ceremonies or other types of employee recognition.

4.01(4)(c) A district shall not include expenditures for workshops or conferences related to advertising or other non-pupil transportation topics.

4.01(5) A district shall include insurance premiums related to pupil transportation and prorated insurance pool contributions equivalent to commercial insurance premiums. In addition, a district may include the equivalent commercial insurance premium value of a self-insurance program contribution prorated to reflect the pupil transportation insurance costs. A district may include the net cost of self-insured repairs and self-insured replacement.

4.01(6) If a school district contracts to furnish transportation for another school district, the district furnishing the transportation shall include operation expenses.

4.01(7) A district shall include costs of contracts with independent contractors providing pupil transportation less a calculated amount for capital outlay.

4.01(7)(a) The department shall base its calculation of the capital outlay amount on the contractor's acquisition cost of pupil transportation vehicles less than ten years old and on the percentage of total vehicle use attributable to the district.

4.01(8) A district shall include costs of contracts with commercial transportation carriers subject to the cost of federal regulations, title 49, parts 390 to 397, or successor regulations thereto to provide pupil transportation pursuant to section 22-51-104(c), CRS.

4.01(8)(a) The department shall calculate the portion of this contract to be included in the current operating expenditures pursuant to section 22-51-104(1)(c).

4.01(9) A district shall include reimbursements to pupils who use public transportation services pursuant to section 22-51-102(1)(a), CRS.

-
- 4.01(10) A district shall include payments to other school districts for the purpose of furnishing pupil transportation.
- 4.01(11) A district shall include payments to district-approved persons for providing pupil transportation due to the absence of a district-approved established bus route. The total reimbursement entitlement attributable to district approved persons shall not exceed the amount actually paid to district-approved persons.
- 4.01(11)(a) A district-approved person shall not be considered an independent contractor if he/she transports only him/herself or members of his/her immediate family to or from school, or between schools.
- 4.01(12) A district shall include fuel and oil for pupil transportation vehicles.
- 4.01(13) A district shall include costs of supplies, materials, and other expendable non- capital outlay items utilized by the district in direct support of pupil transportation services.
- 4.01(14) A district shall include repair and maintenance costs of a pupil transportation vehicle only to the extent of restoration to original condition and/or mandatory condition.
- 4.01(15) A district shall include repair and maintenance costs of equipment and facilities used for pupil transportation only to the extent of restoration to original condition.
- 4.01(16) A district shall include the cost of the following types of additions or alterations to pupil transportation vehicles.
1. manual transmission to automatic transmission
 2. gas engine to diesel engine or alternative fuel
 3. reflective tape on the outside of vehicle
 4. electro-magnetic or hydraulic retarder
 5. heated mirrors
 6. engine compartment noise reduction package (diesel engine in front engine transit only)
 7. driver seat belt to current standards (locking retractortype)
 8. air brake drying system
 9. mirror system to provide a seated driver an unobstructed view of the front and front sides of abus
 10. wheelchair lifts and other special modifications which are necessary to equip a school bus in order to transport children with disabilities
 11. automatic tire chains
 12. video surveillance cameras
 13. other additions or alterations with prior written approval by the department which increase efficiency and safety or are necessary to meet minimum standards.
- 4.01(16)(a) A district shall own any pupil transportation vehicle to be added to or altered for a minimum of three years in order for the costs of additions or alterations to be reimbursable.
- 4.01(16)(b) A district shall request and receive from the department prior written approval of additions or alterations to a pupil transportation vehicle not specifically listed in rule 4.01(16) in order for the cost to be reimbursable. The Department may request necessary information from the district for

use in making a determination for approval or disapproval.

- 4.01(16)(c) The Department shall inform a district in writing of approvals and disapprovals of reimbursable additions and alterations to vehicles.
- 4.01(16)(d) A district shall retain the written approval provided by the Department for a specific addition or alteration to a pupil transportation vehicle with the other records substantiating the reimbursement claim of the district for five years or until an audit by the department, whichever occurs first.
- 4.01(17) A district shall not include expenditures, including rent, lease or lease purchase, for all capital outlay items except those additions and alterations to vehicles specifically listed in rule 4.01(16).
- 4.01(18) A district shall not include expenditures for school field trips, extracurricular trips, or athletic trips.
- 4.01(19) A district shall not include liability claims incurred and paid by the district associated with providing pupil transportation.
- 4.01(20) A district shall not include expenditures relating to any district vehicle not used for the specific purpose of pupil transportation.
- 4.01(20)(a) A district shall not include expenditures relating to elderly transportation services.
- 4.01(20)(b) A district shall not include expenditures relating to recreational district transportation services.
- 4.01(20)(c) A district shall not include expenditures relating to advertising.
- 4.01(21) A district shall not include any other expenditure not specifically identified above in 4.01.

5.0 Revenues Received Through the Operation of the Pupil Transportation Program

- 5.1** A district shall reduce its reported current operating expenditures by the amount of summer school and pre-school program revenues received for pupil transportation.
- 5.2** A district shall reduce its reported current operating expenditures by the amount of revenues received from other school districts through contracts to furnish pupil transportation.
- 5.3** A district shall reduce its reported current operating expenditures by the amount of revenues received from federal sources for pupil transportation.

5.4 Since a district does not include expenditures resulting from non-pupil transportation activities per rule 4.01(20), a district shall not reduce its reported current operating expenditures by the amount of revenues received for non-pupil transportation activities.

5.04(1) A district shall not reduce its reported current operating expenditures by the amount of revenues received from the elderly for transportation services.

5.04(2) A district shall not reduce its reported current operating expenditures by the amount of revenues received from recreational districts for transportation services.

5.04(3) A district shall not reduce its reported current operating expenditures by the amount of revenues received for advertising on any transportation vehicles.

5.5 A district shall not reduce its reported current operating expenditures by the amount of revenues received from the state public school transportation fund.

5.6 A district shall not reduce its reported current operating expenditures by the amount of revenues received from fees imposed and collected for pupil transportation pursuant to a resolution adopted by a local board of education in accordance with the provisions of section 22-32-113(5), CRS.

5.7 A district shall not reduce its reported current operating expenditures by the amount of revenues received from a transportation levy approved at an election for the purpose of recovering excess pupil transportation costs pursuant to 22-40-102(1.7), CRS.

6.0 Mileage Count Reporting

6.1 A district shall report its total mileage scheduled to be traveled by pupil transportation vehicles on the official mileage count date in transporting all pupils enrolled in its schools.

6.01(1) A district shall report scheduled mileage to and from a pupil's legal residence and school in which the pupil is enrolled, both in-state and to and from an adjoining state.

6.01(2) A district shall report scheduled mileage to and from a pupil's legal residence and school in which the pupil is enrolled, including mileage for loaded and unloaded pupil transportation vehicles.

6.01(3) A district shall report scheduled mileage between two or more schools in which pupils are regularly enrolled and which pupils are required to attend as a part of their scheduled programs.

6.01(4) A district shall report actual mileage traveled by a district approved person due to the absence of a district-approved established bus route, if the district reimburses said district-approved person for such pupil transportation services.

6.2 A district shall report its total scheduled miles as defined above if the district operates a year-round school calendar at a school or schools within the district. The mileage count for year-round schools shall include only unique routes that are traveled specifically for the year-round program.

6.3 A district paying another district for pupil transportation services shall report miles traveled by the district providing the pupil transportation services.

6.4 A district shall not include in its reported scheduled mileage miles traveled for the purpose of providing pupil transportation for the pupils of another district.

- 6.5** A district shall not include in its reported scheduled mileage miles traveled for school field trips, extracurricular trips, or athletic trips.
- 6.6** A district shall not include in its reported scheduled mileage miles traveled in trips which are not for the purpose of transporting pupils from home to school, school to school, or school to home.
- 6.06(1) A district shall not include in its reported scheduled mileage miles traveled for transportation services for the elderly.
- 6.06(2) A district shall not include in its reported scheduled mileage miles traveled for transportation services for recreational districts.
- 6.7** A district shall not include in its reported scheduled mileage miles traveled by pupil transportation support and service vehicles.

7.0 Certifications by Local Boards of Education

- 7.1** A district desiring reimbursement under the Public School Transportation Fund for any entitlement period shall report to the department all required information.
- 7.01(1) A district shall report current operating expenditures as defined in 2251-R-4.00 and 2251- R-5.00 of these rules.
- 7.01(2) A district shall report total scheduled mileage as defined in 2251-R-6.00 of these rules. 7.01(3) A district shall report the number of days of school that pupils are actually transported. 7.01(4) A district shall report the number of days of school that pupils are actually transported for year-round school programs.
- 7.01(5) A district shall report the number of days for which a boarding allowance is paid for pupils in lieu of transportation.
- 7.01(6) A district shall report the number of pupils scheduled to be transported on the official mileage count date.
- 7.01(7) A district shall report the total cost of a contract pursuant to rule 4.01(7) for the purposes of providing pupil transportation.
- 7.01(8) A district shall report the total cost of a contract with a commercial transportation carrier pursuant to rule 4.01(8) for the purposes of providing pupil transportation.
- 7.01(9)(a) A district shall report the comparable district cost of providing pupil transportation in the absence of a contract with a commercial transportation carrier.
- 7.01(09) A district shall report the total actual miles traveled for school field trips, extracurricular trips, and athletic trips by pupil transportation vehicles.
- 7.01(10) A district shall report the total actual miles traveled for any purpose by all pupil transportation vehicles.
- 7.01(11) A district shall report that the data reported is accurate and that the pupil transportation program has been operated in compliance with all applicable rules of the state board.

7.01(12) A district shall report other data as deemed necessary by the department.

8.0 Documentation

- 8.1** A district shall maintain and retain appropriate records pertaining to its application for reimbursement for five years or until an audit by the Department has been completed, whichever occurs first.
- 8.2** Documentation shall include appropriate mileage reports and route descriptions as of the official mileage count date which clearly define the routes and show mileage.
- 8.3** Documentation shall include appropriate financial records of the district.
- 8.4** Documentation shall support the number of actual miles traveled on the official mileage count date by persons who are reimbursed by the district for furnishing their own district approved transportation.
- 8.5** Documentation shall include the odometer reading taken at the beginning of the entitlement period and taken at the end of the entitlement period and total miles traveled for each pupil transportation vehicle operated during the entitlement period.
- 8.6** Documentation shall include time sheets, work schedules, or other auditable documentation used to support the transportation claim as well as documentation to support allocation methods used to determine the amount of the claim.
- 8.7** Documentation shall include information from independent contractors showing the acquisition cost of vehicles used for pupil transportation and less than ten years old and showing the total value of such contracts.
- 8.8** Documentation shall support total expenditures for public transportation contracts.
- 8.9** Documentation shall support total expenditures for commercial transportation carrier contracts.
- 8.10** Documentation shall support the amount of revenues from sources pursuant to 5.00 of these rules, such as election ballot and board resolution.
- 8.11** Documentation shall include a list of named pupils scheduled to be transported on the official mileage count date and shall be attached to each route description.

Editor's Notes

History

Entire rule eff. 01/14/2013.

Rule 2.02(1) eff.

07/30/2020.

Annotations

Rule 2251-R-2.02(1) (adopted 06/10/2020) was not extended by Senate Bill 21-152 and therefore expired 05/15/2021.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00511

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

Colorado State Board of Education

on 10/13/2021

1 CCR 301-14

RULES FOR THE ADMINISTRATION OF THE PUBLIC SCHOOL TRANSPORTATION FUND

The above-referenced rules were submitted to this office on 10/14/2021 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 25, 2021 16:47:09

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-26

Rule title

1 CCR 301-26 COLORADO RULES FOR THE OPERATION, MAINTENANCE AND INSPECTION OF SCHOOL TRANSPORTATION VEHICLES 1 - eff 12/15/2021

Effective date

12/15/2021

COLORADO RULES FOR THE OPERATION, MAINTENANCE, AND INSPECTION OF SCHOOL TRANSPORTATION VEHICLES

1 CCR 301-26

1.0 Statement of Basis and Purpose

- 1.1 Colorado law provides for the State Board of Education to adopt and enforce regulations governing the safe operation of school buses used for the transportation of students pursuant to Sections 22-51-108 and 42-4-1904, C.R.S.
- 1.2 The purpose of these rules is to adopt and enforce regulations governing the reasonable and adequate standards of safety for the operation, maintenance and inspection of school transportation vehicles that promote the welfare of the students and afford reasonable protection to the public. These rules are designed to align with federal standards, reflect current industry practices, and incorporate recommendations from school district, charter school, and service provider transportation professionals.
- 1.3 The Commissioner, or designee, may provide an exemption to the Rules for the Operation, Maintenance and Inspection of School Transportation Vehicles to the extent the Commissioner finds an exemption to be appropriate.

2.0 Applicability of Rules

- 2.1 These rules and regulations apply to the operation, maintenance and inspection of all public-school transportation conducted by:
 - 2.01(a) A school district, charter school, or service provider for routes (home to school, school to school, and school to home); and
 - 2.01(b) A school district, charter school, or service provider for activity trips (school related events);
 - 2.1 (c) As used in these Rules, "service provider" means a company or individual hired by a school district or charter school.
- 2.2 These rules are not intended to include:
 - 2.02(a) Private motor vehicles used exclusively to carry members of the owner's household;
 - 2.02(b) Transportation arrangements not authorized by the school district, charter school, or service provider, including but not limited to sharing of actual gasoline expense or participation in a car pool;
 - 2.02(c) The operations of vehicles in bona fide emergency situations consistent with policies of the local board of education;
 - 2.02(d) Transportation conducted by a company or individual for activity trips (school related events),

including service providers, parentvolunteers, and coaches or teachers using a privatemotor vehicle; or

2.02(e) Transportation provided by a company or individual as part of their operation as a common carrier, or transportation network company operating pursuant to Section 40-10.1-602, C.R.S., under the jurisdiction of the US Department of Transportation or the Public Utilities Commission.

2.3 These rules shall not preclude a school district, charter school, or service provider from establishing a more rigid standard or policy when deemed necessary by the local board of education or service provider.

3.0 **Non-Compliance**

3.1 CDE will perform periodic School Transportation Advisory Reviews (STAR) of school districts, charter schools and service providers to evaluate and assist with compliance of these rules.

3.01(a) CDE will provide school districts, charter schools and service providers written notification of the STAR findings.

3.01(b) Upon receipt of the written notification of STAR findings, school districts, charter schools and service providers shall respond in writing to outline corrective actions if necessary.

3.2 CDE shall revoke or suspend the certificate for a school transportation annual inspector, school transportation annual inspector hands-on tester, school transportation entry level driver instructor, or inspection site under the following circumstances:

3.02(a) A school transportation annual inspector, school transportation annual inspector hands-on tester, school transportation entry level driver instructor, or inspection site does not meet the requirements outlined in these rules; or

3.02(b) School transportation annual inspections, school transportation entry level driver instruction, or hands-on tests have not been properly conducted.

4.0 **School District, Charter School and Service Provider Employment Responsibilities**

4.1 School districts, charter schools and service providers shall outline job responsibilities and develop job qualification standards for each school transportation vehicle operator and school transportation paraprofessionals, annual inspector, and school transportation entry level driver instructor, consistent with federal and state regulations. A copy of these requirements shall be provided to each school transportation vehicle operator, annual inspector, school transportation entry level driver instructor, and paraprofessional upon employment. A copy shall also be maintained in the applicable qualification file.

4.2 School districts, charter schools and service providers shall maintain separate files for each school transportation vehicle operator, school transportation paraprofessional, school transportation entry level driver instructor, and school transportation annual inspector with

written documentation evidencing all listed requirements indicated in Rule 5.00, Rule 6.00 and Rule 7.00, as applicable. Training documentation shall include the trainer name, date of the training, description of the training, duration of each topic covered and the signature of all attendees.

4.02(a) If a school transportation vehicle operator, school transportation paraprofessional, or school transportation annual inspector works for more than one school district, charter school, service provider, or operator of an inspection site, each employer shall maintain a file with documentation in accordance with this rule.

4.3 Pursuant to 49 CFR, Part 382, Subpart G, school districts, charter schools, and service providers shall ensure that all employees required to possess a commercial driver's license (CDL) are enrolled in the Federal Motor Carrier Administration Drug and Alcohol Clearinghouse and in a US DOT- approved substance abuse testing program.

4.4 School districts, charter schools and service providers shall not permit a school transportation vehicle operator to transport students, while the operator's ability or alertness is so impaired, through fatigue, illness or any other cause, as to make it unsafe for the operator to transport students.

4.5 School districts, charter schools and service providers shall have written emergency procedures and/or contingency plans to be followed in the event of a traffic accident, vehicle breakdown, unexpected school closing, unforeseen route change, or relocation of a student stop in an emergency.

4.6 School districts, charter schools and service providers shall ensure that documentation outlining transportation related services and requirements, including required use of Child Safety Restraint Systems and medical and behavioral information as it relates to student transportation, is available to applicable school transportation vehicle operators and paraprofessionals prior to providing transportation services.

4.7 Pursuant to 49 CFR, Part 380, Subpart F, 380.601, effective February 7, 2022, school districts, charter schools, and service providers shall ensure that all entry level school transportation operators required to possess a commercial driver's license (CDL) receive pre-service training in compliance with the FMCSA theory and behind-the-wheel training curricula via an entity listed on the FMCSA training provider registry (TPR).

5.0 School Transportation Vehicle Operator Requirements

5.1 School transportation vehicle operators driving any vehicle with the capacity of 16 or greater passengers (counting the driver) shall meet or exceed the following requirements:

5.01(a) The operator shall possess a valid commercial driver's license (CDL) with the proper class and endorsements for size and type of vehicle(s) to be driven and the associated Medical Examination Report required pursuant to the Federal Motor Carrier Safety Regulations, 49 CFR section 391.43.

5.01(b) The operator shall be a minimum of 18 years of age.

- 5.01(c) School districts, charter schools, and service providers shall obtain a motor vehicle record of each operator prior to transporting students and annually thereafter.
 - 5.01(d) The operator shall be given and/or have access to the CDE School Bus/Multifunction Bus/Motor Coach Bus Operator Guide prior to transporting students. A copy of the Certificate of Receipt, signed by the operator, shall be placed in the driver qualification file.
 - 5.01(e) The operator shall receive a minimum of six hours of in-service training annually. A portion of this annual in-service requirement may occur during the school year.
 - 5.01(f) The operator shall successfully pass a CDE School Bus/Multifunction Bus/Motor Coach Bus Operator written test for the current school year prior to transporting students and annually thereafter.
 - 5.01(g) The operator shall successfully pass a driving performance test including a pre-trip inspection prior to transporting students and annually thereafter. This test shall be conducted in a vehicle, which is similar in type and size to the vehicle the applicant is assigned to operate. School districts, charter schools, and service providers have the option to re-test at their discretion.
 - 5.01(h) The operator shall receive pre-service training on the type of vehicle(s) to be driven, the type of duties they may be required to perform, mountain and adverse weather training pursuant to C.R.S. 42-4-1902, and student confidentiality requirements prior to transporting students.
 - 5.01(i) The operator shall have written documentation evidencing that they have received first aid training, including cardiopulmonary resuscitation and universal precautions within 90 calendar days after initial employment. If the operator holds a current first aid and cardiopulmonary resuscitation certificate it will meet the requirements of this section. Operators shall receive first aid training and/or re-certification every two (2) years thereafter.
 - 5.01(j) The operator shall receive training regarding the proper use and maintenance of Child Safety Restraint Systems (CSRS) and proper wheelchair securement when the operator is engaged in transportation involving these systems and devices, prior to transporting students.
 - 5.01(k) Effective February 7, 2022, entry level commercial operators shall have a copy of their training certificate, and training syllabus from a training provider listed on the FMCSA Training Provider Registry (TPR) placed in their qualification file, indicating that they have passed all required FMCSA pre-service training.
- 5.2 School transportation vehicle route operators (transporting students to and from school or from school to school) driving vehicles with the capacity of 15 or fewer passengers (counting the driver), including Type A Multifunction Bus and Small Vehicle, shall meet or exceed the following requirements:

- 5.02(a) The operator shall possess a valid driver's license.
- 5.02(b) The operator shall be a minimum of 18 years of age.
- 5.02(c) The operator shall have a current physical examination (not to exceed two years) consistent with the requirements of the Federal Motor Carrier Safety Regulations, 49 CFR section 391.43.
- 5.02(d) School districts, charter schools, and service providers shall obtain a motor vehicle record of each operator prior to transporting students and annually thereafter.
- 5.02(e) The operator shall be given and/or have access to the CDE Type A Multifunction Bus/ Small Vehicle Route Driver Guide prior to transporting students. A copy of the Certificate of Receipt, signed by the operator, shall be placed in the driver qualification file.
- 5.02(f) The operator shall receive a minimum of six hours of in-service training annually. A portion of this annual in-service requirement may occur during the school year.
- 5.02(g) The operator shall successfully pass a CDE Type A Multifunction Bus/Small Vehicle Route Operator written test for the current school year prior to transporting students and annually thereafter.
- 5.02(h) The operator shall successfully pass a driving performance test including a pre-trip inspection prior to transporting students and annually thereafter. This test shall be conducted in a vehicle, which is similar in type and size to the vehicle the applicant is assigned to operate. School districts, charter schools and service providers have the option to re-test at their discretion.
- 5.02(i) The operator shall receive pre-service training on the type of vehicle(s) to be driven, the type of duties they may be required to perform, mountain and adverse weather training pursuant to C.R.S. 42-4-1902, and student confidentiality requirements prior to transporting students.
- 5.02(j) The operator shall have written documentation evidencing that they have received first aid training, including cardiopulmonary resuscitation and universal precautions within 90 calendar days after initial employment. If the operator holds a current first aid and cardiopulmonary resuscitation certificate it will meet the requirements of this section. Operators shall receive first aid training and/or re-certification every two (2) years thereafter.
- 5.02(k) The operator shall receive training regarding the proper use and maintenance of Child Safety Restraint Systems (CSRS) and proper wheelchair securement, when the operator is engaged in transportation involving these systems and devices prior to transporting students.

5.3 School transportation vehicle operators, other than route operators, driving vehicles with the capacity of 15 or fewer passengers (counting the driver), including Type A Multifunction Bus and Small Vehicle, shall meet or exceed the following requirements:

5.03(a) The operator shall possess a valid driver's license.

5.03(b) The operator shall be a minimum of 18 years of age.

5.03(c) School districts, charter schools, and service providers shall obtain a motor vehicle record of each operator prior to transporting students and annually thereafter.

5.03(d) The operator shall be given and/or have access to the CDE Type A Multifunction Bus/ Small Vehicle Operator Guide prior to transporting students. A copy of the Certificate of Receipt, signed by the operator, shall be placed in the driver qualification file.

5.03(e) The operator shall successfully pass a Type A CDE Multifunction Bus/Small Vehicle Operator written test for the current school year prior to transporting students and annually thereafter.

5.03(f) The operator shall annually complete the CDE Multifunction/Small Vehicle Operators Medical Information Form (STU-17). Any yes annotations shall require a doctor's release.

5.03(g) The operator shall receive pre-service training on the type of vehicle(s) to be driven, the type of duties they may be required to perform, mountain and adverse weather training pursuant to C.R.S 42-4-1902, and student confidentiality requirements prior to transporting students.

5.03(h) The operator shall be given and/or have access to first aid information, including cardiopulmonary resuscitation and universal precautions.

5.03(i) The operator shall successfully pass a driving performance test including a pre-trip inspection prior to transporting students. This test shall be conducted in a vehicle, which is similar in type and size to the vehicle the applicant is assigned to operate. School districts, charter schools, and service providers have the option to re-test in subsequent years at their discretion.

5.03(j) Prior to driving a school transportation vehicle pursuant to 1 CCR 301-26-R-,13.11 operators shall receive training on towing a trailer.

5.4 A school transportation paraprofessional is a person assigned to assist a school transportation vehicle operator to control the behavior of students in the bus and/or ensure the safety of students getting on and off the school transportation vehicle.

5.04(a) The school transportation paraprofessional shall receive pre-service training for the type of duties they may be required to perform prior to assisting with transporting students.

5.5 School transportation vehicle operators and school transportation paraprofessionals are required to be able to perform all essential functions including emergency evacuations when transporting students as determined by the school district, charter school, or service provider job qualification standards.

5.05(a) The employing school district, charter school, or service provider has the authority to require at any time a medical evaluation of a school transportation vehicle operator or school transportation paraprofessional for any condition that could impair the employee's ability to operate a vehicle safely, assist student(s) as required by their position, and/or perform other required job duties, and may take appropriate action on the outcome of such evaluation.

5.05(b) School transportation vehicle operators and school transportation paraprofessionals that have medical conditions which result in temporary loss of performance abilities shall provide return-to-work documentation from their physician, and any other requirements per school district, charter school, or service provider policy to the employing school district/service provide prior to returning to their assigned duties.

6.0 School Transportation Entry Level Driver Instructor Requirements

6.1 A CDE school transportation entry level driver instructor is a person qualified to teach either the theory and/or the behind-the-wheel curriculum, pursuant to 49 CFR, Part 380, Appendix B, C and D.

6.2 Pursuant to 49 CFR, Part 380.605, the CDE school transportation entry level theory instructor shall (1) possess a valid Colorado commercial driver's license with the Class B (or higher), School Bus, and Passenger endorsements; and (2) have two years of verifiable experience operating a school transportation vehicle requiring a commercial operator's license with the Class B (or higher), School Bus, and Passenger endorsement in the State of Colorado.

6.02(a) Exception: A theory instructor is not required to hold a CDL of the same (or higher) class, and with all endorsements necessary to operate the CMV for which training is to be provided, if the instructor previously held a CDL of the same (or higher) class and complies with the other requirements set forth in this section.

6.3 The CDE school transportation entry level driver theory instructor shall successfully complete the CDE entry level theory instructor program initially, and every three years thereafter pass the CDE School Transportation Entry Level Theory Instructor Recertification Written Test.

6.4 Pursuant to 49 CFR, Part 380.605, the CDE school transportation entry level behind the wheel instructor shall (1) possess a valid Colorado commercial driver's license with the Class B (or higher), School Bus, and Passenger endorsements; and (2) have two years of verifiable experience operating a school transportation vehicle requiring a commercial operator's license with the Class B (or higher), School Bus, and Passenger endorsement in the State of Colorado.

6.04(a) Exception: A behind the wheel instructor who provides training solely on a range which is not a public road is not required to hold a CDL of the same (or higher) class, and with all endorsements necessary to operate the CMV for which training is to be provided, as

long as the instructor previously held a CDL of the same (or higher) class, and with all endorsements necessary to operate the CMV for which training is to be provided and complies with the other requirements set forth in this section.

- 6.5 The CDE school transportation entry level driver behind the wheel instructor shall successfully complete the CDE entry level behind the wheel instructor program initially, and every three years thereafter pass the CDE School Transportation Entry Level Behind the Wheel Instructor Recertification Written Test.
- 6.6 If any of the above requirements become invalid, the school transportation entry level driver theory, and/or behind the wheel instructor certificate is invalid until the requirement(s) is made valid.
- 6.7 An entity on the Training Provider Registry shall submit the CDE Entry Level School Transportation Instructor Recertification Form (STU-11) to CDE, verifying that all applicable instructor requirements have been satisfied. CDE will then re-issue the applicable Instructor Certificate.
- 6.8 If a school transportation entry level driver instructor has an expired certificate, the certificate can be recertified as follows:
 - 6.08(a) If the certificate has been expired less than six months, then the applicable CDE School Transportation Entry Level Driver Instructor Recertification Written Test(s) is required.
 - 6.08(b) If the certificate has been expired between six and 12 months, then the applicable CDE School Transportation Entry Level Driver Instructor Program Written Test(s) is required.
 - 6.08(c) If the certificate has been expired for more than one year, then the instructor must retake and pass the applicable CDE school transportation entry level driver instructor program(s).
- 7.0 **School Transportation Annual Inspector Requirements**
- 7.1 A school transportation annual inspector is a person qualified to perform annual inspections on a school transportation vehicle to confirm the vehicle complies with CDE regulations.
- 7.2 School transportation annual inspectors shall meet or exceed the following requirements:
 - 7.02(a) The school transportation annual inspector shall possess a valid driver's license with the proper class and endorsements for the size and type of vehicle(s) to be inspected.
 - 7.02(b) The school transportation annual inspector shall provide to the school district, charter school, or service provider a Brake Inspector Qualification Certificate meeting the requirements of the Federal Motor Carrier Safety Regulations, 49 CFR section 396.25.
 - 7.02(c) The school transportation annual inspector shall have at least two years verifiable experience in the maintenance of light, medium, or heavy-duty vehicles.

7.02(d) The school transportation annual inspector shall successfully pass the CDE initial hands-on performance test proctored by a certified school transportation annual inspector hands-on-tester.

7.02(e) The school transportation annual inspector shall successfully pass the CDE annual inspector qualification written test initially, and every three years thereafter pass the CDE annual inspector recertification written test.

7.02(e)(1) A representative of the school district, charter school, or service provider, other than a school transportation annual inspector candidate, shall grade the written test.

7.3 A school district, charter school, service provider or operator of an inspection site may submit a CDE Application for CDE Annual Inspector Qualification or Recertification Form (STU-20) to CDE verifying that the above requirements have been satisfied. CDE will then issue an Annual Inspector Certificate.

7.4 If any of the above requirements become invalid, the annual inspector certificate is invalid until the requirement(s) is made valid.

7.5 If a school transportation annual inspector has an expired certificate, the certificate can be recertified as follows:

7.05(a) If the certificate has been expired less than six months, then the CDE Annual Inspector Recertification Written Test is required.

7.05(b) If the certificate has been expired between six and 12 months, then the CDE Annual Inspector Qualification Written Test is required.

7.05(c) If the certificate has been expired for more than one year, then both the CDE Annual Inspector Qualification Written Test and the CDE hands-on performance test are required.

8.0 Annual Inspector Hands-On Tester

8.1 A School transportation annual inspector hands-on tester is a person qualified to proctor hands-on tests to annual inspector candidates.

8.2 School transportation annual inspector hands-on testers shall meet or exceed the following requirements:

8.02(a) The school transportation annual inspector hands-on tester shall have maintained a CDE Annual Inspector certificate for a minimum of two years.

8.02(b) The school transportation annual inspector hands-on tester shall have satisfactorily completed a CDE school transportation annual inspector hands-on tester training.

8.2 (c) The school transportation annual inspector hands-on testers shall have completed a

minimum of four hours verifiable medium/heavy brake system training in the last three years or have maintained an ASE School Bus or Medium/Heavy Duty Truck or Transit Bus Brake Certification.

8.02(d) The school transportation annual inspector hands-on tester candidate shall submit a CDE Application for Certification or Recertification of CDE Annual Inspector Hands-On Tester Form (STU-30) verifying that the above criteria have been satisfied. CDE will then issue an Annual Inspector Hands-On Tester Certificate.

8.02(e) The school transportation annual inspector hands-on tester shall conduct at least two hands-on tests every three years or attend a CDE school transportation annual inspector hands-on recertification training to recertify as a school transportation annual inspector hands-on tester.

8.3 If any of the above requirements become invalid, the hands-on tester certificate is invalid until the requirement(s) is made valid, by retaking the tester training class in rule 8.02(b).

9.0 Pre-trip/Post-trip Vehicle Inspections

9.1 Each school transportation vehicle shall have a daily pre-trip and post-trip inspection performed and documented by the school transportation vehicle operator or other transportation employee authorized by the school district, charter school, or service provider. A daily pre-trip inspection shall be completed prior to a vehicle being placed in service. A daily post-trip inspection shall be completed at the end of daily operation of each vehicle.

9.2 The pre-trip and post-trip inspection requirements for school transportation vehicles, other than small vehicles, shall include at a minimum all items listed on the CDE School Transportation Vehicle (School Bus/Multifunction Bus/Motor Coach Bus) – Pre-Trip and Post Trip Requirements Form (STU-9).

9.3 The pre-trip and post-trip inspection requirements for school transportation small vehicles shall include at a minimum all items listed on the CDE School Transportation Vehicle (Small Vehicle) – Pre-Trip and Post Trip Requirements Form (STU-8).

9.4 School districts, charter schools, and service providers shall have a procedure in place to verify that students are not left on an unattended school transportation vehicle.

10.0 Inspection Site Certification

10.1 A CDE Inspection Site Certificate is required at each facility/location where annual inspections for school transportation vehicles are performed.

10.2 The inspection site shall meet or exceed the following criteria to acquire and maintain an inspection site certificate:

10.02(a) The inspection site shall be large enough to accommodate the vehicle, equipment, and tools necessary to perform the inspection.

- 10.02(b) The inspection site shall have a floor surface or pad adequate to safely support the maximum weight of the largest vehicle to be inspected.
- 10.02(c) The inspection site shall have adequate lighting and ventilation.
- 10.02(d) The inspection site or inspector shall, at the time of inspection, have the equipment and tools necessary to properly complete the annual inspection.
- 10.02(e) The inspection site or inspector shall have tools designed and calibrated to take accurate readings of appropriate measurements, such as brakes and tires.
- 10.3 The operator of an inspection site shall submit a request for an inspection site certificate on the CDE Application for Inspecting Site Certification Form (STU-22) that the above criteria have been satisfied.
- 10.4 The operator of an inspection site shall post the CDE Inspection Site Certificate at the inspection site.
- 11.0 **Annual Inspection**
- 11.1 School districts, charter schools and service providers shall ensure all school transportation vehicles and trailers pursuant to 1 CCR 301-26-R-13.11 have a CDE annual inspection conducted by a CDE certified annual inspector prior to transporting students and annually thereafter.
 - 11.01(a) Recently purchased school transportation vehicles shall successfully pass a CDE annual inspection prior to transporting students, and then annually thereafter.
- 11.2 Annual inspection results shall be documented on the CDE Affidavit of Annual Inspection for School Transportation Vehicles Form (STU-25).
 - 11.02(a) A copy of the current Affidavit must be maintained inside the vehicle and a copy must be placed in the vehicle file.
- 11.3 All annual inspection criteria of school transportation vehicles must meet or exceed manufacturer's specifications. The annual inspection shall be documented and shall include, at a minimum, all fields listed on the CDE Annual Inspection and Preventive Maintenance Requirements Form (STU-26).
- 11.4 All annual inspection criteria of trailers must meet or exceed manufacturer's specifications, and shall include, at a minimum, all fields listed on the CDE Trailer Annual Inspection and Preventive Maintenance Requirements Form (STU-27).
- 11.5 During the annual inspection, all four wheels shall be pulled for full inspection of the foundation brake system. The three exceptions are:
 - 11.05(a) School transportation vehicles with less than 4,000 miles since the previous annual inspection shall have two wheels (one front and one rear) pulled

different than those pulled for the previous inspection.

11.05(b) School transportation vehicles equipped with a retarder meeting the specifications outlined in 1 CCR 301-25-R-33.00, shall have two wheels (one front and one rear) pulled which are different than those pulled for the previous inspection.

11.05(c) Trailers, pursuant to 1 CCR 301-26-13.11, shall have 50 percent of the wheels pulled different than those pulled for the previous inspection.

12.0 Maintenance and Repair

12.1 School districts, charter schools and service providers must ensure all school transportation vehicles are systematically inspected, maintained and repaired to ensure that school transportation vehicles are in safe and proper operating condition.

12.2 School districts, charter schools and service providers shall have a system to document preventative maintenance, reported defects and repairs made to school transportation vehicles.

12.3 School districts, charter schools and service providers shall maintain separate files for each school transportation vehicle with documentation of all annual inspections, all preventative maintenance and all reported damage, defects or deficiencies and the corresponding repair and maintenance performed.

12.4 Any identified damage, defect or deficiency of a school transportation vehicle must be reported to the school district, charter schools or service provider, if it:

12.04(a) Could affect the safety of operation of the school transportation vehicle;

12.04(b) Could result in a mechanical breakdown of the school transportation vehicle;

12.04(c) Results in noncompliance with Colorado Minimum Standards Governing School Transportation Vehicles (1 CCR 301-25) and/or manufacturer's specifications.

12.5 Documentation for reported defects must include all the following:

12.05(a) The name of the school district, charter school or service provider;

12.05(b) Date and time the report was submitted;

12.05(c) All damage, defects or deficiencies of the school transportation vehicle; and

12.05(d) The name of the individual who prepared the report.

12.6 Following a reported damage, defect, or deficiency of a school transportation vehicle, school districts, charter schools and service providers or a representative agent must repair the reported damage, defects or deficiencies, or document that no repair is necessary, ensuring that the vehicle is in safe and proper operating condition prior to transporting students.

- 12.7 School districts, charter schools and service providers shall not transport students in a school transportation vehicle which is not in safe and proper operating condition. A school transportation vehicle shall be designated as “out-of-service” by a school district, charter schools or service provider, a school transportation annual inspector or the CDE School Transportation Unit.
- 12.07(a) Any school transportation vehicle discovered to be in an unsafe condition while being operated on the highway, roadway, or private road may be continued in operation only to the nearest place where repairs can safely be affected. Such operation shall be conducted only if it is less hazardous to the public than to permit the vehicle to remain on the highway, roadway, or private road.
- 12.8 Following a school transportation vehicle being placed “out-of-service”, a school district, charter school, service provider or a representative agent must make required repairs, ensuring that the vehicle is in safe and proper operating condition prior to transporting students. In the event of being placed “out-of-service” during an annual inspection, the school transportation vehicle must successfully pass a CDE annual inspection prior to transporting students.
- 12.9 The preventative maintenance inspection on air drum brake systems shall include, at a minimum, that the brake rod travel has been measured and documented. The applied pressure method shall be used.
- 12.09(a) The inspection interval shall not exceed 4,000 miles for buses equipped with a manual slack adjuster air brake system.
- 12.09(b) The inspection interval shall not exceed 6,000 miles for buses equipped with an automatic slack adjuster air brake system.
- 12.10 The preventive maintenance inspection interval on air disc brake systems shall not exceed 6,000 miles and shall include, at a minimum; inspection and documentation of:
- 12.10(a) The pad thickness by checking the mechanical wear indicators.
- 12.10(b) The visible part of the rotors for cracks, excessive wear, damage, etc.
- 12.10(c) The running clearance. If the caliper has no movement or appears to move greater than the distances indicated by the manufacturer, then a full wheel removal inspection will be necessary.
- 12.11 The preventive maintenance inspection interval for hydraulic brake systems shall not exceed 6,000 miles and shall include, at a minimum, inspection and documentation of:
- 12.11(a) Proper parking brake operation;
- 12.11(b) Proper brake fluid level and clarity;
- 12.11(c) Adequate pedal reserve;

12.11(d) Proper hydraulic/vacuum assist operation; and

12.11(e) Visual inspection for brake fluid leakage.

12.12 If brake adjustment or repair is needed, the work shall be completed by or supervised by a DOT or equivalent qualified brake inspector meeting the requirements of the Federal Motor Carrier Safety Regulations, 49 CFR section 396.25.

13.0 Operation of a School Transportation Vehicle

13.1 A school transportation vehicle shall not be operated in a manner which is unsafe, or likely to cause an accident, or likely to damage the vehicle.

13.2 A school transportation vehicle shall not be placed in motion on a roadway, highway or private road with the passenger entry door/service door open.

13.3 A school transportation vehicle's headlights or daytime running headlights shall be activated while the vehicle is in operation.

13.4 A school transportation vehicle shall not be fueled while students are on board, except in instances when unloading the students would present a greater hazard or peril to their safety.

13.5 Use of tobacco products as defined in Section 18-13-121(5), C.R.S., use or possession of illegal controlled substances, use or possession of alcohol and use or possession of marijuana or cannabinoid product, except as otherwise allowed by law, aboard any school transportation vehicle shall be prohibited at all times.

13.6 A school transportation vehicle operator shall not consume food unless the vehicle is stopped at a safe location with the park/emergency brake set.

13.7 When a school transportation vehicle is equipped with a roof mounted strobe lamp, the use of the strobe lamp is permitted only when the vehicle presents a hazard to other motorists, such as loading or unloading students in inclement weather or to enhance visibility of the vehicle when barriers inhibit such visibility.

13.8 A school transportation vehicle operator may use the strobe, in addition to the four-way hazard lamps, to warn other motorists that the vehicle is not in motion or is being operated at a speed of twenty-five miles per hour or less.

13.9 The school transportation vehicle operator shall use extreme caution when backing. Before backing on a roadway, highway or private property, the horn or audible warning device shall be sounded and four-way hazard lamps actuated or there shall be a person outside the vehicle giving direction.

13.09(a) Backing a school transportation vehicle when students are outside of the vehicle at a student stop is prohibited.

13.10 A Type A, B, C, and D School Bus, Multifunction Bus and Motor Coach Bus shall not be operated with a trailer or other vehicle attached while students are being transported.

13.11 School transportation small vehicles, with the capacity of 15 or fewer passengers (counting the driver), may tow trailers while students are being transported to the extent that trailering is a necessary component of a school district or charter school sponsored program.

14.0 **Authorized Passengers**

14.1 Only school district, charter school, or service provider personnel; students enrolled in a school district or charter school; law enforcement officials; or individuals that have received prior authorization from the school district, charter schools or service provider may be passengers on any school transportation vehicle.

14.2 The number of passengers transported on any school transportation vehicle shall not exceed the maximum seating capacity of the vehicle. Small vehicle capacity shall not exceed the number of safety belts as designed by the vehicle manufacturer.

14.3 Passengers shall not be permitted to stand in any school transportation vehicle while the vehicle is in motion. This does not preclude authorized persons (such as school transportation paraprofessionals) from completing their duties as required.

14.4 School districts, charter schools, and service providers shall consider the size of the passengers when determining the number of passengers that can safely occupy a school transportation vehicle seat.

15.0 **Safety Restraints**

15.1 A school transportation vehicle operator shall have the safety belt fastened, worn correctly and properly adjusted prior to the school transportation vehicle being placed in motion.

15.2 All passengers in a school transportation vehicle under 10,000 lbs. GVWR shall have their safety belts fastened, worn correctly and properly adjusted prior to the school transportation vehicle being placed in motion.

16.0 **Transportation of Miscellaneous Items**

16.1 A school transportation vehicle operator shall ensure that all carry-on items are properly handled in order to minimize the danger to all others.

16.2 All baggage, articles, equipment or medical supplies (except those held by individual passengers) shall be secured in a manner which assures unrestricted access to all exits by occupants, does not restrict the driver's ability to operate the bus and protects all occupants against injury resulting from falling or displacement of any baggage, article, or equipment. Oxygen cylinders meet this standard if they are both medically necessary and secured to a wheelchair, shall be considered to be in compliance with this subsection, provided they do not impede access to any exit. School districts, charter schools, and service providers shall use reasonable care in determining the number of cylinders that may be safely transported at one

time.

- 16.3 All chemicals and cleaning supplies carried on a school transportation vehicle must meet the following precautions:

16.03(a) Container is non-breakable;

16.03(b) Container is labeled with contents;

16.03(c) Pressurized aerosols are prohibited;

16.03(d) Container is secured in a bracket, or in a closed compartment in the driver's area or a compartment on the exterior of the bus; and

16.03(e) Containers and quantities of products are no more than 32 ounces in size.

- 16.4 Interior-decorations shall not be located within the driver's area (including the space in front of the front barriers, the step-well, dash, walls and ceiling, the windshield, the entry door, the driver's side window, and all windows in front of the front barrier), the first two passenger windows on both sides of the vehicle or all windows on the rear of the vehicle. Other decorations within the passenger compartment shall not;

16.04(a) Cover any required lettering;

16.04(b) Impede the aisle or any emergency exit;

16.04(c) Hang from the walls and/or ceiling.

17.0 **Maximum Driving Time for School Transportation Vehicle Operators**

- 17.1 School transportation vehicle operators, including small vehicle operators, shall not drive (nor shall the school districts, charter schools, or service providers permit or require operators to drive):

17.01(a) In excess of 10 hours or after being on-duty 14 hours until completing 10 hours off-duty. This would include on-duty time for all employers. Ten hours off-duty may be consecutive or accumulated in two or more periods of off-duty time with one period having a minimum of six consecutive hours off-duty.

17.01(b) After being on-duty for more than 70 hours in any seven consecutive days.

17.01(c) In case of emergency, an operator may complete the trip without being in violation if such trip reasonably could have been completed absent the emergency.

- 17.2 In lieu of section 17.00 of these rules, a school district, charter school, or service provider may comply with the Federal Motor Carrier Safety Regulations, 49 CFR section 395.

17.3 Definitions:

17.03(a) Day - Means any 24-consecutive hour period beginning at the time designated by the school district, charter school, or service provider.

17.03(b) On-duty time - Includes all time worked for all employers, including all driving and non-driving duties.

17.03(c) Off-duty time - School transportation vehicle operators may consider waiting time (whether compensated time or not) at special events, meal stops, and school related events as off-duty if the following criteria are met:

17.03(c)(1) The operator shall be relieved of all duty and responsibility for the care and custody of the vehicle, its accessories, and students, and

17.03(c)(2) The operator shall be at liberty to pursue activities of his/her choice, including leaving the premises on which the bus is located.

17.4 All school transportation vehicle operators shall document that they are in compliance with this section, hours of service.

17.04(a) An operator's daily log, or equivalent, shall be completed for the trip in the operator's own handwriting when the trip requires a scheduled or unscheduled overnight stay away from the work reporting location.

18.0 Route Planning – Student Loading and Discharge

18.1 School transportation small vehicles, Type A Multifunction Buses with 15 or fewer passenger capacity (counting the driver) and School Buses (Types A, B, C, and D) may be used to transport students to and from school. Multifunction Buses Type B, C, D, and Motor Coach Buses shall not be used to transport students to and from school.

18.2 The location of student stops shall consider factors including:

18.02(a) Ages of the students;

18.02(b) Visibility;

18.02(c) Lateral clearance; 18.02(d)

Student access; and 18.02(e)

Control of other motorists.

18.02(e)(1) Student stops for Type A Multifunction Buses with 15 or fewer passenger capacity (counting the driver) and school transportation small vehicles should be located off of the roadway whenever possible.

- 18.3 School transportation vehicle operators shall stop at least 10 feet away from students at each designated stop. The school transportation vehicle operator shall apply the parking brake and shift the vehicle into neutral or park prior to opening the service door of a bus or the passenger door(s) of a small vehicle.
- 18.4 The school transportation vehicle operator shall stop as far to the right of the roadway, highway or private road as possible before discharging or loading passengers - allowing sufficient area to the right and front of the vehicle but close enough to the right to prevent traffic from passing on the right - so that students may clear the vehicle safely while in sight of the operator.
- 18.04(a) Exception: The school transportation vehicle operator may block the lane of traffic when passengers being received or discharged are required to cross the roadway.
- 18.5 Student stops shall not be located on the side of any major thoroughfare whenever access to the destination of the passenger is possible by a road or street which is adjacent to the major thoroughfare.
- 18.6 School districts, charter schools and service providers shall ensure that if students are required to cross a roadway, highway or private road on which a student stop is being performed, they are prohibited from crossing a roadway, highway or private road constructed or designed to permit three or more separate lanes of vehicular traffic in either direction or with a median separating multiple lanes of traffic.
- 18.7 Four-way hazard lamps shall be used on private property such as parking lots.
- 18.8 Alternating flashing red warning signal lamps shall not be activated within 200 feet of an intersection if the intersection is controlled by a traffic control signal.
- 18.9 Routes shall be planned as to:
- 18.09(a) Eliminate, when practical, railroad crossings; and
- 18.09(b) Have stops be a minimum of 200 feet apart (since alternating flashing amber warning signal lamps must be activated a minimum of 200 feet in advance of the stop on the roadway on which the bus stop will be performed).
- 18.09(b)(1) Exception: In areas where wildlife may create a high risk of threat to students' safety while they are waiting and/or walking to a student stop, designated stops may be less than 200 feet apart upon detailed written approval by the school district board of education or governing body of a charter school (or the board's designee). A copy of the written approval shall be kept in the school transportation office and route operators shall be given written notice of the exception and have it indicated on route sheets.
- 18.10 In determining the length of routes, school districts, charter schools and service providers must make an effort to minimize student ride times while considering student educational needs, geographic boundaries, terrain, traffic congestion, and financial resources within the district. A

local board of education, or the governing body of a charter school, may establish a maximum student ride time.

- 18.11 Pursuant to Section 42-4-1903(2), C.R.S., school transportation vehicle operators are not required to actuate the alternating flashing red warning signal lamps on a school bus (1) when the student stop is at a location where the local traffic regulatory authority has by prior written designation declared such actuation unnecessary and (2) when discharging or loading passengers who require the assistance of a lift device and no passenger is required to cross the roadway. Further, Type A Multifunction Buses with 15 or fewer passenger capacity (counting the driver) and school transportation small vehicles do not have the functionality to control traffic. In these instances, the school transportation vehicle operator shall stop as far to the right off the roadway as possible to reduce obstruction to traffic, activate the four-way hazard warning lamps a minimum of 200 feet prior to the student stop, continue to display the four-way hazard warning lamps until the process of discharging or loading passengers has been completed, and deactivate the four-way hazard lamps before resuming motion. Students are prohibited from crossing any lanes of traffic to access the student stop or after disembarking.
- 18.12 School transportation vehicle operators shall not relocate a student stop without approval of the school district, charter school, or service provider.
- 18.13 Pursuant to 42-4-707 C.R.S., School transportation vehicle operators of School Buses, Multifunction Buses and Motor Coach Buses, whether transporting students or not, shall apply the following procedures during the process of approaching, stopping and crossing railroad tracks:
 - 18.13(a) Activate the four-way hazard lamps not less than 200 feet from the railroad crossing to alert other motorists of the pending stop for the crossing;
 - 18.13(b) Stop the bus within 50 feet but not less than 15 feet from the nearest rail;
 - 18.13(c) When stopped, the bus shall be as far to the right of the roadway as possible and shall not form two lanes of traffic unless the highway is marked for four or more lanes of traffic; and
 - 18.13(d) Use a prearranged signal to alert students to the need for quiet aboard the bus when approaching railroad tracks. Turn off all noise making equipment (fans, heater, radio, etc.)
- 18.14 After quietness aboard the stopped bus has been achieved, bus operators shall open the service door and operator window. The bus operator shall listen and look in both directions along the track(s) for any approaching train(s) and for signals indicating the approach of a train.
 - 18.14(a) If the tracks are clear, the bus operator shall close the service door and may then proceed in a gear low enough to permit crossing the tracks without having to manually shift gears. The bus operator shall cancel the four-way hazard lamps after the bus has cleared the tracks.
 - 18.14(b) When two or more tracks are to be crossed, the bus operator shall not stop a second

time unless the bus is completely clear of the first crossing, with at least 15 feet clearance in front and at least 15 feet clearance to the rear.

18.14(c) Before crossing the tracks, the bus operator shall verify that there is enough space after the tracks for the bus plus 15 feet if it is necessary to stop after crossing the tracks.

18.15 School transportation vehicle operators of School Buses, Multifunction Buses and Motor Coach Buses are not required to stop at crossings controlled only by a red, amber, green traffic control signal when it is in the green position, or when the crossing is controlled by a police officer or human flag person, or when the crossing is marked with an official "exempt" sign placed on the railroad crossing light post or cross bucks post.

19.0 Emergency Evacuation Drills

19.1 Emergency evacuation drills shall be conducted with students by all school transportation vehicle operators and school transportation paraprofessionals at least twice during each school year.

19.01(a) One drill shall be conducted in the fall and the second drill conducted in the spring.

19.01(b) Substitute and Multifunction operators of 16 or greater vehicle capacity (counting the driver) shall be trained how to conduct the emergency evacuation drills.

19.2 Students on school related events shall receive emergency evacuation instruction prior to departure.

19.3 School districts, charter schools, and service providers shall maintain records documenting that the required evacuation drills were conducted and/or evacuation instruction was given.

20.0 Incorporation by Reference

The foregoing rules incorporate by reference several sections and appendices from the Federal Motor Carrier Safety Regulations, 49 CFR, Parts 380, 382, 391, 395, and 396 (as codified as of April 19, 2021). The foregoing rules do not incorporate by reference any later amendment or editions to the Federal Motor Carrier Safety Regulations.

The Federal Motor Carrier Safety Regulations are available at <https://www.ecfr.gov/>. They are also available for public inspection during regular business hours from the Colorado Department of Education, 201 E. Colfax Ave., Denver, Colorado 80203.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00513

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

Colorado State Board of Education

on 10/13/2021

1 CCR 301-26

**COLORADO RULES FOR THE OPERATION, MAINTENANCE AND INSPECTION OF SCHOOL
TRANSPORTATION VEHICLES**

The above-referenced rules were submitted to this office on 10/14/2021 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 25, 2021 16:48:23

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-112

Rule title

1 CCR 301-112 RULES FOR INDIVIDUALIZED MEDICAL SEIZURE ACTION PLANS
1 - eff 12/15/2021

Effective date

12/15/2021

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR INDIVIDUALIZED MEDICAL SEIZURE ACTION PLANS

1 CCR 301-112

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

0.0 STATEMENT OF BASIS AND PURPOSE

The statutory basis for these rules is 22-1-132, C.R.S., which requires the State Board of Education to promulgate rules for individualized medical seizure action plans, including training and seizure care guidelines. Statute requires the Department, in collaboration with recognized sources on epilepsy and seizure disorders and a state organization that represents school nurses, to develop strategic resources to improve safety for students who have been diagnosed with a seizure disorder.

1.0 DEFINITIONS

- 1.1 “Appropriate staff” means one or more employees of the school whom the principal or equivalent executive, in consultation with the school nurse or health-care practitioner, determines to be the appropriate recipient or recipients of free seizure recognition and first aid training developed by recognized sources on epilepsy and seizure disorders, as identified by the Department of Education. “Appropriate staff” may include but need not be limited to employees who have direct contact with and supervision of students who have a seizure disorder.
- 1.2 “Department” means the department of education created and existing pursuant to section 24-1-115, C.R.S.
- 1.3 “Designated employee” means an employee of the school who is designated and trained by the school nurse or health-care practitioner on how to administer or assist with the administration of seizure treatment and medications, seizure rescue medications, and manual vagus nerve stimulation.
- 1.3 “Public school” means a public school in the state that enrolls students in any of grades kindergarten through twelfth grade, including a traditional public school of a school district; a charter school of a school district; an Institute charter school; or an approved facility school, as defined in C.R.S. 22-2-402(1).
- 1.4 “Seizure action plan” means a written, individualized seizure action plan for a specific student, created by the school nurse or health-care practitioner, in conjunction with the student’s parent or legal guardian and the student’s physician, as appropriate, that is designed to acknowledge and prepare for the healthcare needs of a student diagnosed with a seizure disorder. The seizure action plan must be in accordance with the guidelines developed by the department of education.
- 1.5 “Seizure disorder” means a medical condition, including epilepsy, in which episodes of uncontrolled activity in the brain produce symptoms that produce one or more seizures.

2.0 INDIVIDUALIZED SEIZURE ACTION PLANS

- 2.1 If a student has a diagnosed seizure disorder and the student might need medical intervention with seizure-related care in a school setting or school activity, the student’s parent or legal

guardian is encouraged to create, in conjunction with school personnel, sign, and submit to the student's school an individualized seizure action plan for the student. The school nurse or health-care practitioner shares responsibility with the school administrators for the management of the student's seizure disorder while the student is at school, during any school-sponsored activities, and while in transit to or from school or school-sponsored activities if the student is being transported by school district personnel.

- 2.2 A student's parent or legal guardian is encouraged to submit the required information for the student's individualized seizure action plan or amended seizure action plan to the student's school: at the beginning of the school year or upon the student's enrollment; as soon as practicable following the student's diagnosis of a seizure disorder; or if a student's health status changes significantly during the school year. A parent or legal guardian is encouraged to inform the school, in a timely manner, of any changes needed to the student's individualized seizure action plan or emergency contact information.
- 2.3 A public school must follow the school district's or public school's medication policy in approving the individualized seizure action plan and ensuring that the individualized seizure action plan is in accordance with the "Nurse and Nurse Aide Practice Act," article 255 of title 12 of the Colorado Revised Statutes.

3.0 TRAINING

- 3.1 Within sixty days after the beginning of the 2021-22 academic year and each year thereafter, each public school must provide training to one or more appropriate staff on the recognition of the signs and symptoms of seizures and the appropriate steps for seizure first aid.
- 3.2 No later than eight weeks after a public school is notified of a student who has been diagnosed with a seizure disorder or the receipt of an individualized seizure action plan signed by the student's parent or legal guardian, whichever is later, the public school must have at least one designated employee who has met the training requirements necessary to administer or assist with the administration of seizure treatment medications, seizure rescue medications, and manual vagus nerve stimulation.

4.0 SEIZURE CARE GUIDELINES

- 4.1 By October 2021, in order to support school districts in meeting the requirements of the law, the Department, in consultation with recognized sources on epilepsy and seizure disorders and a state organization that represents school nurses, must develop seizure care guidelines. The guidelines must identify recognized sources that provide training for school personnel on seizure recognition and seizure first aid for epilepsy and seizure disorders. Such guidelines must be consistent with programs and guidelines developed by these recognized sources.
- 4.2 The Department must review such guidelines at least every three years to ensure that they remain consistent with best practices.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00510

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

Colorado State Board of Education

on 10/13/2021

1 CCR 301-112

RULES FOR INDIVIDUALIZED MEDICAL SEIZURE ACTION PLANS

The above-referenced rules were submitted to this office on 10/14/2021 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 25, 2021 16:46:05

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Transportation

Agency

Transportation Commission and Office of Transportation Safety

CCR number

2 CCR 601-3

Rule title

2 CCR 601-3 RULES GOVERNING OUTDOOR ADVERTISING IN COLORADO 1 - eff
11/30/2021

Effective date

11/30/2021

DEPARTMENT OF TRANSPORTATION

Executive Director

RULES GOVERNING OUTDOOR ADVERTISING IN COLORADO

2 CCR 601-3

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

...

1.00 Definitions

1.1 All definitions set forth in 23 C.F.R. § 750.102, 23 C.F.R. § 750.703, and § 43-1-403, C.R.S. shall apply to these Rules. If there is a conflict between the definitions in state and federal law and regulations and these Rules, the state and federal law definitions shall govern. Definitions are not listed in alphabetical order.

1.2 "Advertising Device" has the same meaning pursuant to § 43-1-403(1), C.R.S.

...

1.6 Repealed.

...

1.8 "Comprehensive Development" has the same meaning pursuant to § 43-1-403 (1.5), C.R.S.

...

1.12 Repealed.

...

1.18 Repealed.

1.19 Repealed.

1.20 Repealed.

...

1.23 "Permit Number Identifier" means a series of numbers assigned by the Department that is unique to the Advertising Device.

• • •

1.25 Repealed.

• • •

1.34 "Compensation" has the same meaning pursuant to § 43-1-403 (1.3), C.R.S.

2.00 Permitting

2.1 Signs Requiring a CDOT Permit

- A. A permit from the Department shall be required for all Signs within the Control Area as provided for in §§ 43-1-407 and 408, C.R.S. A permit is required for all Signs, including:
 - 1. Nonconforming Advertising Devices [§ 43-1-403(12), C.R.S.];
 - 2. Advertising Devices located in areas Zoned for Commercial or Industrial Uses by law [§ 43-1-404(1)(d) and (e), and § 43-1-407(1)(c), C.R.S.]; and
 - 3. Advertising on Bus Benches and Shelters. [§ 43-1-407(2)(a)(I) through (III), C.R.S.]
 - 4. Repealed.

2.2 Repealed.

2.3 Conditions that Prohibit CDOT from Issuing or Renewing a Permit [§ 43-1-411, and § 43-1-417(3)(a), C.R.S. and 23 C.F.R. § 750.108]

- A. The Department is prohibited from issuing a Permit for any Advertising Device pursuant to § 43-1-411, C.R.S. and 23 C.F.R. § 750.108 if the Sign:
 - 1. Does not conform to size, lighting, and spacing standards as prescribed by these Rules where the Rules were adopted prior to the erection of the Advertising Device;
 - 2. Would encroach upon the right-of-way of a public highway absent prior written approval from the Department;
 - 3. Is within 500 feet of the center point of an intersection of a Controlled Route at grade with another highway or with a railroad so as to materially obstruct or reduce the existing view of traffic on the other highway or railway trains approaching the intersection;

4. Is along a Controlled Route where it would reduce the existing view of traffic in either direction or of traffic control or official highway signs to less than 500 feet;
5. Includes more than two advertising panels on an Advertising Device facing the same direction;
6. Required a permit prior to July 1, 1981, and no permit was obtained;
7. Simulates any official, directional, or warning sign erected or maintained by the federal or state government or local governing body which involves light that simulates or resembles traffic signals or traffic control signs;
8. Is nailed, tacked, posted, or attached in any manner on trees, plants, fence posts, public utility poles, rocks or other natural objects; or
9. The Department is prohibited from issuing or renewing a Permit if the Sign becomes decayed, insecure, or in danger of falling or otherwise is unsafe or unsightly due to lack of maintenance or repair, or from any other cause.

...

2.11 Permit Denial, Revocation, or Denial of Renewal [23 C.F.R. § 750.104; § 43-1-410, C.R.S.]

- A. The Department may deny, revoke, or deny the renewal of a Permit for any violation of state or federal law or these Rules, including but not limited to:
 1. False or misleading information in the Permit application or renewal;
 2. Failure to maintain the Sign in good repair;
 3. Failure to comply with all Permit provisions;
 4. Increasing the permitted size of an Advertising Device; or
 5. Any violation of federal law referenced herein, § 43-1-401, et seq., C.R.S. or these Rules.
- B. The Department will notify the Applicant or Permittee in writing stating the reasons for the denial of the application, the denial of the renewal of the Permit, or the revocation of the Permit along with the opportunity to request a hearing as set forth in Rule 5.00.

3.00 Notice of Noncompliance Pursuant to § 43-1-412, C.R.S.

3.1 Repealed.

3.2 Grounds for Noncompliance

- A. Sign lacking a CDOT Permit [§ 43-1-412(2)(a), C.R.S.]

1. If a Permit has not been obtained for the Advertising Device, the Department shall give written Notice of Noncompliance by certified mail to the owner of the Property on which the Sign is located. Such notice will:
 - a. Inform the Property owner that the Advertising Device is illegal;
 - b. Require the owner to remove the Sign within 60 days of receipt of the notice, execute an affidavit under the penalty of perjury as evidence that the device is not an Advertising Device, or obtain a permit; and
 - c. Advise the Property owner of the right to request a hearing.

...

- C. Permit Revoked or Renewal Denied. § 43-1-412(2)(c), C.R.S.

...

5.00 Hearings

5.1 Request for Hearing

- A. A request for a hearing must be received by the Department no later than sixty (60) days after receipt of the notice. An Applicant who was denied a Permit may request an expedited hearing within thirty (30) days of the notice of denial pursuant to § 43-1-408(3), C.R.S.
- B. The request for hearing must be made in writing, by certified mail, addressed to and received by:

Colorado Department of Transportation
Outdoor Advertising Program
2829 W. Howard Place
Denver, Colorado, 80204
- C. All hearings and appeals will be conducted pursuant to §§ 24-4-105 and 106, C.R.S.

6.00 Signs Allowed in Control Areas

[§ 43-1-404, C.R.S., 23 USC § 131, 23 C.F.R. § 750.105; 23 C.F.R. § 750.108]

6.01 Advertising Devices Allowed

- A. The following Signs may be allowed within the Control Area adjacent to the Controlled Route:
 1. Repealed;

2. Advertising Devices, which include:
 - a. Signs in Areas Zoned for Commercial or Industrial Uses;
 - b. Nonconforming Signs;
 - c. Repealed;
 - d. Advertising Devices on Scenic Byways (See Rule 9.00);
 - e. Repealed;
 - f. Repealed;
 - g. Repealed; and
 - h. Changeable Electronic Variable Message Signs ("CEVMS").

6.02 Repealed.

6.03 Advertising Devices

6.03.1 General Requirements

- A. Signs include:
 1. Signs in Areas Zoned for Commercial or Industrial Uses;
 2. Nonconforming Signs;
 3. Repealed; and
 4. Advertising Devices on Scenic Byways.
 5. Repealed.
 6. Repealed.
- B. An Advertising Device shall comply with the requirements set forth in these Rules and 23 C.F.R. § 750.108. All Signs shall not:

• • •

 2. Interfere with a driver's clear and unobstructed view of official signs and approaching, intersecting or merging traffic; [23 C.F.R. § 750.108(b)]

• • •
- C. No new Advertising Device shall be erected adjacent to a Scenic Byway. [§ 43-1-419, C.R.S.]
- D. A Sign shall be considered abandoned if it meets the requirements of Rule 6.03.3(B).

- E. Measuring Distances between Signs [23 C.F.R. § 750.103]

...

6.03.3 Sign Repairs [23 C.F.R. § 750.707; § 43-1-413, C.R.S.]

...

- B. Abandoned, Discontinued or Obsolete Nonconforming Signs. [23 U.S.C. § 131; 23 C.F.R. § 750.707; § 43-1-413(2)(f), C.R.S.]

1. Abandoned or Discontinued Signs

- a. An abandoned or discontinued Sign is one that for one year or more years is without advertising matter, or is in need of substantial repair. Such Signs determined by the Department as abandoned or discontinued are subject to removal as Illegal Signs under § 43-1-412, C.R.S.

...

- C. Damage or Destruction of Nonconforming Signs. [23 C.F.R. § 750.707(d)(6); § 43-1-413(2)(e), C.R.S.]

...

4. The Department shall determine whether a Sign has been damaged or destroyed to a degree that terminates the Nonconforming Sign's nonconforming status based on the schedule of compensation referenced in § 43-1-413(2)(e), C.R.S., as follows:

...

- d. The procedure under (1) through (5) below shall determine whether the damaged or destroyed Nonconforming Sign may be repaired or restored:

...

- (5) The Department shall make a determination whether the Sign may be repaired or restored based on (3) and

...

7.00 Signs in Areas Zoned by Law for Industrial or Commercial Uses

[23 C.F.R. § 750.708; § 43-1-404(1)(e)(I); § 43-1-406(2)(b)(I) and (II), C.R.S.]

...

B. Size Requirements [§ 43-1-404(1), C.R.S.]

...

5. Repealed.

C. Lighting

1. Advertising Devices that contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.

...

D. Spacing of Signs

...

6. Signs that are not lawfully maintained shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

...

8.00 Repealed.

9.00 Advertising Devices on Scenic Byways

[§ 43-1-419, C.R.S.; 23 U.S.C. § 131(s)]

...

- B. No new Advertising Device shall be erected along a Scenic Byway that is visible from the Controlled Route.

...

10.00 Repealed.

11.00 Repealed.

12.00 CEVMS Advertising Devices

- A. Authority. The Department has authority to control the brightness, intervals, spacing and location of CEVMS Advertising Devices along Controlled Routes for the purpose of ensuring safety to the travelling public. [23 USC §131 (c)(3) and (j); 23 C.F.R. § 750.705; § 43-1-404(1)(f), and § 43-1-415(1), C.R.S.]
- B. Definitions

...

9. Repealed.

...

- C. General Requirements

...

2. Location

- a. No CEVMS may be placed within 1,000 feet of another CEVMS on the same side of a highway and facing the same direction of travel. [§ 43-1-404(1)(f)(I), C.R.S.]
- b. A CEVMS shall not prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

...

5. Operational Requirements Specific to CEVMS Advertising Devices

...

- D. Conversion from a Static Advertising Device to a CEVMS

...

4. Site Review. The Department may conduct a site review and inspection prior to permitting a conversion to CEVMS to ensure that the description, location, and other information contained in the application for conversion is in compliance with these Rules.

...

13.00 Materials Incorporated by Reference

- A. These Rules are intended to be consistent with and not be a replacement for 23 United States Code (U.S.C.) § 131 dated December 4, 2015, and its implementing regulations contained in 23 Code of Federal Regulations (C.F.R.) Part 750 in effect as of August 23, 1985 which are hereby incorporated into the Rules by this reference pursuant to § 24-4-103(12.5), C.R.S., and do not include any later amendments.
1. Copies of the referenced United State Code may be obtained from the following address:
- Office of the Law Revision Counsel
U.S. House of Representatives
H2-308 Ford House Office Building
Washington, DC 20515
(202) 226-2411
<https://uscode.house.gov/browse.xhtml>
2. Copies of the referenced Code of Federal Regulations may be obtained from the following address:
- U.S. Government Publishing Office
732 North Capitol Street, N.W.
Washington, DC 20401
(866) 512-1800
<https://www.govinfo.gov/>
- B. Also incorporated by reference are the following documents and do not include any later amendments:
1. Federal Highway Administration (FHWA) Non-Regulatory Supplement Federal-Aid Policy Guide, Transmittal 35 Attachment: Sign and Site Valuation Formula

and Schedule Guide for Controlling Outdoor Advertising Pursuant to 23 U.S.C. § 131 dated February 16, 2006, NS 23 C.F.R. 750D, Parts I, II, III.

Copies of the referenced FHWA Transmittal 35 Attachment may be obtained from the following address:

Federal Highway Administration
Office of Chief Counsel
1200 New Jersey Avenue, SE.
E82-101
Washington, DC 20509
(202) 366-1376
<https://www.fhwa.dot.gov>

2. Uniform Standards of Professional Appraisal Practice (USPAP), 2020- 2021 Edition.

Copies of the referenced USPAP may be obtained from the following address:

The Appraisal Foundation
1155 15th Street, NW, Suite 1111
Washington, DC 20005
(202) 347-7722
<https://www.appraisalfoundation.org/>

- C. All referenced laws and regulations shall be available for copying or public inspection during regular business hours from the Office of Policy and Government Relations, Colorado Department of Transportation, 2829 W. Howard Place, Denver, Colorado 80204.

14.00 Declaratory Orders

- A. Any person may petition the Executive Director for a declaratory order pursuant to § 24-4-105(11), C.R.S.
- B. Contents of the Petition
 1. The name of address of the petitioner.
 2. Whether the petitioner is a Permittee and what interest, if any, they have or would have in the applicable Advertising Device or proposed Advertising Device.
 3. Whether the petitioner is involved in any pending administrative hearings or lawsuits with the Department or the relevant local jurisdiction.
 4. The statute, rule, or order to which the petition relates.
 5. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule, or order to which the petition relates.

Executive Director

6. A concise statement of the legal authorities, if any, and such other reasons upon which the petitioner relies.

C. The Executive Director Retains Discretion Whether to Entertain Petition.

The Executive Director or designee will determine, in their sole discretion without prior notice to the petitioner, whether to entertain any petition. If the Executive Director or designee decides not to entertain a petition, the Department will notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:

1. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule, or order in question.
2. The petition involves a subject, question, or issue that is relevant to a pending hearing before the state or any local licensing authority, an on-going proceeding conducted by the Department, or relates to an issue or case which is currently the subject of litigation.
3. The petition seeks a ruling on a moot or hypothetical question.
4. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo. R. Civ. Pro. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule, or order.

D. Executive Director Entertains the Petition.

If the Executive Director or designee determines to entertain the petition for a declaratory order, the Department will notify the petitioner, and any of the following procedures may apply:

1. The Executive Director or designee may expedite the matter by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the parties to submit additional evidence and legal argument in writing.
2. In the event the Executive Director or designee determines that an evidentiary hearing is necessary to a ruling on the petition, a hearing will be conducted in accordance with the State Administrative Procedure Act, § 24-4-101, C.R.S. *et seq.* The petitioner will be identified as Respondent.
3. The parties to any proceeding pursuant to this Rule will be the petitioner/Respondent and the Department. Any other interested person(s) may seek leave of the Department to intervene in the proceeding and such leave may be granted if the Department determines that such intervention will make a separate petition by the interested person(s) for a separate declaratory order unnecessary.

4. The declaratory order will constitute a Final Agency Order subject to judicial review pursuant to § 24-4-106, C.R.S.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00561

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

Executive Director

on 10/08/2021

2 CCR 601-3

RULES GOVERNING OUTDOOR ADVERTISING IN COLORADO

The above-referenced rules were submitted to this office on 10/09/2021 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 26, 2021 15:13:30

Philip J. Weiser
Attorney General
by Eric R. Olson
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 Accident and Health (General) 1 - eff 12/01/2021

Effective date

12/01/2021

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-2-77

CONCERNING PAYMENTS TO CARRIERS FOR THE COLORADO REINSURANCE PROGRAM

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Reinsurance Payment Process to Carriers
Section 6	Severability
Section 7	Enforcement
Section 8	Effective Date
Section 9	History

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-16-1104(1)(i), 10-16-1105(1)(d); 10-16-1105(1)(e); 10-16-1105(3)(c); and 10-16-1105(4)(d), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish the process and timeline by which the Division of Insurance will notify carriers and disburse reinsurance payments to carriers for the applicable benefit year.

Section 3 Applicability

This regulation applies to all eligible carriers that participate in the Colorado Reinsurance Program pursuant to Title 10, article 16, part 11.

Section 4 Definitions

- A. "Actuarial Completion Factor" shall mean the percent of estimated ultimate claims for a given benefit year that have been paid.
- B. "Benefit Year" shall have the same meaning as found at § 10-16-1103(2), C.R.S.
- C. "Eligible Carrier" shall have the same meaning as found at § 10-16-1103(5), C.R.S.
- D. "Payment Parameters" shall have the same meaning as found at § 10-16-1103(9), C.R.S.
- E. "Reinsurance Program" shall have the same meaning as found at § 10-16-1103(12), C.R.S.

Section 5 Reinsurance Payment Process to Carriers

- A. The Division of Insurance (Division) shall notify eligible carriers by email of reinsurance payment amounts that will be distributed for the applicable benefit year by June 30 of the year following the applicable benefit year.
 - 1. The Division shall use the Centers for Medicare and Medicaid (CMS) External Data Gathering Environment (EDGE) Server to calculate reinsurance payments due to each eligible carrier. The Division will only use paid claims data that have been submitted and accepted to the CMS EDGE database for reinsurance payment calculations.
 - a. Payment amounts are based on the reinsurance payment parameters for the applicable benefit year.
 - b. Eligible carriers must have submitted all claims for the applicable benefit year to the EDGE server by April 30 of the year following the applicable benefit year in order for claims to be included in the reinsurance payment calculation.
- B. Starting in December of 2021 and November of each year thereafter, each time CMS runs a preliminary State Reinsurance (SRI) report using EDGE data, all eligible carriers must submit to the Division or the Division's designated representative a single actuarial completion factor for claims submitted to EDGE that are within the reinsurance payment parameters as of the day CMS runs the report. For example, if a preliminary SRI report is dated January 25, and as of then the carrier has submitted claims to EDGE incurred and paid through November 30, the actuarial completion factor should be developed starting from November 30.
 - 1. The factor should estimate, after applied to total submitted EDGE claims within the reinsurance payment parameters, the ultimate amount of claims within the reinsurance payment parameters for the benefit year. The estimate should be developed so that the carrier's best estimate of ultimate claims subject to reinsurance represents the claims that would apply to the Colorado Reinsurance Program.
 - 2. For carriers with capitation arrangements or special care-delivery arrangements, these arrangements must be taken into account when developing the completion factor.
- C. Consistent with section 10-16-1105(4)(d), C.R.S., carriers must notify the Division in writing within thirty (30) days of notification of the reinsurance payment amount if they wish for the Division to reconsider their reinsurance payment amount.
 - 1. Requests for reconsideration must clearly state all of the grounds on which the carrier's request is based, and should include evidence and other materials as necessary to support the request. No late filings, including any supplemental evidence or materials, will be accepted after the deadline.
 - 2. The Division will respond in writing to a request for reconsideration within ten (10) days of the request deadline, and will notify carriers of any changes to their reinsurance payment amounts as soon as practicable thereafter.
 - 3. Requests for reconsideration based on claims data outside of EDGE will not be considered by the Division.
- D. The Colorado Department of Regulatory Agencies (DORA) shall disburse electronic funds transfer (EFT) payments to all carriers for the reinsurance payment amounts by August 15 of the year following the applicable benefit year.
 - 1. Carriers must have submitted a W9 and have a current account set up in the Colorado Operations Resource Engine (CORE) to receive reinsurance payments.

Section 6 Severability

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

Section 7 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 8 Effective Date

This regulation shall be effective December 1, 2021.

Section 9 History

New regulation effective June 15, 2021

Amended regulation effective December 1, 2021.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00549

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

Division of Insurance

on 10/11/2021

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)

The above-referenced rules were submitted to this office on 10/19/2021 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 22, 2021 13:16:46

Philip J. Weiser
Attorney General
by Eric R. Olson
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 Accident and Health (General) 1 - eff 01/01/2022

Effective date

01/01/2022

DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF INSURANCE

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-2-29

CONCERNING THE RULES FOR STANDARDIZED CARDS ISSUED TO PERSONS COVERED BY HEALTH BENEFIT PLANS

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Rules
Section 6	Severability
Section 7	Enforcement
Section 8	Effective Date
Section 9	History

Section 1 Authority

This regulation is being promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109 and 10-16-135, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to provide carriers the guidance necessary to comply with the statutory requirements regarding the issuance and use of health benefit plan identification cards, pursuant to § 10-16-135, C.R.S., and to align state law with the requirements imposed by the No Surprises Act, part of the Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, §§ 101–118, 134 Stat. 1182 (2020), and codified in 42 U.S.C. § 300gg-111(e).

Section 3 Applicability

This regulation applies to all individual and group health benefit plans issued or renewed by entities subject to Part 2, Part 3 and Part 4 of Article 16 of Title 10 of the Colorado Revised Statutes. The requirements of this regulation shall apply to identification cards issued to persons covered under health benefit plans, including, but not limited to, participants, beneficiaries, or enrollees (“members”) in a health benefit plan. These requirements do not apply to identification cards issued to persons covered by limited benefit health coverage.

Section 4 Definitions

- A. “Carrier” shall have the same meaning as found at § 10-16-102(8), C.R.S.
- B. “Clear and conspicuous” means, for the purpose of this regulation, the placement of the required information will be set apart from other information listed to allow it to be easily located on the card.
- C. “Health benefit plan” shall have the same meaning as found at § 10-16-102(32), C.R.S.

- D. "Limited benefit health coverage" means, for the purpose of this regulation, any type of health coverage that is not provided by a health benefit plan, as defined in § 10-16-102(32)(a), C.R.S.
- E. "Managed care plan" shall have the same meaning as found at § 10-16-102(43), C.R.S.
- F. "Short-term limited duration health insurance policy" shall have the same meaning as found at § 10-16-102(60), C.R.S.

Section 5 Rules

- A. A new physical identification card shall be issued by a carrier:
 - 1. When a person enrolls in a health benefit plan;
 - 2. When a person's plan or benefit information changes;
 - 3. Upon request of the member.
- B. The card size must be approximately 2.125 inches by 3.370 inches, which is consistent with standard-sized credit cards, and must be made of plastic or be laminated. Cards issued in connection with coverage provided by short-term limited duration health insurance policies do not have to be made of plastic or be laminated.
- C. The colors used for the card and font must be legible and conducive to black and white photocopying.
- D. Carriers may provide members with digital identification cards. Digital identification cards must contain all information provided on the physical identification card, and cannot replace the issuance of physical identification cards as required by subsection A of this section.
- E. The following information must appear on the front side of the identification card, in no less than 8 point font:
 - 1. The legal name of the carrier underwriting the policy, but a "dba" may also be included;
 - 2. The covered person's first name, middle initial (if applicable), and last name;
 - 3. Any applicable policy, certificate, or group number, and the subscriber's or covered person's identifying number, as applicable, which is sufficient to identify the covered person with the policy;
 - 4. The specific plan number or name;
 - 5. The plan type, such as HMO (Health Maintenance Organization), POS (Point-of-Service), PPO (Preferred Provider Organization), EPO (Exclusive Provider Organization), or Indemnity (non-managed care plan);
 - 6. Coverage levels for the following services. If all services are subject to the policy's deductible and applicable coinsurance, a notation of "Deductible and coinsurance apply" is sufficient; otherwise, the required copayments must be specified. If both a deductible and copayment apply, a notation of "Deductible applies" is sufficient, followed by the specified copayment amount.
 - a. Primary care;
 - b. Specialty care;

- c. After hours/urgent care;
 - d. Emergency room; and
 - e. Inpatient hospital.
 - 7. The designation "CO-DOI" for any and all health benefit plans regulated in whole or in part by the State of Colorado's Division of Insurance. This designation must be placed on the card in a clear and conspicuous manner.
- F. The following information must appear on either the front or reverse side of the identification card at the carrier's discretion, in no less than 8 point font:
- 1. Contact information for the carrier or plan administrator which includes:
 - a. Name and address for claim submissions;
 - b. Telephone number(s) and internet website address for member/customer service, through which a plan participant, beneficiary, or enrollee may seek customer assistance information, such as information related to hospitals and urgent care facilities that have in effect a contractual relationship with the carrier for furnishing items and services under the plan;
 - c. If applicable, a statement that preauthorization or notification for hospitalization or other services may be required and the telephone number to obtain such preauthorization or to make such notification; and
 - d. If the carrier does not use its own managed care provider network, the logo, name of the network, website, or toll-free number where provider network information can be readily obtained.
 - 2. Any deductible applicable to the plan;
 - 3. Any out-of-pocket maximum limitation applicable to the plan;
 - 4. "Card issued" date, which must be displayed in a clear and conspicuous manner.
- G. The card may include other information at the carrier's discretion including a member's preferred name, pronouns, or gender identity.
- H. Carriers may utilize commonly-known abbreviations or acronyms for the purposes of displaying the information required by Section 5.D.6., such as:
- 1. "PCP" to describe or refer to primary care provider benefits;
 - 2. "SCP" to describe or refer to specialty care provider benefits;
 - 3. "Urgent" to describe or refer to after hours/urgent care benefits;
 - 4. "ER" to describe or refer to "emergency room" benefits;
 - 5. "Hospital" to describe or refer to inpatient hospital benefits;
 - 6. "Ded" or "deduct" to describe the application of the policy's deductible; or
 - 7. "Co-ins" to describe the application of the policy's coinsurance requirements.

- I. Carriers choosing to utilize commonly known abbreviations or acronyms in accordance with Section 5.G. must provide an explanation of the abbreviations and/or acronyms displayed on the card in the information provided when the card is sent to the covered person.

Section 6 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 7 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 8 Effective Date

This regulation shall become effective on January 1, 2022.

Section 9 History

New regulation effective October 1, 2008.

Amended regulation effective July 1, 2009.

Amended regulation effective December 15, 2013.

Amended regulation effective September 1, 2017.

Amended regulation shall become effective on January 1, 2022.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00475

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

Division of Insurance

on 10/08/2021

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)

The above-referenced rules were submitted to this office on 10/08/2021 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 18, 2021 16:31:09

A handwritten signature in blue ink, appearing to read "P. J. Weiser", is written over a horizontal line.

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Electrical Board

CCR number

3 CCR 710-1

Rule title

3 CCR 710-1 STATE ELECTRICAL BOARD RULES AND REGULATIONS 1 - eff
11/30/2021

Effective date

11/30/2021

DEPARTMENT OF REGULATORY AGENCIES

State Electrical Board

STATE ELECTRICAL BOARD RULES AND REGULATIONS

3 CCR 710-1

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

...

1.11 RENEWAL AND REINSTATEMENT (Effective August 1, 2017 Replacing Rule 1.6 in its entirety, excepting Rule 1.11(C))

...

G. Personal Information Change

...

2. The Board requires one of the following forms of documentation to change the name or correct a social security number or individual taxpayer identification number of a licensee or registrant:

...

- c. Court order;
- d. Documentation from the Internal Revenue Service verifying the licensee's valid individual taxpayer identification number; or
- e. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the Division of Professions and Occupations.

...

Editor's Notes

History

Entire rule eff. 08/01/2008.

Rules 3.7, 5.0-5.2, 9.0-10.0 eff. 08/01/2010.

Entire rule eff. 03/17/2011.

Rules 8.1, 9.7 m eff. 09/15/2011.

Rules 3.0-10.7 eff. 07/15/2012.

Entire rule eff. 07/01/2014.

Rules 2.2, 3.1, 4.4.1.2.B, 4.4.1.3.A eff. 01/30/2015.

Entire rule eff. 03/17/2017.

Rule 2.0 eff. 06/01/2017.

Rules 6.0, 11.0 eff. 07/15/2017.

Rules 7.2.5.9, 8.3.3, 11.2 eff. 03/17/2018. Rule 11.3.7 repealed eff. 03/17/2018.

Rule 8.3.3. eff. 11/14/2018.

Rule 1.2 eff. 07/15/2020.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00503

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

Division of Professions and Occupations - State Electrical Board

on 09/29/2021

3 CCR 710-1

STATE ELECTRICAL BOARD RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 09/29/2021 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 15, 2021 17:37:39

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Board of Pharmacy

CCR number

3 CCR 719-1

Rule title

3 CCR 719-1 STATE BOARD OF PHARMACY RULES AND REGULATIONS 1 - eff
11/30/2021

Effective date

11/30/2021

DEPARTMENT OF REGULATORY AGENCIES

State Board of Pharmacy

3 CCR 719-1

STATE BOARD OF PHARMACY RULES AND REGULATIONS

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

1.00.00 RULES OF PROFESSIONAL CONDUCT.

...

1.00.18 Patient Counseling. Except as specified in section 12-280-138, C.R.S., a pharmacist shall provide patient counseling on new medication therapy and, based on the pharmacist's professional judgement and due diligence, may provide patient counseling for any other prescription.

- a. If a pharmacist is unable to provide patient counseling orally due to language barriers, a pharmacist shall use whatever alternative means are necessary to assure the patient is properly counseled as to the medication the patient is provided. This may include, but may not be limited to, written communication in the corresponding language that the patient understands.
- b. Any refusal on the part of the patient to accept patient counseling shall be clearly documented in the corresponding record, which may include an electronic record, directly linked to each affected corresponding order and such documented refusal shall be readily retrievable and available for inspection by the Board or its inspectors for at least two years following the date of the refusal.

...

1.00.24 Except as provided in sections 12-280-103(54)(b)(III) and 25.5-2.5-201 through 25.5-2.5-208, C.R.S., a prescription drug outlet shall ensure that all prescription drugs and controlled substances are procured from another entity or person registered by the Board. Any drug designated as an Investigational New Drug from the Federal Food and Drug Administration is exempt from this requirement provided the research requirements for the receipt of the product are followed and it meets the requirements of section 12-280-131(2), C.R.S.

...

2.00.00 ORDERS.

...

2.01.10 Information to Appear on Each Order. The following information must appear on each written or oral order except as provided for chart orders for hospitalized patients (hospital chart orders):

...

- d. In the case of a controlled substance order, the patient address, prescriber address, and prescriber's Drug Enforcement Administration (DEA) registration;

- e. Patient address, prescriber address, and prescriber DEA registration number need not appear on any type of order for a non-controlled substance prescription; and
- f. Minor adaptations to an order as allowed pursuant to section 12-280-125.3, C.R.S., which shall detail the date and identity of the pharmacist making the minor adaptations.

2.01.20 Additional Information. The following shall also appear on the prescription or LTCF chart order, or corresponding readily available and retrievable electronic record of the prescription or LTCF chart order, when appropriate:

- a. Any change in or clarification of an order shall be documented on the order and shall bear the initials or unique identifier of the responsible pharmacist or intern, the date contacted and the name of the individual conveying such change or clarification.
- b. The name of the supervising physician when a controlled substance order is issued by a physician assistant licensed by the Colorado Medical Board.

c. ...

- (5) In addition to the information provided in this Rule 2.01.20(c), when a substitution is made on a prescription order pursuant to section 12-280-125(1)(a.5), C.R.S., the dispensing pharmacist shall clearly document that the prescription was an intentional substitution within the same therapeutic drug class by writing the words "Intentional Therapeutic Drug Class Substitution" or a substantially equivalent statement on the date the substitution occurred.

...

3.00.00 DISPENSING.

...

3.00.21 A pharmacist shall make every reasonable effort to ensure that any order, regardless of the means of transmission, has been issued for a legitimate medical purpose by an authorized practitioner. A pharmacist shall not dispense a prescription drug if the pharmacist knows or should know that the order for such drug was issued without a valid preexisting patient-practitioner relationship. Such relationship need not involve an in-person encounter between the patient and practitioner if otherwise permissible under Colorado law. A pharmacist may, in good faith, prescribe or dispense an opiate antagonist pursuant to an order that was issued without a valid preexisting patient-practitioner relationship that is approved by the Federal Food and Drug Administration for the treatment of a drug overdose.

3.00.22 The prescribing or dispensing of an opiate antagonist, as described in Rule 3.00.21, by a pharmacist shall not constitute unprofessional conduct pursuant to section 12-280-126, C.R.S., if he or she prescribed or dispensed the opiate antagonist in good faith pursuant to an order or standing orders and protocols issued to or for the following:

...

- d. A first responder; or
- e. A unit of local government.
- f. For the purpose of this Rule 3.00.22, the following definitions apply:

...

- g. Each prescription drug outlet shall maintain, in a uniform and readily retrievable manner for at least two years from the date of latest transaction related to a pharmacist initiated order or standing order, the following record detailing the dispensing of an opioid antagonist pursuant to a pharmacist initiated order or standing order:
 - 1) The full name of the patient, person who is in a position to assist a person who is at increased risk of experiencing or likely to experience an opiate-related drug overdose event, first responder, unit of local government, or harm reduction organization receiving the drug;
 - 2) The full address of the first responder, unit of local government, or harm reduction organization receiving the drug;

...

3.01.22 Filling of automated cassettes.

...

- b. Automated cassettes, without electronic maintenance or records, shall be labeled with the following:

...

- 8. The identity of the individual responsible for packaging, or in the case as provided in this Rule 3.01.22(f), the identity of the persons responsible for packaging;

...

- f. A pharmacy technician may replenish automated cassettes without the need for a pharmacist's verification as long as the pharmacy technician uses bar code technology that checks the accuracy of the medication or a second pharmacy technician performs the verification.

...

3.03.00 Customized Patient Medication Packages (Med Paks).

3.03.10 ...

- a. Labeling

The patient med pak shall bear a label stating:

...

- (2) A serial number for each of the orders detailing the drug products contained therein;

...

- (7) The date of preparation of the patient med pak, the expiration date shall not exceed 90 days from the date of preparation; and

...

- b. Record Keeping.

...

- (2) The serial number of the order for each drug in product contained therein;

...

5.00.00 OUTLETS.

5.00.01 Definitions. The following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

...

- c. Non-Resident 503 Outsourcing Facility: means a facility that is registered by the Federal Food and Drug Administration, that is located outside the state, and that distributes compounded drugs into the state without a prescription order.
- d. Non-Resident Prescription Drug Outlet: means any pharmacy outlet located outside this state that is registered pursuant to Title 12, Article 280, C.R.S., which ships, mails, or delivers, in any manner, drugs or devices into this state pursuant to a prescription order.
- e. Risk-Base Assessment: means, pursuant to section 12-280-108(1)(a)(II), C.R.S., to inspect a non-resident prescription drug outlet, a non-resident 503B outsourcing facility, or an out-of-state prescription drug wholesaler when the Board determines, based on a complaint, that there may be an imminent threat to the health, safety and welfare of Colorado consumers and that such an inspection is imperatively necessary to preserve health, safety and welfare of Colorado consumers.
- f. Third-Party Logistics Provider: means a person that contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer but does not take title to a prescription drug or have general responsibility to direct the prescription drug's sale or distribution.

5.00.10 Registration. The applicant for registration shall obtain the appropriate form as approved by the Board to register an outlet. In the case of an application for a new in-state or non-resident prescription drug outlet or non-resident 503B outsourcing facility or third-party logistics provider, for a transfer of ownership of an in-state or non-resident prescription drug outlet or non-resident 503B outsourcing facility or third-party logistics provider, or for the relocation of an in-state or non-resident prescription drug outlet or non-resident 503B outsourcing facility or third-party logistics provider, the applicant shall submit such additional documentation as the Board may require.

...

5.00.17 Non-Resident 503B Outsourcing Facility. A nonresident 503B outsourcing facility shall submit the following to the Board with the application:

- a. Proof that the facility is actively registered with the Federal Food and Drug Administration as a 503B outsourcing facility and is actively licensed, permitted, or registered in the state in which it is a resident;
- b. The location, names, and titles of all principle entity officers and the name of the pharmacist in charge of the operations of the facility;
- c. Verification that the facility complies with all lawful directions and requests for information from the Federal Food and Drug Administration and from the regulatory or licensing agency of the state in which it is licensed, permitted, or registered, as well as all requests for information made by the Board pursuant to this section; and
- d. A copy of the most recent inspection report resulting from an inspection by the Federal Food and Drug Administration.

5.00.19 Third-Party Logistics Provider. A third-party logistics provider shall submit the following to the Board with the application:

- a. Proof that the facility is actively registered with the Federal Food and Drug Administration as third-party logistics provider;
- b. The location, names, and titles of all principle entity officers; and
- c. Verification that the facility complies with all lawful directions and requests for information from the Federal Food and Drug Administration as well as all requests for information made by the Board pursuant to this section.

...

5.00.40 Transfer of Ownership. Application to transfer registration of an in-state or non-resident prescription drug outlet or a non-resident 503B outsourcing facility or third-party logistics provider shall be submitted to the Board within thirty (30) days of the transfer of ownership. A transfer of ownership shall be deemed to have occurred:

- a. In the event the in-state or non-resident prescription drug outlet or a non-resident 503B outsourcing facility or third-party logistics provider is owned by a corporation, upon sale or transfer of twenty percent or more of the shares of said corporation to a single individual or entity.
- b. In the event the in-state or non-resident prescription drug outlet or a non-resident 503B outsourcing facility or third-party logistics provider is owned by a partnership, upon sale or transfer of twenty percent or more of any ownership interest.
- c. In the event the in-state or non-resident prescription drug outlet or a non-resident 503B outsourcing facility or third-party logistics provider is owned by a limited liability company (LLC), upon sale or transfer of twenty percent or more of the membership interests.
- d. Upon incorporation of an existing in-state or non-resident prescription drug outlet or non-resident 503B outsourcing facility or third-party logistics provider.

5.00.50 Relocation.

- a. In the event of a relocation of an in-state or non-resident prescription drug outlet or non-resident 503B outsourcing facility or third-party logistics provider, the outlet shall submit

an application provided by the board along with the prescribed fee no more than thirty (30) days prior to the effective date of relocation.

- b. The registration of a non-resident prescription drug outlet or non-resident 503B outsourcing facility or third-party logistics provider shall become void and shall be cancelled if the non-resident prescription drug outlet or non-resident 503B outsourcing facility or third-party logistics provider relocates to a state other than that which appears on its registration. In the event the non-resident prescription drug outlet or non-resident 503B outsourcing facility or third-party logistics provider wishes to continue conducting business in Colorado, it must apply for and receive a new Colorado registration prior to conducting business in Colorado.

5.00.55 Reinstatement of an In-State or Non-Resident Prescription Drug Outlet Registration.

...

- b. Non-resident Prescription Drug Outlet or non-resident 503B outsourcing facility or third-party logistics provider. If a registration has expired, a facility seeking to reinstate such registration shall submit the following:

...

- (2) A verification of the current pharmacy license, registration, or permit issued by the resident state board of pharmacy for the non-resident pharmacy or 503B outsourcing facility, and a verification of the current license or registration issued by the Federal Food and Drug Administration for a non-resident 503B outsourcing facility or third-party logistics provider;
- (3) If the registration has expired for a non-resident pharmacy for more than two years, a copy of the most recent report detailing an inspection of the non-resident prescription drug outlet by its resident state board of pharmacy dated within five years of submission of the reinstatement application.

5.00.60 Closure.

- a. Closure shall mean the permanent cessation of the practice of pharmacy in any in state or non-resident prescription drug outlet or the permanent cessation of conducting business in Colorado for a non-resident 503B outsourcing facility or third-party logistics provider. For in-state prescription drug outlets, closure shall also be deemed to have occurred if the compounding/dispensing area is not open for business the minimum hours specified in Rule 5.01.40(a).
- b. Upon the closure of any in-state or non-resident prescription drug outlet, it shall be the responsibility of the last pharmacist manager of record to remove the prescriptions and/or chart orders to another prescription drug outlet where patrons and/or practitioners are afforded reasonable access to a pharmacist's interpretation of such orders. Such relocation of records shall be made within seventy-two hours after closure. The pharmacist manager shall submit a notice, on a form and manner approved by the Board, detailing the closure of the prescription drug outlet or nonresident prescription drug outlet within seventy-two hours after closure. If the last pharmacist manager of record fails to relocate the records as required herein, the Board may direct the removal of the records to a suitable location. The last pharmacist manager of record shall make a reasonable effort to inform patrons of the prescription drug outlet of the location of the records. A non-resident 503B outsourcing facility or third-party logistics provider shall inform the Board, in writing, within seventy-two hours after closure.

...

7.00.00 PHARMACIST MANAGER RESPONSIBILITIES.

...

7.00.30 Compliance of Outlet:

- a. The manager of a prescription drug outlet is responsible for the operation of the outlet in compliance with all state and federal laws, rules, and regulations.
- b. Except as provided in sections 12-280-103(54)(b)(III) and 25.5-2.5-201 through 25.5-2.5-208, C.R.S., the pharmacist manager is responsible for ensuring that all prescription drugs and controlled substances are procured by the outlet from an entity or person registered by the Board. Any drug designated as an Investigational New Drug from the Federal Food and Drug Administration is exempt from this requirement provided the research requirements for the receipt of the product are followed and it meets the requirements of section 12-280-131(2), C.R.S.

...

9.00.00 LEGAL PROCEEDINGS.

9.00.10 Reporting.

...

- e. Each insurance company licensed to do business in Colorado and engaged in the writing of malpractice insurance for licensed pharmacists and each pharmacy that self-insures shall send to the Board, information relating to each malpractice claim against a licensed pharmacist which is settled or in which judgment is rendered against the insured. Such information shall be provided to the Board within 30 days of the settlement or judgment.

...

14.00.00 OTHER OUTLETS.

14.00.05 Eligibility for registration. The following facilities may register as other outlets provided all requirements are met:

...

- i. Medical Clinics operated by a hospital that engage in the compounding, dispensing, and delivery of drugs or devices for administration to patients while being treated in the facility;
- j. Hospices licensed pursuant to Part 1 of Article 3 of Title 25, C.R.S., that engage in the compounding, dispensing, and delivery of drugs or devices for administration to patients while being treated in the facility;
- k. Acute treatment units, registered, certified, or licensed as such by the Colorado Department of Public Health and Environment;
- l. Telepharmacies as defined pursuant to section 12-280-103(32), C.R.S.;

- m. Convalescent centers registered, certified, or licensed as such by the Colorado Department of Public Health and Environment;
- n. Community Mental Health Clinic having the same meaning as set for in section 25-27.6-102(9), C.R.S.;
- o. Behavioral Health Entity as defined in section 25-27.6-102(6), licensed pursuant to Article 27.6 of Title 25, C.R.S.; and
- p. Approved Treatment Facility that is an approved private or public treatment facility, as described in section 27-81-102(2) and (3) that adheres to the standards set forth in section 27-81-106, C.R.S.

...

14.00.80 Consultant pharmacist.

...

e. ...

(1) Quarterly inspections and visits shall be conducted for the following:

...

- (h) Ambulatory Surgical Centers;
- (i) Convalescent centers;
- (j) Community mental health clinic;
- (k) Behavioral health entity; and
- (l) Approved treatment facility.

...

15.00.00 WHOLESALERS.

15.01.00 Wholesale Drugs Distributor Registration Requirement.

- a. A wholesaler means a person engaged in the wholesale distribution of prescription drugs to persons, other than consumers, that are authorized by law to possess prescription drugs.

...

15.02.00 Personnel.

15.02.10 Designated Representative. A single person shall be designated by name and title who has complete and overall responsibility for the operation of the facility in compliance with all applicable laws rules pertaining to drugs and devices. This person's name and title shall be reported to the Board in writing.

...

15.09.00 Recordkeeping.

...

15.09.11 ...

- a. All such records, shall be retained for a period of at least three years after the date of any transaction relating to such record or inventory by any process providing an exact duplicate of the original order in a reproducible quality acceptable to the Board. Records shall be retained in a format that cannot be altered.

-

15.09.12 Retrievalability of records. For the purposes of these Rules, records and inventories shall be deemed "readily retrievable" if they meet the following requirements:

...

- c. Pedigrees shall be made available to the board or its inspectors.

...

15.09.14 Receipts.

- a. Except as provided in sections 25.5-2.5-201 through 25.5-2.5-208, C.R.S., in-state prescription drug wholesalers shall only receive prescription drugs and controlled substances from an entity that is registered by the Board. This section shall not apply to intracompany or reverse distribution transactions.

...

15.10.00 Policies and procedures.

15.10.10 ...

...

- l. A procedure to ensure compliance with content, utilization, availability, and retention to certify a pedigree is furnished when distribution occurs outside of the normal distribution channel.

...

17.00.00 COLLABORATIVE PHARMACY PRACTICE.

17.00.10 Definitions.

- a. "Collaborative pharmacy practice agreement,"...

...

- b. "Collaborative pharmacy practice agreement," or "collaborative practice agreement," may also mean ...

- c. "Evidence-based healthcare service" ...
- d. "Prescriber"...
- e. "Protocol" ...
- 21.00.00 COMPOUNDING.
- ...
- 21.00.10 Limitations and Record-Keeping.
- ...
- 21.00.20 Casual Sales/Distribution of Compounded Products.
- a. Unless otherwise allowed by state and federal law, nonresident prescription drug outlets shall not distribute compounded products into Colorado pursuant to 21 U.S.C. secs. 331(a), 353(b) and 355(a).
- b. Unless otherwise allowed by state and federal law, nonresident prescription drug outlets registered in Colorado may dispense compounded products and ship them into Colorado only pursuant to valid, patient-specific prescription orders.
- c. A nonresident prescription drug outlet may distribute a compounded product to a Colorado-licensed veterinarian who is located in Colorado and authorized by law to prescribe the drug only if:
...
- d. Distribution of a compounded product to a Colorado-licensed veterinarian may be for the purpose of dispensing by the receiving veterinarian only if:
...
...
- 21.11.00 Compounding Record.
- ...
- 21.11.10 Labeling of Non-Sterile Compounded Preparations.
- ...
- c. Labeling of non-sterile compounded products made in anticipation of orders shall include at least the following:
...
- 21.21.70 Labeling of CSPs.
- a. Labeling of CSPs made in anticipation of orders shall include at least the following:
...

23.00.00 ELECTRONIC PRESCRIPTION MONITORING PROGRAM.

23.00.10 Definitions:

...

- n. "Zero Report" means a report submitted through the Colorado PDMP data submission environment confirming that no prescription dispensing transactions that would be required to be reported to the PDMP were completed for that date.

23.00.30 Data Submission Timeline.

- a. Every prescription drug outlet must ensure that all controlled substance dispensing transactions are reported to the PDMP on a daily basis by no later than the outlet's next regular business day.
- b. Prescription drug outlets that did not complete any controlled substance dispensing transactions for a date where the prescription drug outlet was open for business are required to submit a Zero Report to the Colorado PDMP for that date by no later than the next regular business day.
- c. Within 14 days of receiving its Out of State Prescription Drug Outlet (OSP) registration, out-of-state prescription drug outlets must submit a written attestation to the Board using the Board's approved Attestation form to exempt the out-of-state prescription drug outlet from prescription data reporting and Zero Reporting requirements.
- d. Within 14 days of receiving its DEA license, In-state prescription drug outlets (PDO registration) must submit a written attestation to the Board using the Board's approved Attestation form to exempt the prescription drug outlet from prescription data and zero report requirements.
- e. Prescription drug outlets that fail to report controlled substance dispensing transaction data or Zero Reports to the Colorado PDMP twice within a 30-day period will be referred to the Board of Pharmacy for possible discipline.

23.00.40 Data Submission Format.

Prescription drug outlets shall submit to the PDMP the required data fields listed below:

- a. Version/Release Number (TH01)
- b. Transaction Control Number (TH02)
- c. Transaction Type (TH03)
- d. Creation Date (TH05)
- e. Creation Time (TH06)
- f. File Type (TH07)
- g. Segment Terminator Character (TH09)
- h. Unique Information Source ID (IS01)

- i. Information Source Entity Name (IS02)
- j. Pharmacy DEA Number (PHA03)
- k. Pharmacy Name (PHA04)
- l. Pharmacy Address (PHA05)
- m. Pharmacy City Address (PHA07)
- n. Pharmacy State Address (PHA08)
- o. Pharmacy ZIP Code Address (PHA09)
- p. Patient Last Name (PAT07)
- q. Patient First Name (PAT08)
- r. Patient Address (PAT12)
- s. Patient City Address (PAT14)
- t. Patient State Address (PAT15)
- u. Patient ZIP Code Address (PAT16)
- v. Patient Date of Birth (PAT18)
- w. Patient Gender Code (PAT19)
- x. Reporting Status (DSP01)
- y. Prescription Number (DSP02)
- z. Prescription Date Written (DSP03)
- aa. Refills Authorized (DSP04)
- bb. Prescription Date Filled (DSP05)
- cc. Prescription Refill Number (DSP06)
- dd. Product ID Qualifier (DSP07, or CDI02 if a Compound)
- ee. Product ID (DSP08, or CDI03 if a Compound)
- ff. Quantity Dispensed (DSP09 and CDI04 for each ingredient if a Compound)
- gg. Days Supply (DSP10)
- hh. Drug Dosage Units Code (DSP11 or CDI05 if a Compound)
- ii. Classification Code for Payment Type (DSP16)
- jj. Date Sold (DSP17)

- kk. Prescriber DEA Number (PRE02)
- ll. Prescriber Last Name (PRE05)
- mm. Prescriber First Name (PRE06)
- nn. Detail Segment Count (TP01)
- oo. Transaction Control Number (TT01)23.00.50 Data Correction.
 - a. Any errors identified by the PDMP or a prescriber shall be acknowledged and resubmitted by the prescription drug outlet within 10 business days of notification of the error.
 - b. Prescription drug outlets that fail to correct errors identified by the PDMP within 10 business days may be referred to the Board for possible discipline....

23.00.90 Exemptions

- a. The following individuals or entities are exempt from reporting controlled substance dispensing transactions to the Prescription Drug Monitoring Program:
 - ...
 - 2. A prescription drug outlet located within a hospital licensed or certified pursuant to section 25-1.5-103, C.R.S., that dispenses controlled substances only pursuant to chart orders or dispenses no more than a 24-hour supply of a controlled substance to an outpatient. Pharmacies that meet these criteria must submit an attestation to the Board to exempt the pharmacy from daily data submission or zero reporting requirements. However, dispensations of more than a 24-hour supply must be submitted to the PDMP by the end of the following day.
 - ...
- c. A prescription drug outlet which has submitted a written attestation to the Board that the pharmacy will never dispense controlled substance prescriptions to Colorado patients using the Board's approved Attestation form. Prescription drug outlets with a written attestation on file are also required to attest that the prescription drug outlet will never dispense such prescriptions in its registration renewal for the prescription drug outlet to remain exempt from data submission requirements.
 - ...

29.00.00 PHARMACY TECHNICIANS

29.00.50 Process for provisional certificant to apply for a hardship extension to extend the validity of a provisional certification beyond eighteen (18) months. The Board will consider criteria for qualifying for a one-time, fee-waived, nine (9) month hardship extension of a provisional certification based on the receipt of a detailed written explanation submitted to the Board at least sixty (60) days prior to the expiration date of the provisional certification based on:

- a. The negative effects on access to care in the community served by the provisional certificant or the employer of the provisional certificant;

- b. Financial hardship; or
- c. Health circumstances.

...

Appendix C

Colorado State Board of Pharmacy Statewide Protocol

Pre-Exposure and Post-Exposure Prophylaxis of HIV

...

Pre-Exposure Prophylaxis (PrEP) Protocol

...

TABLE 2 – ROUTINE REQUIRED MONITORING OF TREATMENT

Referrals to primary care provider:

- If a patient tests positive for HIV infection, the pharmacist will refer/direct the patient to a primary care provider and provide a list of providers and clinics in that region for confirmatory testing and follow up care. A list of providers may be found at: <https://cdphe.colorado.gov/living-with-hiv>

...

...

Editor's Notes

History

Rules 2.01.10; 2.01.30; 3.00.50; 3.00.70, 6.00.20; 6.00.30; 6.00.40; 8.00.10; 11.04.20; 14.03.10 eff. 07/30/2007.

Rules 8.00.10; 11.04.10; 20.00.00 eff. 09/30/2007.

Rule 4.00.00 eff. 11/30/2007.

Rules 3.01.20, 10.00.00 eff. 03/01/2008.

Rules 5.01.31; 15.01.11; 15.01.12; 15.09.11; 15.09.14; 22.00.00 eff. 05/30/2008.

Rules 4.02.00 (c), 21.00.00, 23.00.00 eff. 06/30/2008.

Rules 1.00.00, 2.00.00, 3.00.00, 5.00.00, 7.00.00, 11.00.00, 12.00.00, 14.00.00 eff. 11/30/2008.

Rule 15.09.11 eff. 01/31/2009.

Rules 6.00.30, 11.06.00, 22.00.00 eff. 03/02/2009.

Rule 9.00.00 eff. 04/30/2009.

Rules 5.00.55, 5.01.31(a), 6.00.20(f), 14.00.40, 15.01.17, 15.01.18, 15.08.19(f), 15.09.11(d), 15.09.15, 15.09.19, 15.09.20(g-h), 15.09.23, 15.09.24, 15.10.10, 16.00.20(d), 19.01.10(b), 19.01.30(a) eff. 12/30/2009.

Rules 4.00, 18.00 eff. 03/17/2010.

Rules 3.00.80 – 3.00.90; 5.00.55; 15.01.12; 19.00.00 – 19.01.50. Rule 22.00.00 repealed eff. 07/15/2010.

Rules 1.00.21, 5.01.31(e), 5.01.50 eff. 08/30/2010.

Rules 5.00.55, 21.11.10 (a), 21.21.70 (a) eff. 11/14/2010.

Rules 1.00.18, 2.01.50 – 2.01.53, 3.00.50 – 3.00.51, 5.00.50, 5.00.60, 5.01.31.a, 11.04.10, 15.01.11, 15.09.11.e eff. 06/14/2011.

Rules 3.01.24, 4.00.00, 11.04.20, 11.04.30, 21.00.00 - 21.11.20, 23.00.00 eff. 04/14/2012.

Rule 14.00.10 eff. 05/15/2012.

Entire rule eff. 01/01/2013. Rule 17.00.00 repealed eff. 01/01/2013.

Rules 3.00.21 – 3.00.22, 3.00.55, 3.00.90.e.(4), 3.01.20.c, 3.01.30, 3.01.32, 3.01.34, 4.00.10.f, 4.00.20, 5.01.31.a.(1)(C), 15.10.14.a, 23.00.90 eff. 09/14/2013.

Rules 2.01.10, 3.00.25, 3.00.91, 5.00.15, 6.00.30, 10.00.00, 11.03.00, 11.07.10, 14.00.05.k-l, 14.00.80.e.(2), 14.00.80.j, 16.00.00, 18.00.00, 20.00.00, 21.00.20, 21.10.80, 21.11.00.a.(12), 21.11.10.c, 21.20.20, 21.20.30.b(14), 21.21.40.c, 21.21.70.c, 21.22.00.b(1), 23.00.30, 23.00.50, 23.00.65, 23.00.70, eff. 10/15/2014.

Rules 3.00.22, 3.00.81.l-o, 3.00.82-3.00.84, 3.00.85.a(3), 3.00.86, 3.00.88.a(2), 3.00.88.b(10), 4.06.00, 6.00.10-6.00.20, 6.00.40.a, 6.00.50, 6.00.60.a, 6.00.60.b.10, 6.00.70.a, 6.00.90.b, 6.01.10.a, 19.01.40.c, 21.00.10, 21.00.20.b, 21.10.60.b, 21.10.80.b(4), 21.11.10.a(5), 21.11.10.c(9), 21.20.10.d, 21.20.20.b(2)(a), 21.20.25.b, 21.20.70.f, 21.20.90.b-c, 21.21.10.b, 21.21.70.a(6), 21.21.70.c(10), 23.00.40.y-z, 23.00.70.h-j eff. 09/14/2015.

Rules 3.00.21, 3.00.27, 19.01.10(1), 21.00.20, 21.11.20.d, 21.20.16, 21.20.20.b(2), 21.20.60.b, 21.20.60.e, 21.21.90.d eff. 03/16/2016.

Rules 3.00.20, 3.00.22 e, 3.00.81 g, 3.00.84, 3.01.10 d, 4.00.10, 4.00.25, 4.05.00, 5.00.15 d, 5.01.31, 6.00.20 e, 7.00.10, 8.00.10, 14.00.80 i-k, 19.01.10 b.(2), 20.00.80 a.1, 21.00.20, 21.00.30, 21.20.20 b, 27.00.00, 28.00.00 eff. 11/14/2016. Rule 10.00.51 repealed eff. 11/14/2016.

Rule 17 eff. 03/17/2017. Rule 18 repealed eff. 03/17/2017.

Rules 3.01.10 d, 7.00.30 b.4, 21.00.20, 21.00.30, 23.00.10, 23.00.70 eff. 11/14/2017. Rules 1.00.15, 5.00.55 a.(6) repealed eff. 11/14/2017.

Rules 3.05.00, 5.01.31 m, 5.01.31 r, 5.01.40 a, 5.01.50 a-f, 11.03.05, 11.04.10, 11.06.10 j, 14.02.30 d, 20.00.90 c, 20.01.00 a.2.iv, 21.00.20 d.ii, 21.20.70 g, 25.00.12 d-e, 25.00.14 c-d, 25.00.16 e eff. 09/17/2018.

Rules 1.00.24, 2.01.50, 2.01.52, 2.01.53, 2.01.56, 2.01.80, 3.00.23, 3.00.30, 3.05.10-3.05.30, 3.05.80, 7.00.30 c, 11.03.00 a, 11.07.10 a, 14.00.05 m, 14.00.40 f.1, 14.00.80 e, 15.01.11 a.(8)(i), 15.01.11 a.(9), 15.09.14 a, 19.01.10 b.-c, 23.00.10, 23.00.70, 29.00.00 eff. 11/30/2019.

Rule 30.00.00 emer. rule eff. 05/01/2020; expired 08/28/2020.

Rules 17.00.10, 17.00.30 a.7, 17.00.50 b.2, 17.00.70, 17.00.80, 17.01.00, 17.02.00 a, 17.03.00 b, 17.04.00 eff. 05/15/2020. Rule 6.00.00 repealed eff. 05/15/2020.

Rule 30.00.00 eff. 08/30/2020. Rule 3.04.00 repealed eff. 08/30/2020.

Rules 2.01.20, 3.00.81 a, 3.01.22 b, 5.00.40, 5.00.50 a, 7.00.30 b, 10.00.60, 11.08.00, 11.08.50, 14.00.05 b, 14.00.40 b-c, 14.05.11, 15.05.20, 15.01.11 b-d, 15.01.14 a-b, 15.01.17, 17.00.50 c, 24.00.50, Appendix C eff. 11/14/2020.

Rule 19.00.00 emer rule eff. 11/19/2020.

Rule 1.00.25, Appendix D eff. 12/30/2020.

Rules 5.01.31 j-k, 17.00.10 d, 19.01.10, 19.01.20, 19.01.30 a, 19.01.40 a.(5)-(9), 19.01.50 a.(3) eff. 03/17/2021.

Rule 1.00.25 E-F eff. 05/15/2021.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00552

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

Division of Professions and Occupations - State Board of Pharmacy

on 09/30/2021

3 CCR 719-1

STATE BOARD OF PHARMACY RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/01/2021 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 18, 2021 11:09:03

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Real Estate

CCR number

4 CCR 725-1

Rule title

4 CCR 725-1 RULES REGARDING REAL ESTATE BROKERS 1 - eff 11/30/2021

Effective date

11/30/2021

Chapter 1: Definitions

1.32. Listing Contract: An agreement between a Brokerage Firm and a Consumer in which a Broker licensed with the Brokerage Firm is designated to provide Real Estate Brokerage Services to the Consumer. Listing Agreements include: Exclusive Tenant Contract, Exclusive Right to Sell, Exclusive Right to Lease, Exclusive Right to Buy, and Management Agreements.

Chapter 6: Practice Standards

6.10. Advertising

A. Names

1. Pursuant to section 12-10-203(9), C.R.S., no Broker will be licensed to conduct Real Estate Brokerage Services under more than one (1) Brokerage Firm.
2. Pursuant to section 12-10-203(9), C.R.S., no Broker or Brokerage Firm will conduct or promote Real Estate Brokerage Services except in the name under which that Broker or Brokerage Firm appears in the records of the Commission. A Brokerage Firm may also include the locations of its offices, to include branch offices in the Advertising.
3. Brokers will not Advertise so as to mislead the public concerning the identity of the Broker or the Broker's Brokerage Firm.
4. All Advertising must be done clearly and conspicuously in the name of the Broker's Brokerage Firm. However, a Broker who Advertises real property owned by the Broker which is not listed for sale or lease with the Broker's Brokerage Firm is exempt from Advertising the Broker's own property in the Broker's Brokerage Firm's name.
5. A Brokerage Firm may use a Trade Name in addition to or instead of the Brokerage Firm's legal name. The Trade Name must be filed with the Commission.
6. A Brokerage Firm may use a Trademark in conjunction with the Brokerage Firm's legal name or Trade Name with permission of the owner of such Trademark.
 - a. A Brokerage Firm that uses a Trade Name or Trademark owned by a third party is required to use one (1) of the following statements, which must appear in a clear and conspicuous manner so as to attract the attention of the public:
 - i. "Each (insert general Trade Name) brokerage business is independently owned and operated." or
 - ii. "Each office independently owned and operated."
 - b. Upon written request, the above statements may be modified with consent of the Commission.

7. No Brokerage Firm will use more than one (1) Trade Name; however, upon written request and with the consent of a representative of the Commission, a Brokerage Firm may use more than one (1) Trademark. Use of the Trademark(s) is only acceptable if the Brokerage Firm has obtained permission of the registrant of such Trademark.
8. No Broker may use a professional designation in Advertising unless the Broker is in good standing and the designation is easily verifiable by the public and the Commission. A Broker that Advertises an award, membership, or achievement must be able to provide verification of the validity of such claims upon request from any member of the public or Commission.

B. Teams

1. Brokers who form a Team must not Advertise in a manner that misleads the public as to the identity of the Team's Brokerage Firm. Teams are prohibited from using the following terms in the Team's name:
 - a. Realty,
 - b. Real estate,
 - c. Realtors,
 - d. Company,
 - e. Corporation,
 - f. Corp.,
 - g. Inc.,
 - h. LLC,
 - i. LP or LLP, or
 - j. Any other term that would imply a separate entity from the Brokerage Firm with which the Team Brokers are licensed.
2. All Team Advertising must clearly and conspicuously include and be in conjunction with the legal name or Trade Name of the Brokerage Firm.
3. If requested by a Consumer, the Commission, another Brokerage Firm or Broker, the Brokerage Firm will provide the names of the Brokers that belong to any Team licensed with the Brokerage Firm.
4. Brokers may not allow the use of the Team's name by other Brokers outside the Team's Brokerage Firm.

C. Brokerage Firms and Brokers are responsible for ensuring that all Advertising is accurate and complies with copyright laws and other applicable laws and regulations.

D. Electronic Media

1. When a Broker owns or controls Electronic Media, each Viewable Page must include the Broker's Brokerage Firm's name. Any expired listings must be removed from the Broker's Electronic Media within three (3) days of a Listing Contract expiring.
2. If a Broker authorizes a third party for the Broker's Electronic Media Advertising, the Broker is responsible for ensuring that the information provided to such third party is accurate. The Broker must submit a written request to any third party syndicators to have all expired listings removed from Electronic Media within three (3) days of a Listing Contract expiring.
3. A Broker who communicates through email, chat, instant messages, newsgroups, discussion lists, bulletin boards, blogs, or other similar means for purposes of Advertising the Broker's Real Estate Brokerage Services must use the Broker's Brokerage Firm's name. However, once a Broker has disclosed the Broker's Brokerage Firm to a specific Consumer, the Broker is not required to continue to make the same disclosure to the specific Consumer.
4. When it is not reasonable for a Broker to disclose the Broker's Brokerage Firm's name in an Electronic Media because space is limited, the Broker will disclose the Broker's Brokerage Firm's name clearly and conspicuously within the first click of the mouse.

E. Past Sales Data Advertising

General sales data Advertising, regardless of the medium, which recaps sales activity over a period of time in a given subdivision or geographical area must include all of the following:

1. Cite the source of the data; and
2. Include a disclaimer, if accurate, that all reported sales:
 - a. Were not necessarily listed or sold by the Broker; and
 - b. Are intended only to show trends in the area or will separately identify the Broker's own sales activity.

F. Authority to Advertise Available and Under Contract Properties

Brokers may not Advertise the availability or price of a property whether for sale or lease without authority from the owner or the owner's Broker.. If such authority is requested, an owner's Broker may not withhold the authority to advertise said property unless such authority is contradictory to instructions from the owner as memorialized in the Listing Contract or other writing. A Broker who has received written permission to disseminate another Broker's Advertising or an owner's Advertising who is not represented by a Brokerage Firm (For Sale by Owner) may do so as set forth in subsections F.1. and F.2. of this Rule.

1. A Broker may disseminate another Broker's Advertising in the following manner:

a. A Broker must have the owner's Broker's written permission to disseminate the Advertising;

b. The Broker discloses, in a conspicuous manner, the owner's Brokerage Firm;

c. The Advertising is accurate and not misleading to Consumers; and

d. The Advertising complies with subsection C. of this Rule.

2. A Broker may disseminate an owner's Advertising who is not represented by a Brokerage Firm in the following manner:

a. The Broker must have the owner's written permission to disseminate the Advertising;

b. The Broker discloses, in a conspicuous manner, that the owner is not represented by a Broker;

c. The Advertising is accurate and not misleading to Consumers; and

d. The dissemination of an owner's Advertising does not include submitting the information into a property exchange or multiple listing service.

G. Price Set by Owner

The price quoted in any Advertising will not be anything other than the price agreed upon between the Broker and the owner.

6.25. Investigations or Audits by Commission

A. Notification of a Complaint that has been Assigned for Investigations or an Audit

1. A Broker or Brokerage Firm will receive written notification from the Commission regarding the following:
 - a. A complaint has been filed and an investigation has been initiated. A copy of the complaint that has been filed against the Broker or Brokerage Firm will be provided;
 - b. A complaint has been initiated on the Commission's own motion. A summary of the complaint against the Broker or Brokerage Firm will be provided; or
 - c. The Broker or Brokerage Firm has been selected for an audit.
2. Upon receipt of the Commission's notification, a Broker or Brokerage Firm must submit a written response to the Commission. Failure to submit a written response within the time set by the Commission in its notification will be grounds for disciplinary action regardless of the question of whether the underlying complaint or audit warrants further investigation or subsequent action by the Commission. The written response must contain the following:
 - a. A complete and specific answer to the factual recitations, allegations, or averments made in the complaint filed against the Broker or Brokerage Firm, whether made by a member of the public, on the Commission's own motion, or by an authorized representative of the Commission.
 - b. A complete and specific response to any additional questions, allegations, or averments presented in the notification letter.
 - c. A complete transaction file and any documents or records requested in the notification letter.
 - d. Any further information relative to the complaint or audit that the Broker or Brokerage Firm believes to be relevant or material to the matters addressed in the notification letter.

B. Extension to Respond

Upon request, the Commission will grant extensions of time for Brokers or Brokerage Firms to respond to any complaint or audit provided such request is reasonable.

C. Produce Records for Investigation or Audit

Brokers and Brokerage Firms must retain and produce for inspection by the Commission any document or record as may be reasonably necessary for investigation or audit in the enforcement of Commission statutes and these Rules. Failure to submit such documents or records within the time set by the Commission in its notification will be grounds for disciplinary action unless the Commission has granted an extension of time for such production.

Chapter 9: Commission Review of Initial Decisions and Exceptions

9.1. Written Form, Filing Requirements, and Service

A. All pleadings must be in written form, mailed with a certificate of service to the Commission.

B. All pleadings must be filed with the Commission on the date the filing is due. Computation of time for the filing timelines for Chapter 9 of these Rules is pursuant to section 2-4-108, C.R.S. A pleading is considered filed upon receipt by the Commission. Chapter 9 of these Rules does not provide for any additional time for service by mail.

C. All pleadings must be filed with the Commission and not with the Office of Administrative Courts. Any pleadings filed in error with the Office of Administrative Courts will not be considered. The Commission's address is:

Colorado Real Estate Commission
1560 Broadway, Suite 925
Denver, CO 80202

D. All pleadings must be served on the opposing party on the date which the pleading is filed with the Commission. Electronic service between the parties is encouraged. The date and manner must be noted on the certificate of service.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00537

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

Division of Real Estate

on 10/05/2021

4 CCR 725-1

RULES REGARDING REAL ESTATE BROKERS

The above-referenced rules were submitted to this office on 10/06/2021 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 19, 2021 15:23:16

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Real Estate

CCR number

4 CCR 725-6

Rule title

4 CCR 725-6 SUBDIVISIONS AND TIMESHARES 1 - eff 11/30/2021

Effective date

11/30/2021

**DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
REAL ESTATE COMMISSION
4 CCR 725-6**

**RULES GOVERNING SUBDIVISIONS AND TIMESHARES OF THE REAL ESTATE
COMMISSION**

Chapter 1: Definitions

- 1.1. Applicant: A person or entity seeking registration from the Commission to act in the capacity of a Developer pursuant to section 12-10-504(1), C.R.S.
- 1.2. Business Record: The Consumer Agreement, financing agreement, buyer and seller settlement statement, title policy, trust deed, escrow agreement, and any other documents executed by or on behalf of the Developer in the sale, lease or transfer of any interest in a Subdivision, including records showing the receipt and disbursement of any money or assets received or paid on behalf of any homeowners' or similar association managed or controlled by a Developer.
- 1.3. Commission: The Colorado Real Estate Commission as defined pursuant to section 12-10-501(1), C.R.S.
- 1.4. Consumer: A natural person, corporation, company, limited liability company, partnership, firm, association, or other legal entity.
- 1.5. Consumer Agreement: A written agreement between a Consumer and a Developer in the sale, lease or transfer of any interest in a Subdivision, which includes but is not limited to, sales contract, purchase agreement, lease agreement, right-to-use contract, points-based contract, and installment contract.
- 1.6. Deemed Complete: An Applicant has submitted a complete and satisfactory application in compliance with sections 12-10-502 and 12-10-503, C.R.S. that includes the Fee and the accompanying required documentation as set forth in Chapter 2 of these Rules.
- 1.7. Day: any calendar day and includes Saturday, Sunday, and legal holidays.
- 1.8. Developer: Has the same meaning pursuant to section 12-10-501(2), C.R.S.
- 1.9. Developer Certificate: Certificate issued by the Commission or Division upon meeting the registration requirements pursuant to sections 12-10-503 and 504, C.R.S.
- 1.10. Division: The Colorado Division of Real Estate as defined pursuant to section 12-10-101(2), C.R.S.
- 1.11. Electronic Record: Has the same meaning set forth in the Uniform Electronic Transaction Act in sections 24-71.3-101, et. seq., C.R.S.

1.12. Electronic Signature: Has the same meaning set forth in the Uniform Electronic Transaction Act in sections 24-71.3-101, et. seq., C.R.S.

1.13. Equivalency Filing: An application for a Developer Certificate, a supplemental application to add a Subdivision to an existing Developer Certificate, or a supplemental application to otherwise amend an existing Developer Certificate, wherein the Developer is currently regulated in another state and submits evidence in form and substance acceptable to the Commission that the registration requirements are substantially equivalent to the Practice Act or that provide substantially comparable protection to a purchaser.

1.14. Exchange Program: Any method, arrangement, or procedure for the voluntary exchange of the right to use and occupy accommodations and facilities among owners. The term does not include the assignment of the right to use and occupy accommodations and facilities to owners pursuant to a particular Time Shares plan's reservation system.

1.15. Fee: The prescribed non-refundable license fee as set by the Division.

1.16. Nondisturbance Agreement: Agreement by which the holder of a blanket encumbrance against a project agrees that its rights in the project will be subordinate to the rights of the purchasers.

1.17. Petitioner: For the purposes of implementing the provisions of Chapter 5 of these Rules, any person who has filed with the Commission a petition or has been granted leave to intervene by the Commission for a declaratory order pursuant to section 24-4-105(11), C.R.S. and as set forth in Chapter 5 of these Rules.

1.18. Practice Act: The Subdivision Developer's Act found at sections 12-10-501, et. seq., C.R.S.

1.19. Reservation Agreement: A revocable right to purchase an interest in a Subdivision project for which a Developer Certificate from the Commission or Division has not yet been obtained.

1.20. Safe and Secure Manner: Reasonable measures are taken to minimize the risk of loss, damage, or theft.

1.21. Subdivision: Has the same meaning pursuant to sections 12-10-501(3)(a) and (3)(b)(I), C.R.S.

1.22. Time Share: Has the same meaning pursuant to section 12-10-501(4), C.R.S.

Chapter 2: Application for Registration

2.1. Registration Requirements for an Initial Developer's Certificate

A. If an Applicant is:

1. A corporation, a director or an authorized officer must apply on behalf of said corporation.

2. A partnership or limited partnership, one of the general partners must apply on behalf of the partnership or limited partnership.
3. A joint owner of the Subdivision, such owner may apply on behalf of all joint owners of such Subdivision.
4. A limited liability company, one of the managers or member-managers must apply on behalf of the company.
5. With respect to any other type of Developer that is other than a natural person, a person authorized to act on behalf of such entity, as demonstrated by such documents in a form satisfactory to the Commission, will apply on behalf of that entity.

B. In addition to section 12-10-503, C.R.S., the Applicant for a Developer Certificate must provide the Commission with the following information concerning each Subdivision to be registered:

1. The address or actual physical location of each Subdivision from which sales are intended to be made;
2. Copies of a recorded deed or other documents evidencing the Developer's title or other interest in the Subdivision and a title commitment, policy or report, abstract and opinion, or other evidence acceptable to the Commission documenting the condition of such title or interest;
3. Sample copies of the Consumer Agreement, notes, deeds, and other legal documents prepared by the Developer or an attorney representing the Developer which are to be used to effectuate the sale or lease of the Subdivision or any part thereof. The Commission may disapprove the form of the documents submitted and may deny an application for registration until such time as the Applicant submits such documents in forms that are satisfactory to the Commission;
4. In compliance with section 12-10-503(3)(e), C.R.S., a Developer registering a Subdivision that incorporates Time Share use and is subject to one or more blanket encumbrances must submit to the Commission a Nondisturbance Agreement by which the holder of each blanket encumbrance against the Subdivision agrees that its rights in the Subdivision will be subordinate to the rights of the time share use purchasers. From and after the recording of a Nondisturbance Agreement, the holder of the blanket encumbrance executing the same, such holder's successors and assigns, and any person who acquires all or part of the Subdivision through the subject blanket encumbrance, will take the property subject to the rights of the Time Share use purchasers. Every Nondisturbance Agreement must contain the covenant of the holder of the blanket encumbrance that such person or any other person acquiring all or part of the Subdivision through such blanket encumbrance will not use or cause the Subdivision to be used in a manner which would prevent the Time Share use purchasers from using and occupying the Subdivision in a manner contemplated by the Time Share use plan. Any other trust or escrow arrangement which fully protects the Time Share use purchasers' interest in the Subdivision as contemplated by section 12-10-503(3)(e), C.R.S., may be approved by the Commission;
5. If the Developer is other than a natural person, proof of formation and registration in accordance with state and local requirements must accompany the Application; and

6. Copies of the recorded declaration of the Subdivision.

C. Copies of required information and disclosures as set forth in Rules 2.3., 2.4., 2.5., and 2.6. as applicable.

D. Registration of Developers Regulated in Another State

Pursuant to section 12-10-503(1), C.R.S., the Commission in its sole discretion may accept an Equivalency Filing from a Developer as an application for a Developer Certificate. The Developer may be deemed to have fully or partially satisfied, and be in compliance with, sections 12-10-503(2) and 12-10-503(3), C.R.S., and Rules 2.1(B), 2.3., 2.4., 2.5., 2.6., 4.2., and 4.3. as determined by the Commission.

2.2. Addition of a Subdivision to an Existing Developer Certificate

A Developer may add an additional Subdivision to an existing Developer Certificate by completing the Division created supplemental application and submitting the following information:

A. The Developer must provide the information pursuant to section 12-10-503(3), C.R.S., and Rules 2.1(B), 2.3., 2.4., 2.5., and 2.6. as applicable; or

B. In connection with an Equivalency Filing, the Developer must provide the information that was required at time of initial registration as set forth in Rule 2.1(D). as applicable.

2.3. Copies of Written Disclosures

Pursuant to sections 12-10-506(6)(a), C.R.S., and 12-10-506(7), C.R.S., the Developer must supply the following information to the Commission in addition to the required information set forth in Rule 2.1 and prior to contracting with the public must disclose this information to prospective purchasers in the Consumer Agreement or in a separate written disclosure document:

A. The name and address of the Developer and of the Subdivision lots or units.

B. An explanation of the type of ownership or occupancy rights being offered.

C. A general description of all facilities, amenities and accommodations. As applicable for any uncompleted Subdivision, the Developer must also supply the provisions for and the availability of legal access, roads, sewage disposal, public utilities (including water, electricity, gas, internet and telephone) and other promised facilities in the Subdivision. The disclosure must identify and describe the specific amenities promised, the ownership of such amenities, the projected completion date of any amenities not completed, a statement setting forth the type of financial arrangements as set forth in Rule 2.10.A., and the allocation of the amenity expense among the Developer, the purchaser and any third party.

D. In compliance with section 12-10-505(1)(h), C.R.S., a statement in bold print immediately prior to the purchaser's signature line on the Consumer Agreement disclosing the rescission right available to purchasers and that the rescission right cannot be waived; the minimum allowable rescission period in Colorado is five (5) Days after execution of the Consumer Agreement.

E. A general description of all judgments and administrative orders issued against the seller, Developer, homeowners' association or managing entity which are material to the Subdivision development and operational plan.

F. Any taxes or assessments, existing or proposed, to which the purchaser may be subject, or which are unpaid at the time of contracting, including obligations to special taxing authorities or districts.

G. A statement that sales must be made by brokers licensed by the State of Colorado unless specifically exempted pursuant to section 12-10-201(6)(b), C.R.S.; the Consumer Agreement must disclose the name of the real estate brokerage firm and the name of the broker establishing a brokerage relationship with the Developer.

H. When a separate document is used to make any of the disclosures as set forth in this Rule and Rules 2.4., 2.5., and 2.6., this statement must appear in bold print on the first page of the document and preceding the disclosure: **"The Colorado Real Estate Commission has not prepared or issued this document nor has it passed on the merits of the subdivision described herein."**

I. A statement that all funds paid by the purchaser prior to delivery of the lease, deed or other instrument purporting to convey any interest in the site, tract, lot, divided or undivided interest from a Subdivision will be held in trust by the licensed real estate broker named in the Consumer Agreement, or a clear statement specifically setting forth who such funds will be delivered to, when such delivery will occur, the use of said funds, and whether or not there is any restriction on the use of such funds.

J. Where a deed is issued, a statement that, immediately following the date of closing, the purchaser's deed will be delivered to the appropriate county Clerk and Recorder's office for recording, or a clear statement specifically setting forth when such delivery and recording of the deed will occur; for the purposes of this Rule, the date of closing is defined as the date the purchaser has either paid the full cash purchase price or has made partial cash payment and executed a promissory note or other evidence of indebtedness for the balance of the purchase price. A statement that a title insurance policy will be delivered at no expense to the purchaser within sixty (60) Days following recording of the deed or the closing, whichever is earlier, unless specifically agreed to the contrary by the parties in the contracting instrument.

K. A Consumer Agreement which requires the execution of a promissory note or other evidence of indebtedness that accrues interest or requires payments prior to the recording of a deed, will be deemed to be an installment contract pursuant to section 12-10-503(3)(g), C.R.S. where an installment contract is used:

1. A statement whether or not the purchaser's deed is escrowed with an independent escrow agent and if so, the name and address of the escrow agent;
2. The amount of any existing encumbrance(s), the name and address of the encumbrancer, and the conditions, if any, under which a purchaser may cure a default caused by non-payment;
3. A clear statement that a default on any underlying encumbrance(s) could result in the loss of the purchaser's entire interest in the property;
4. A clear statement advising the purchaser to record the installment contract; and
5. Pursuant to section 12-10-503(3)(e), C.R.S., an agreement by which the holder of any blanket encumbrance against the Subdivision agrees that its rights and the rights of its successors or assigns in the Subdivision will be subordinate to the rights of

purchasers, or any other trust, escrow or release arrangement which fully protects the purchasers' interest in the Subdivision.

2.4. Copies of Written Disclosures If the Subdivision Has a Homeowners' or Similar Association

- A. Whether membership in such association is mandatory;
- B. An estimate of association dues and fees which are the responsibility of the purchaser and the Developer, respectively;
- C. A description of the services and amenities provided by the association;
- D. Whether the Developer has voting control of the association and the manner in which such control can or will be transferred; and
- E. Whether the Developer has any financial interest in or will potentially derive any income or profit from such association, including the Developer's right to borrow or authorize borrowing from the association.

2.5. Copies of Written Disclosure If Time Share Sales are to be Made from a Subdivision:

- A. Information and disclosures as set forth in Rules 2.3. and 2.4.;
- B. A description of the Time Share units including the number of Time Share units, the length, type and number of Time Share interests in each unit, and the Time Share periods constituting the Time Share plan;
- C. The name and business address of the managing entity appointed by the Developer or homeowners' association, a description of the services that the managing entity will provide, a statement as to whether the Developer has any financial interest in or will potentially derive any income or profit from such managing entity, and the manner, if any, by which the purchaser or Developer may change the managing entity or transfer the control of the managing entity;
- D. An estimate of the dues, maintenance fees, real property taxes and similar periodic expenses which are the responsibility of the purchaser and the Developer, respectively, and a general statement of the conditions under which future charges, changes or additions may be imposed. Such estimate must include a statement as to whether a maintenance reserve fund has been or will be established; the manner in which such reserve fund is financed; an accounting of any outstanding obligations either in favor of or against the fund; the Developer's right to borrow or authorize borrowing from the fund; and the method of periodic accounting which will be provided to the purchaser;
- E. A description of any insurance coverage(s) provided for the benefit of Time Share owners;
- F. A statement that mechanic's liens law may authorize enforcement of the lien by selling the entire Time Share unit;
- G. A statement on whether the Time Share interest is perpetual or for a term of years and, if for a term of years, the length and expected termination date of the term;

H. A statement as to the effect a voluntary sale, by the Developer to a third party, will have on the contractual rights of Time Share owners;

I. A statement that an involuntary transfer by bankruptcy of the Developer may have a negative effect on the rights of the Time Share owners; and

J. A statement that a Federal or State tax lien could be enforced against the developer by compelling the sale of the entire Subdivision.

2.6. Copies of Written Disclosures If Time Shares are to be Sold from a Subdivision Which: Contains Two (2) or More Component Sites Situated at Different Geographic Locations or Governed by Separate Sets of Declarations, By-Laws or Equivalent Documents; and Does Not Include a Guaranteed, Recurring Right of Use or Occupancy at a Single Component Site:

A. For each component site, the information and disclosures as set forth in Rules 2.3., 2.4., and 2.5.;

B. A general description of the Subdivision;

C. A clear description in the Consumer Agreement of the interest and term of usage being purchased and a definite date of termination of the purchaser's interest in the Subdivision, which date will be not later than the termination date of the Subdivision's interest in a specifically identified component site;

D. A clear disclosure and description of any component site which is not legally guaranteed to be available for the purchaser's use for the full term of the purchaser's usage interest;

E. The system and method in place to assure maintenance of no more than a one- to-one ratio of purchasers' use rights to the number of total use rights in the Subdivision for each term of usage being offered for sale, including provisions for compensation to purchasers resulting from destruction of a component site or loss of use rights to any component site;

F. A description of the system or program by which a purchaser obtains a recurring right to use and occupy accommodations and facilities in any component site through use of a reservation system or otherwise, including any restrictions on such rights or any method by which a purchaser is denied an equal right with all other users to obtain the use of any accommodation in the Subdivision;

G. A description of the management and ownership of such reservation system or program, whether through the Developer, a homeowners' association, a club or otherwise, including the purchaser's direct or indirect ownership interest or rights of control in such reservation system;

H. Whether the Developer, club or association which controls the reservation system or any other person has or is granted any interest in unsold, non-reserved or unused use rights and whether the Developer, club, association or other person may employ such rights to compete with purchasers for use of accommodations in the Subdivision or any component site and, if so, the nature and specifics of those rights, including the circumstances under which they may be employed;

I. The method and frequency of accounting for any income derived from unsold, non-reserved or unused use rights in which the purchaser, either directly or indirectly, has an interest;

J. The system and method in place, including business interruption insurance or bonding, to provide secure back-up or replacement of the reservation system in the event of interruption, discontinuance or failure;

K. The amount and details of any component site, reservation system or other periodic expense required to be paid by a purchaser, the name of the person or entity to which such payments will be made, and the method by which the purchaser will receive a regular periodic accounting for such payments;

L. If component site expenses are included in those periodic payments made by a purchaser, a statement for each component site from the homeowners' association or other responsible entity acknowledging that payment of such expenses as taxes, insurance, dues and assessments are current and are being made in the name of the Subdivision;

M. Evidence that an escrow system with an independent escrow agent is in place for receipt and disbursement of all moneys collected from purchasers that are necessary to pay such expenses as taxes, insurance and common expenses and assessments owing to component site homeowners' associations or others, or a clear description of the method by which such funds will be paid, collected, held, disbursed and accounted for;

N. A clear statement as to whether a purchaser's rights, interests or terms of usage for any component site within the Subdivision can subsequently be modified from those terms originally represented and a description of the method by which such modification may occur;

O. If the Subdivision documents allow additions or substitutions of accommodations or component sites, a clear description of the purchaser's rights and obligations concerning such additions or substitutions and the method by which such additions or substitutions will comply with the provisions of this rule; and

P. A clear description of any existing incidental benefits or amenities which are available to the purchaser at the time of sale but to which the purchaser has no guaranteed right of recurring use or enjoyment during the purchaser's full term of interest in the Subdivision.

2.7. Invalid Payment

If the Fees accompanying any Application made to the Commission are paid for by check and the check is not immediately paid upon presentment to the bank upon which the check was drawn, or if payment is submitted in any other manner and payment is denied, rescinded or returned as invalid, the application will be deemed incomplete and canceled. The application may be reinstated only at the discretion of the Commission and upon full payment of any Fees together with payment of the fee required by state fiscal rules for the clerical services necessary for reinstatement.

2.8. Review of Application for Completeness

If the Commission requires additional information, the Commission will give written notice of the information so required and will allow an additional sixty (60) Days to present such material before denial of the application, which period may be extended only upon a showing of good cause.

2.9. Issuance of a Developer Certificate or the Addition of a Subdivision

The Commission will issue or deny registration of a Developer Certificate or approve or deny the addition of a Subdivision within sixty (60) Days from the date of receipt of the Deemed Complete application by the Commission.

2.10. Offering Reservations during the Pendency of the Application

A. Pursuant to section 12-10-502(2), C.R.S., where a Developer receives cash or receivables from a purchaser for an uncompleted Subdivision, the Commission will register such Developer only after:

1. The Developer deposits in an escrow account, with an independent escrow agent, all funds and receivables received from purchasers, or
2. The Developer obtains a letter of credit or bond payable to an independent escrow agent, payment or performance bond, or establishes any other financial arrangement acceptable to the Commission, the purpose of which is to ensure completion of Subdivision accommodations and facilities and to protect the purchaser's interest in the Subdivision accommodations and facilities.

B. All approvals for the use of Reservation Agreements issued as set forth in this rule will expire on December 31 following the date of issuance.

Chapter 3: Registration and Certification

3.1. Renewal of the Registration and Certification

Renewal of the registration and certification as a Developer can be executed only on the renewal application provided by the Commission, and must be delivered to the Commission, accompanied by the proper Fees, on or before December 31 of each year.

3.2. Licensed Real Estate Brokers

The registration and certification of a Developer under Title 12, Article 10, Part 5, C.R.S., does not exempt the Developer from the requirements for the licensing of real estate brokers under Title 12, Article 10, Part 1, C.R.S. Exemptions from the licensing of real estate brokers are made pursuant to section 12-10-201(6)(b), C.R.S.

3.3. Change in Principal Office

Notification in writing must be made to the Commission within ten (10) Days of any change in the principal office address of the Developer or the natural person, or any other change in the information submitted pursuant to section 12-10-503, C.R.S.

3.4. Records

A. Records as required by Title 12, Article 10, C.R.S., and these rules, may be maintained as an Electronic Record so long as the Electronic Records are in a format that has the continued capability to be retrieved and legibly printed. The Developer must produce printed records upon request of the Commission, or by any principal party to a transaction.

B. Developer must maintain all Business Records related to the Subdivision development in a Safe and Secure Manner for a period of seven (7) years from the effective date of each such Business Record.

3.5. Revisions to Documents

A Developer is not required to file amendments to its registration filed with the Commission when revisions are made to documents previously submitted to the Commission, so long as the revised documents continue to:

- A. Comply with Title 12, Article 10, Part 5, C.R.S., and these rules; and
- B. Accurately reflect the Subdivision offering.

3.6. Duty to Disclose the Following Events:

A. Notwithstanding Rule 3.5., a Developer must provide the Commission with notice of the following events within ten (10) Days after such event, unless otherwise provided below:

1. Any change in the information provided in the registration pursuant to sections 12-10-503(2)(a)(III), (V), (VI) or (VII), C.R.S.;
2. Any change in the terms of any Nondisturbance Agreement(s) or partial release provisions in connection with any documents previously submitted to the Commission pursuant to section 12-10-503(3)(e), C.R.S., and Rule 2.1.B.4.;
3. Any new lien encumbering the Subdivision or any part thereof other than encumbrances created or permitted by purchasers;
4. The termination or transfer of any escrow account, letter of credit, bond, or other financial assurance approved by the Commission as set forth in Rule 2.10.; notice of which must be filed with the Commission prior to the effective date of such termination or transfer;
5. Cancellation, revocation, suspension, or termination of the Developer's activity or authority to do business in the State of Colorado; and
6. Any material pending legal proceeding filed against the Developer in connection with the Subdivision affecting the Developer's ability:
 - a. To convey marketable title of the registered Subdivision or any interest therein, or
 - b. To perform the Developer's obligations in connection with the registered Subdivision.

B. Notification under this Rule must be provided on a form approved by the Commission. The Developer will have a period of ten (10) Days after receipt of notice to take such action as may be required by the Commission in connection with any filings made under this Rule.

C. Within ten (10) Days after receipt of a written request from the Commission, a Developer will have the duty to provide to the Commission copies of all documents then in use with regard to the Subdivision.

Chapter 4: Professional Standards

4.1. Developer Must Register Prior to Conducting Business

The person, firm, partnership, joint venture, limited liability company, association, corporation or other legal entity, or combination thereof, who will sign as seller or lessor in any Consumer Agreement, deed or any other instrument purporting to convey any site, tract, lot, divided or undivided interest from a Subdivision, must secure a Developer Certificate before negotiating or agreeing to sell, lease or transfer and before any sale, lease or transfer is made. If such person is acting only as a trustee, the beneficial owner of the Subdivision must secure a Developer Certificate.

4.2. Developer Must Maintain Business Records and Produce Upon Request

Pursuant to sections 12-10-505(1)(e), C.R.S., 12-10-506(6)(b), C.R.S., and 12-10-506(8), C.R.S., a Developer must maintain Business Records as set forth in Rule 3.4., and produce for inspection upon reasonable request by an authorized representative of the Commission.

4.3. Disclosures to Prospective Purchasers Prior to Contracting

Pursuant to sections 12-10-506(6)(a), C.R.S., and 12-10-506(7), C.R.S., Developer must supply to prospective purchasers the written disclosures as set forth in Rules 2.3., 2.4., 2.5., and 2.6. prior to contracting with the public and must be disclosed in the Consumer Agreement, or in a separate written disclosure document.

4.4. Developers Must Not Make Misrepresentations or Conceal Material Facts

A. Failure to disclose to the purchaser the availability of legal access, sewage disposal, public utilities, including water, electricity, gas and telephone facilities, in the applicable uncompleted Subdivision offered for sale or lease, including whether such are to be a Developer or purchaser expense, when proven, is a violation of section 12-10-505(1)(b), C.R.S.

B. No Developer will make misrepresentations regarding the future availability or costs of services, utilities, character, or use of real property for sale or lease of the surrounding area of the Subdivision.

4.5. Disclosure of an Exchange Company

A Developer of a Time Share must disclose to the public whether or not a Time Share plan involves an Exchange Program and, if so, will disclose and deliver to prospective purchasers, a separate written document, which may be provided by an exchange company if the document discloses the following information:

- A. The name and the business address of the exchange company;
- B. Whether the purchaser's contract with the Exchange Program is separate and distinct from the purchaser's contract with the Developer;
- C. Whether the purchaser's participation in the Exchange Program is dependent upon the Developer's continued affiliation with the Exchange Program;
- D. Whether or not the purchaser's participation in the Exchange Program is voluntary;
- E. The specific terms and conditions of the purchaser's contractual relationship with the Exchange Program and the procedure by which changes, if any, may be made in the terms and conditions of such contractual relationship;
- F. The procedure of applying for and effecting any changes;
- G. A complete description of all limitations, restrictions, accrual rights, or priorities employed in the operation of the Exchange Program, including but not limited to limitations on exchanges based on seasonality, unit size, or levels of occupancy; and if the limitations, restrictions or priorities are not applied uniformly by the Exchange Program, a complete description of the manner of their application;
- H. Whether exchanges are arranged on a space-available basis or whether guarantees of fulfillment of specific requests for exchanges are made by the exchange company;
- I. Whether and under what conditions a purchaser may, in dealing with the Exchange Program, lose the use and occupancy of the Time Share period in any properly applied for exchange without being offered substitute accommodations by the Exchange Program;
- J. The fees for participation in the Exchange Program, and whether the fees may be altered and the method of any altering; and
- K. The name and location of each accommodation or facility, including the time sharing plans participating in the Exchange Program.

4.6. Disclosure of Judgment, Decree or Order

Any material adverse order, judgment, or decree entered against Developer in connection with the Subdivision by any regulatory authority or by any court of appropriate jurisdiction, specifically including any order, judgment or decree related to a proceeding under which Developer has a duty to disclose as set forth in Rule 3.6.A.6. but other than ordinary routine litigation incidental to the Developer's business, must be filed with the Commission by the Developer within thirty (30) Days of such order, judgment or decree being final.

4.7. Delivery of an Abstract of Title or Title Insurance

- A. Developer must provide a title insurance commitment or other evidence of title approved by the Commission within a reasonable time after execution of any Consumer Agreement, or other instrument purporting to convey any interest in the site, tract, lot, divided or undivided interest from a Subdivision.

B. Where the Consumer Agreement contemplates the delivery of a deed, an abstract of title or title insurance policy must be delivered within a reasonable time after the completion of payments by a purchaser.

C. Any period of time in excess of sixty (60) Days will be deemed unreasonable for the purposes of this Rule. The parties may contract to eliminate this requirement, but any such mutually acceptable waiver must be in writing and in a conspicuous manner or print.

4.8. Delivery of Deed Must be Made within Sixty (60) Days

A. Unless a sale is by means of an installment contract, the delivery of a deed must be made within sixty (60) Days after closing. For the purposes of this Rule, the date of closing is defined as the date the purchaser has either paid the full cash purchase price or has made partial cash payment and executed a promissory note or other evidence of indebtedness for the balance of the purchase price.

B. If a sale is by means of an installment contract, the delivery of a deed must be made within sixty (60) Days after the completion of payments.

4.9. Duty to Respond to a Complaint or Audit

A. Pursuant to section 12-10-505, C.R.S., any Developer who has received written notification from the Commission that a complaint has been filed against the Developer, must submit a written answer to the Commission within a reasonable time as set by the Commission.

B. Upon request of the Commission pursuant to an investigation or audit notice, a Developer will file with the Commission an audited financial statement in conformity with accepted accounting principles, and sworn to by the Developer as an accurate reflection of the financial condition of the Developer and/or the homeowners' association controlled by the Developer.

C. Failure to submit a written response required by this Rule will be grounds for disciplinary action.

Chapter 5: Declaratory Orders

5.1. Petition for a Declaratory Order

Pursuant to section 24-4-105(11), C.R.S., a Petitioner may petition the Commission for a declaratory order to terminate controversies or to remove uncertainties as to the applicability of any statutory provision, rule, or order of the Commission as it would apply to the Petitioner.

5.2. Parties to the Proceedings

The parties to any proceeding as set forth in Chapter 5 of these Rules will be the Commission and the Petitioner. Any other person may seek leave of the Commission to intervene in such a proceeding. Permission to intervene will be granted at the sole discretion of the Commission. A petition to intervene will set forth the same matters as set forth in Rule 5.3.

5.3. Petition Contents

Any petition filed as set forth in Chapter 5 of these Rules will state the following:

- A. The name and address of the Petitioner;
- B. The statute, rule, or order to which the petition relates;
- C. A concise statement of all the facts and law 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
- D. The Petitioner may submit a concise statement of the declaratory order sought.

5.4. Commission's Considerations Whether or Not to Rule

The Commission may determine, in its sole discretion and without prior notice to the Petitioner, whether or not to rule upon a petition. In determining whether or not to rule upon a petition filed as set forth in Chapter 5 of these Rules, the Commission may consider the following matters, among others:

- A. Whether a ruling on the petition will terminate a controversy or remove uncertainties as to the applicability to the Petitioner of any statutory provision, rule, or order of the Commission.
- B. 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 Commission or a court involving one or more of the Petitioners.
- C. 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 Commission or a court not involving the Petitioner.
- D. Whether the petition seeks a ruling on a hypothetical question.
- E. Whether the Petitioner has some other adequate legal remedy, other than an action for declaratory order which will terminate the controversy or remove any uncertainty as to the applicability to the Petitioner of the statute, rule, or order in question.

5.5. Commission Determines Not to Rule

If the Commission determines it will not rule on a petition, the Commission will issue its written decision disposing of the petition, stating the reasons for declining to rule upon the petition. A copy of the decision will be provided to the Petitioner. A decision not to rule on a petition for a declaratory order is not final agency action subject to judicial review.

5.6. Commission Determines to Rule

If the Commission determines that it will rule on the petition:

A. The Commission may order the Petitioner to file an additional written brief, memorandum, statement of position, or request the Petitioner to submit additional facts or arguments in writing.

B. The Commission may take administrative notice of facts pursuant to the Administrative Procedure Act, section 24-4-105(8), C.R.S., and may utilize its experience, technical competence, and specialized knowledge when ruling on the petition.

C. The Commission may set the petition, upon due notice to the Petitioner, for a non-evidentiary hearing.

D. The Commission may, upon due notice to the Petitioner, set the petition for hearing 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 arguments on the petition. Notice to the Petitioner setting such formal hearing will set forth, to the extent known, the factual or other matters into which the Commission intends to inquire. The Petitioner will 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 Commission to consider.

E. Any ruling by the Commission may be based solely on the matters set forth in the petition or may be based on any amendments to the petition, any information gathered by the Commission through a non-evidentiary hearing, formal hearing or otherwise, or any facts the Commission may take administrative notice of. Upon ruling on a petition, the Commission will issue its written order stating its basis for the order. A copy of the order will be provided to the Petitioner.

5.7. Declaratory Orders Subject to Judicial Review

Any declaratory order of a petition as set forth in Chapter 5 of these Rules will constitute agency action subject to judicial review pursuant to section 24-4-106, C.R.S.

Chapter 6: Commission Review of Initial Decisions and Exceptions

6.1. Written Form, Filing Requirements, and Service

A. All pleadings must be in written form, mailed with a certificate of service to the Commission.

B. All pleadings must be filed with the Commission on the date the filing is due. Computation of time for the filing timelines for Chapter 6 of these Rules is pursuant to section 2-4-108, C.R.S. A pleading is considered filed upon receipt by the Commission. Chapter 6 of these Rules does not provide for any additional time for service by mail.

C. All pleadings must be filed with the Commission and not with the Office of Administrative Courts. Any pleadings filed in error with the Office of Administrative Courts will not be considered. The Commission's address is:

Colorado Real Estate Commission
1560 Broadway, Suite 925
Denver, CO 80202

D. All pleadings must be served on the opposing party on the date which the pleading is filed with the Commission. Electronic service between the parties is encouraged. The date and manner must be noted on the certificate of service.

6.2. Initial Decision

Upon receipt of the initial decision prepared and filed by the Administrative Law Judge from the Office of Administrative Courts, the Division will timely mail a copy of the initial decision to the parties at their respective addresses of record with the Commission pursuant to section 24-4-105(16)(a), C.R.S.

6.3. Commission's Authority to Review the Initial Decision

Pursuant to section 24-4-105(14)(a)(II), C.R.S., the Commission may initiate a review of an initial decision on its own motion within thirty (30) days of the date on which the Division mails the initial decision to the parties. A letter from the Division initiating the review of the initial decision constitutes a motion within the meaning of section 24-4-105(14)(a)(II), C.R.S.

6.4. Appeal of the Initial Decision by the Parties

A. Any party wishing to reverse or modify an initial decision of an Administrative Law Judge must file written exceptions with the Commission in accordance with the procedures and time frames as set forth in Rule 6.5.

B. If neither party appeals the initial decision by filing exceptions, the initial decision will become the final order of the Commission after thirty (30) days from the date on which the Division mails the initial decision pursuant to section 24-4-105(14)(b)(III), C.R.S. Failure to file exceptions will result in a waiver of the right to judicial review of the final order of the Commission unless the portion of the final order subject to review differs from the contents of the initial decision pursuant to section 24-4-105(14)(c), C.R.S.

6.5. Filing of Exceptions

A. Pursuant to section 24-4-105(15)(a), C.R.S., any party seeking to file exceptions must initially file with the Commission a designation of the relevant parts of the record and of parts of the transcript of the hearing within twenty (20) days of the date on which the Division mails the initial decision to the parties.

B. Transcripts:

Any party may designate the entire transcript, or may identify witness(es) whose testimony is to be transcribed, the legal ruling or argument to be transcribed, or other information necessary to identify a portion of the transcript. However, no transcript is required if the Commission's review is limited to pure questions of law. The deadline for filing exceptions depends on whether either of the parties designates a portion of the transcript.

1. If the parties do not designate parts of the transcript, exceptions are due within thirty (30) days from the date on which the Division mails the initial decision to the parties. Both parties' exceptions are due on the same day.

2. Any party wishing to designate all, or any part, of the transcript must adhere to the following procedures:

a. Transcripts will not be deemed part of a designation unless specifically identified and ordered.

b. If one party designates a portion of the transcript, the other party may file a supplemental designation in which that party may designate additional portions of the transcript. The supplemental designation must be filed with the Commission and served on the other party within ten (10) days after the date on which the original designation was filed.

c. Any party who designates a transcript must order the transcript by the date on which they file their designation with the Commission whether they are filing an original or supplemental designation.

d. The party ordering a transcript must direct the court reporter or transcribing service to complete and file with the Commission the original transcript and one (1) copy within thirty (30) days of their order.

e. The party that designates a transcript must pay for such transcripts.

f. Transcripts that are ordered and not filed with the Commission in a timely manner due to non-payment, insufficient payment, or failure to direct as set forth above may not be considered by the Commission.

g. Upon receipt of transcripts identified in all designations and supplemental designations, the Commission will mail a notification to the parties stating that the transcripts have been received by the Commission.

h. Exceptions are due within thirty (30) days from the date on which such notification is mailed. Both parties' exceptions are due on the same date.

C. A party's exceptions must include specific objections to the initial decision.

D. Either party may file a response to the other party's exceptions. All responses must be filed within ten (10) days of the date on which the exceptions were filed with the Commission. Subsequent replies will not be considered except for good cause shown.

E. The Commission may in its sole discretion grant an extension of time to file exceptions or responses, or may delegate the discretion to grant such an extension of time to the Commission's designee.

6.6. Request for Oral Arguments

A. All requests for oral argument must be in writing and included with a party's exceptions or response.

B. It is within the sole discretion of the Commission to grant or deny a request for oral argument. The Commission generally does not grant requests for oral argument. If an oral argument is granted, each party will have ten (10) minutes to present their argument. Questioning by members of the Commission will not count against the allocated ten (10) minutes.

C. The Commission or its designee may extend the time for oral arguments upon good cause shown.

6.7. Final Orders

A. The Commission may deliberate and vote on exceptions immediately following oral arguments or the Commission may take the matter under advisement.

B. When the Commission votes on exceptions, whether after oral arguments or at a subsequent Commission meeting, the ruling of the Commission will not be considered final until a written order is issued.

C. The date of the Commission's final order is the date on which the written order is signed, irrespective of any motions for reconsideration that are filed.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00520

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

Division of Real Estate

on 10/05/2021

4 CCR 725-6

SUBDIVISIONS AND TIMESHARES

The above-referenced rules were submitted to this office on 10/06/2021 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 22, 2021 11:09:40

A handwritten signature in blue ink, appearing to read 'P. J. Weiser', is written over the printed name and title.

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Board of Veterinary Medicine

CCR number

4 CCR 727-1

Rule title

4 CCR 727-1 VETERINARY MEDICINE RULES AND REGULATIONS 1 - eff
11/30/2021

Effective date

11/30/2021

DEPARTMENT OF REGULATORY AGENCIES

State Board of Veterinary Medicine

VETERINARY MEDICINE RULES AND REGULATIONS

4 CCR 727-1

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

...

1.17 REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME

...

C. ...

1. The Board requires one of the following forms of documentation to change a licensee's name or correct a social security number or individual taxpayer identification number:

...

- c. Court order;
- d. Documentation from the Internal Revenue Service verifying the licensee's valid individual taxpayer identification number; or
- e. A driver's license, social security card, or passport with a second form of identification may be acceptable at the discretion of the Director of Support Services.

...

1.26. Rules Regarding the Use of Benzodiazepine

The basis for the Board's promulgation of these rules and regulations is sections 12-20-204(1), 12-315-106(5)(g) and 12-315-126, C.R.S. The specific statutory authority for the promulgation of this Rule is section 12-30-109(6), C.R.S.

The purpose for the Board's promulgation of these rules and regulations are to implement rules required by section 12-30-109(6), C.R.S., related to requirements for prescribing benzodiazepines to patients for whom licensees have not previously prescribed benzodiazepines within the last twelve months.

- A. Licensees must limit any prescription for a benzodiazepine, which shall not exceed 30 continuous days, that a prescriber may prescribe for a patient who has not received a benzodiazepine prescription from a prescriber within the last 12 months.
- B. Prior to prescribing the second fill of a benzodiazepine, a licensee must comply with the requirements of section 12-280-404(4), C.R.S. Failure to comply with section 12-280-404(4), C.R.S., constitutes unprofessional conduct or grounds for discipline under section 12-315-112, C.R.S.

- C. The limitation stated in section (A) of this Rule does not apply to patients for whom licensees prescribe benzodiazepines for the following conditions:
- 1) Epilepsy;
 - 2) A seizure or seizure disorder, or suspected seizure disorder;
 - 3) Spasticity; or
 - 4) A neurological condition, including a posttraumatic brain injury or catatonia.
- D. These rules do not require or encourage abrupt discontinuation, limitation, or withdrawal of benzodiazepines. Licensees are expected to follow generally accepted standards of veterinary medicine practice, based on an individual patient's needs, in tapering benzodiazepine prescriptions.
-

Editor's Notes

History

Rules 1.00, 4.00 eff. 09/30/2007.
Rule 4.00 eff. 01/30/2008.
Entire rule eff. 12/30/2011.
Rule I.B eff. 08/30/2012.
Rule I.B emer. rule eff. 02/08/2013.
Rules I.A, 1.B, 1.E eff. 05/30/2013.
Rule I.A eff. 06/14/2013.
Rules I.B, II.A.17 eff. 09/30/2013.
Rule I eff. 08/14/2014.
Rules 1.2 A.8-18, 1.2 E.4, 1.2 G eff. 11/30/2019.
Rule 1.23 emer. rule eff. 05/01/2020; expired 08/29/2020.
Rule 1.24 emer. rule eff. 05/11/2020; expired 09/08/2020.
Rule 1.23 emer. rule eff. 08/30/2020; expired 12/28/2020.
Rule 1.24 emer. rule eff. 09/09/2020.
Entire rule eff. 10/15/2020.
Rule 1.10 B eff. 12/15/2020.
Rules 1.24, 1.25 emer. rules eff. 12/28/2020.
Rule 1.25 emer. rule eff. 01/11/2021.
Rules 1.4 E-F, 1.12 C eff. 04/14/2021.
Rules 1.24, 1.25 emer. rules eff. 04/27/2021.
Rule 1.25 emer. rule eff. 05/11/2021.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00542

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

Division of Professions and Occupations - Board of Veterinary Medicine

on 10/14/2021

4 CCR 727-1

VETERINARY MEDICINE RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/14/2021 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 18, 2021 16:34:49

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - Colorado Office of Combative Sports

CCR number

4 CCR 740-1

Rule title

4 CCR 740-1 COMBATIVE SPORTS RULES AND REGULATIONS 1 - eff 11/30/2021

Effective date

11/30/2021

DEPARTMENT OF REGULATORY AGENCIES

Colorado Office of Combative Sports and Colorado Combative Sports Commission

COMBATIVE SPORTS RULES AND REGULATIONS

4 CCR 740-1

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

...

1.4 GENERAL RULES

...

K. REQUIREMENT TO NOTIFY DIRECTOR OF ADDRESS AND NAME CHANGES

...

2. One of the following forms of documentation is needed to change a name or correct a social security number or individual taxpayer identification number:

...

- c. Court order;
- d. Documentation from the Internal Revenue Service verifying the licensee's valid individual taxpayer identification number; or
- e. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the Division Director.

...

Editor's Notes

History

Rule 1.018 emer. rule eff. 09/24/2010; expired eff. 01/22/2011.

Entire rule eff. 09/01/2011.

Rules 1.1, 1.5, 2.6, 2.8, 2.9, 2.11, 3.2, 3.6, 5.11, 7.6, 12.4, 13.2, 13.3, 14.1 eff. 07/01/2016.

Entire rule eff. 07/01/2018.

Rules 1.1, 1.2, 1.7, 1.8, 2.5, 2.9-2.20, 3.3, 3.4, 5.1, Chapters 6-7, rules 8.6-8.13, 11.3 D.ix, 13.2, 13.3, 13.7-13.9, 14.1, 14.15-14.17 emer. rules eff. 06/18/2019.

Rules 1.1, 1.2, 1.7, 1.8, 2.1, 2.5, 2.9-2.20, 3.3, 3.4, 5.1, 5.4, 6.1-6.5, 7.1, 7.2, 8.6-8.13, 10.1, 11.3, 12.2-12.4, 13.1-13.9, 14.1, 14.2 D, 14.15-14.17 eff. 12/30/2019.

Entire rule eff. 05/30/2021.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00546

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

Division of Professions and Occupations - Colorado Office of Combative Sports

on 10/12/2021

4 CCR 740-1

COMBATIVE SPORTS RULES AND REGULATIONS

The above-referenced rules were submitted to this office on 10/12/2021 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 18, 2021 16:32:37

A handwritten signature in blue ink, appearing to read 'P. J. Weiser'.

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)

CCR number

5 CCR 1002-101

Rule title

5 CCR 1002-101 Water Quality Civil Penalty Inflation Adjustment Regulation 1 - eff
11/30/2021

Effective date

11/30/2021

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 101 - WATER QUALITY CIVIL PENALTY INFLATION ADJUSTMENT REGULATION

5 CCR 1002-101

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

101.1 AUTHORITY

These regulations are promulgated pursuant to the Colorado Water Quality Control Act, sections 25-8-101 through 25-8-803, C.R.S. In particular, they are promulgated under sections 25-8-202 and 25-8-608(1), C.R.S.

101.2 PURPOSE

The purpose of these regulations is to annually adjust the amount of the maximum civil penalty applied to violations of the Colorado Water Quality Control Act, based on the percentage change in the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood for All Items and All Urban Consumer, or its successor index.

101.3 REGULATIONS

- A. Beginning on January 1, 2022, the maximum civil penalty identified in 25-8-608(1), C.R.S., for a person who violates the Water Quality Control Act, a permit issued under the Act, a control regulation promulgated pursuant to the Act, or a final cease-and-desist order or clean-up order shall be not more than \$56,759 per day per violation.

101.4 DEFINITIONS

The following definitions are applicable within the intent of these regulations:

- A. "Colorado Water Quality Control Act" or "Act" means the Colorado Water Quality Control Act as from time to time amended, section 25-8-101, C.R.S., 1973, et seq.
- B. "Commission" means the water quality control commission created by section 25-8-201, C.R.S.
- C. "Division" means the Colorado Department of Public Health and Environment, Water Quality Control Division.
- D. "Person" means an individual, corporation, partnership, association, state or political subdivision thereof, federal agency, state agency, municipality, commission, or interstate body.

101.5 – 101.9 RESERVED

101.10 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE

The provisions of Colorado Revised Statutes Section 25-8-608(1) provide the specific statutory authority for the Water Quality Civil Penalty Inflation Adjustment Regulation adopted by the Commission. The Commission has also adopted, in compliance with Colorado Revised Statutes Section 24-4-103(4), the following Statement of Basis and Purpose.

BASIS AND PURPOSE

Section 25-8-608(1), C.R.S., directs that “on or before December 31, 2021, the commission shall, by rule, annually adjust the amount of the maximum civil penalty based on the percentage change in the United States Department of Labor’s Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood for All Items and All Urban Consumers, or its successor index.”

This regulation implements this statutory direction and provides for the new annually adjusted maximum civil penalty identified in 25-8-608(1), C.R.S. The maximum penalty prior to adjustment that is identified in statute is fifty-four thousand eight hundred thirty-three dollars (\$54,833). This prior maximum penalty is applicable from July 2, 2020, when it was added to 25-8-608(1), C.R.S., through January 1, 2022, when the new maximum penalty identified in this regulation goes into effect. . In accordance with the statutory direction to adjust the maximum penalty annually, the commission intends to revise this regulation annually to identify a new maximum penalty to become effective no later than January 1st of each subsequent year.

1) Method for Determining the Percentage Change in the Consumer Price Index:

The Commission used the following method to calculate the percent change in the United States Department of Labor’s Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood for all Items and all Urban Consumers (the Consumer Price Index) to be used for calculating the new maximum penalty.

The commission based the percentage change calculation on the change between the July 2020 Consumer Price Index and the July 2021 Consumer Price Index. Using the July Consumer Price Index values for this calculation aligns with the statutory direction to provide an annual adjustment to the maximum penalty because the previous maximum was established in statute effective in July 2020. This method also allows for the use of the most recent available data.

The commission expects that the same method will be used for future revisions to this regulation. Any changes to the method will be addressed in the applicable future Statement of Basis and Purpose.

2) Calculation of the 2022 Adjusted Maximum Penalty:

The new maximum penalty is calculated by adjusting the previous maximum penalty by the percent change in the Consumer Price Index from July 2020 to July 2021.

The Previous Maximum Penalty is identified in 25-8-608(1), C.R.S., as \$54,833.

The July 2020 Consumer Price Index is 275.589. The July 2021 Consumer Price Index is

285.267. This represents a 3.512% change.

The adjusted maximum penalty is therefore equal to \$54,833 multiplied by $(1 + ((285.267 - 275.589) / 275.589))$. This results in a 2022 adjusted maximum penalty of \$56,759.

3) Regulatory Process for Future Adjustments:

To meet the statutory direction to apply an annual adjustment, the Commission must revise this regulation annually to be effective by January 1 of each subsequent year. It is the Commission's intention to make these adjustments effective on January 1. To meet this timeline, the Commission intends to annually schedule a rulemaking no later than October of each year. The Division will provide to the Commission a proposed revision to this regulation identifying the proposed new adjusted maximum penalty which will include proposed language for the Statement of Basis and Purpose that identifies the method and the values for the Consumer Price Index used in the calculation.

PARTIES TO THE RULEMAKING HEARING

October 12, 2021

HEARING CHAIR:

1.

Editor's Notes

History

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00377

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

Water Quality Control Commission (1002 Series)

on 10/12/2021

5 CCR 1002-101

Water Quality Civil Penalty Inflation Adjustment Regulation

The above-referenced rules were submitted to this office on 10/13/2021 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 25, 2021 16:45:05

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Local Affairs

Agency

Division of Housing

CCR number

8 CCR 1302-15

Rule title

8 CCR 1302-15 MOBILE HOME PARK ACT DISPUTE RESOLUTION &
ENFORCEMENT PROGRAM 1 - eff 11/30/2021

Effective date

11/30/2021

DEPARTMENT OF LOCAL AFFAIRS

Division of Housing

8 CCR 1302-15

Mobile Home Park Act Dispute Resolution & Enforcement Program

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

AUTHORITY

Pursuant to section 38-12-1104(2)(j), C.R.S.

SCOPE AND PURPOSE

To implement and clarify the Mobile Home Park Act, Title 38, Article 12, Part 2 of the Colorado Revised Statutes (C.R.S.), and the Mobile Home Park Act Dispute Resolution And Enforcement Program, Title 38, Article 12, Part 11, C.R.S., pursuant to statutory authority and changes made through House Bill 19-1309 Creating the Mobile Home Park Act Dispute Resolution and Enforcement Program (effective May 23, 2019), HB20-1196 Mobile Home Park Act Updates (effective June 30, 2020), HB20-1201 Mobile Home Park Residents Opportunity to Purchase (effective June 30, 2020), and HB21-1121 Residential Tenancy Procedures (effective June 25, 2021).

RULE 1. DEFINITIONS

In addition to the definitions provided in sections 38-12-201.5 and 38-12-1103, C.R.S., the following definitions apply to enforcement of the Act (Part 2 of Article 12 of Title 38) and the Program (Part 11 of Article 12 of Title 38):

- 1.2 1.1 “Consecutive occupancy” for purposes of section 38-12-204(3), C.R.S., means the consecutive period of time that:
 - 1.3 A. The tenant(s) have a rental agreement with the management or landlord for occupancy of the mobile home space;
 - 1.4 B. The management or landlord is receiving rent payments for the mobile home space from the tenant(s) or a third party; or
 - 1.5 C. The tenant(s) is residing in the mobile home or mobile home space after establishing lawful tenancy by signing a rental agreement pursuant or paying rent pursuant to Rule 1.1(A) or (B) of these rules.
- 1.6 1.2 “Mobile home” as defined in section 38-12-201.5(5), C.R.S., includes a factory-built residential structure (modular home) if it is situated in a mobile home park and has all of the characteristics of a “mobile home” described in section 38-12-201.5(5)(a), C.R.S. (including being built on a permanent chassis); any pre-1976 mobile home; and any manufactured home constructed to the federal standards on or after June 15, 1976.
- 1.3 “Mobile home park” as defined in section 38-12-201.5(6), C.R.S. –

- A. Includes a park that is owned by a government entity, federally recognized tax-exempt charitable organization registered with the Colorado Secretary of State, or a Community Land Trust, if it has all of the characteristics of a “mobile home park” described in section 38-12-201.5(6), C.R.S. (including being operated for the pecuniary benefit of the owner of the parcel of land or the owner’s agents, lessees, or assignees).
 - B. Does not include a park that rents lots to camper coaches, camper trailers, fifth wheel trailers, motor homes, recreational park trailers, recreational vehicles, travel trailers, or truck campers, unless it also rents space to five (5) or more occupied “mobile homes” as defined in section 38-12-201.5(5), C.R.S., and Rule 1.1 of these rules.
- 1.7 1.4 “Mobile home subdivision” or “manufactured home subdivision” as used in section 38-12-201.5(6), C.R.S., means any parcel of land that is divided into two or more parcels, separate interests, or interests in common, where each parcel or interest is owned by separate owners who own both the mobile home and the land underneath the mobile home, except when the same owner owns two or more subdivided parcels or interests that are collectively used for the continuous accommodation of five (5) or more occupied mobile homes and operated for the pecuniary benefit of the owner of the parcel of land, their agents, lessees, or assignees.
- 1.8 1.4.1 Pursuant to section 38-12-201.5(6), C.R.S., “mobile home park” does not include property zoned by a local government for manufactured home subdivisions or mobile home subdivisions.
- 1.5 “New mobile home park or manufactured housing community development” as used in section 38-12-215(1)-(2), C.R.S., and “new park” as used in section 38-12-1106(9), C.R.S., do not include:
 - A. The addition of a “mobile home space(s),” as defined in section 38-12-201.5(7), C.R.S., to an existing mobile home park, as defined in section 38-12-201.5(6), C.R.S., and Rule 1.2 of these rules;
 - B. The sale, transfer, or conveyance of an existing mobile home park to a new owner(s); nor
 - C. The merger of two or more existing mobile home parks.
- 1.6 “Occupied mobile homes” as used in sections 38-12-201.5(6) and 38-12-217(4)(c), C.R.S., and Rules 1.2(B), 1.4, and 2.2(G) of these rules means mobile homes for which the management or landlord:
 - A. Has a rental agreement with a tenant for the home or lot; or
 - B. Is receiving rent payments for the home or lot from a tenant or a third party.
- 1.7 “Rent” as defined in section 38-12-201.5(9), C.R.S., does not include attorney fees.
- 1.8 “Sufficient evidence” as used in section 38-12-212.5(4), C.R.S., and Rule 3.7 of these rules means a preponderance of the evidence.
- 1.9 “Vacant mobile homes” as used in Rule 2.2(H) of these rules means mobile homes for which the management or landlord:
 - A. Does not have a rental agreement with a tenant for the home or lot; and
 - B. Is not receiving rent payments for the home or lot from a tenant or a third party.

RULE 2. REGISTRATION REQUIREMENTS

- 2.1 Initial Registration – for new mobile home parks must occur within three (3) months of the availability of five (5) or more mobile home lots for rent within a new park.
- 2.1.1 The “management” or “landlord,” as defined in section 38-12-201.5(3), C.R.S., who is designated as the primary contact for the mobile home park must file a registration form including full payment on behalf of the park with the Division.
- 2.2 Required Information – as part of the registration process, a mobile home park must provide the following information in addition to the information required under section 38-12-1106(7), C.R.S.:
- A. The physical address, phone number, and website address (if any) of the mobile home park;
 - B. The business name (if any), business contact name or owner name, mailing address, phone number, and email address (if any) of the owner of the mobile home park;
 - C. The business name (if any), business contact name or manager name, mailing address, phone number, and email address (if any) of the management of the mobile home park, if different from the owner of the mobile home park;
 - D. Identify which individual or business – the park owner or management – is designated as the primary contact for the mobile home park;
 - E. The physical address of each mobile home;
 - F. Identify which homes a tenant home owner independently owns, and which homes the mobile home park landlord owns;
 - G. The total number of occupied mobile homes;
 - H. The total number of vacant mobile homes;
 - I. If the park is owned by a business entity, whether that business is owned by another business entity (i.e. a parent company);
 - J. If the park is managed by a business entity, whether that business is owned by another business entity (i.e. a parent company);
 - K. If the business entity that owns the park is owned by another business entity (i.e. a parent company), the business name, first and last name of a contact person, mailing address, phone number, and email address (if any) for the parent company;
 - L. If the business entity that manages the park is owned by another business entity (i.e. a parent company), the business name, first and last name of a contact person, mailing address, phone number, and email address (if any) for the parent company;
 - M. If the park does business under any other name(s), the “Doing Business As (DBA)” name(s) and the Secretary of State Identification Number(s) for that DBA(s) (if any); and
 - N. The signature of a landlord, as defined in section 38-12-201.5(3), C.R.S., filing for registration or registration renewal for the mobile home park pursuant to section 38-12-1106(4), C.R.S.

- 2.3 Complete, Accurate, and Truthful Information Required – initial registration and registration renewal forms filed pursuant to section 38-12-1106(4), C.R.S., and Rules 2.1, 2.2, and 2.5 of these rules must be complete, accurate, and truthful and include all attachments and supplementation information. The Division may not accept incomplete forms.
- 2.4 Registration Delinquency Fee – landlords who do not submit complete, accurate, and truthful information on their initial registration or registration renewal forms may be subject to a registration delinquency fee pursuant to section 38-12-1106(9), C.R.S., and Rule 4.2 of these rules.
- 2.5 Expiration Date – will be one year from the first day of the following month after registration approval by Division staff, i.e. February 1, 2021 if approved in January of 2020, and must be renewed by that date if still operating as a mobile home park.
- 2.6 If any of the provided information required in Rules 2.2(A)-(D) of these rules changes between the time of initial registration and renewal, or between registration renewals, the management or landlord is required to notify the Division within thirty (30) calendar days of the change to ensure timely delivery of Program communications.
- 2.7 Fee - Pursuant to section 38-12-1106(8), C.R.S., for the 2021 calendar year and each calendar year thereafter, an annual registration fee of \$24.00 must be paid by the mobile home park for each mobile home independently owned by a tenant home owner on rented land within the park, unless and until such registration fee is adjusted by the Division through a public rulemaking process.
 - 2.7.1 Pursuant to section 38-12-1106(8), C.R.S., the management or landlord may charge a home owner not more than half of the registration fee annually. If the management or landlord attempts to recoup up to 50 percent of this fee from the home owner, the management or landlord must:
 - A. Notify the home owner in writing at least 60 calendar days before the management or landlord expects the home owner to pay the additional fee, or a longer time period if required by the home owner's lease; and
 - B. Do so in a clear and consistent manner within one (1) year of paying the registration fee to the Division.

RULE 3. DISPUTE RESOLUTION AND ENFORCEMENT

General Rules

- 3.1 The following deadlines are in calendar days:
 - A. Respond to a subpoena within fourteen (14) days pursuant to section 38-12-1105(3)(a), C.R.S.
 - B. Comply with the requirements of a Notice of Violation within seven (7) days of it becoming a Final Agency Order pursuant to section 38-12-1105(5), C.R.S.
 - C. A landlord must notify the Division within thirty (30) days of a change in the ownership of the mobile home park pursuant to section 38-12-1106(5), C.R.S.
- 3.2 Pursuant to section 24-72-204(2)(a)(IX), C.R.S., any records of ongoing administrative investigations conducted by the Division of Housing in furtherance of its statutory authority to protect the public health, welfare, or safety are not subject to a request filed under the Colorado

Open Records Act (CORA) during the pendency of the investigation and dispute resolution process.

Filing a Complaint

- 3.3 Complaints filed with the Division pursuant to section 38-12-1105(1), C.R.S., must be made in writing on a Division-approved form.
 - 3.3.1 The Division will make reasonable accommodations to Rule 3.3 of these rules when such accommodations may be necessary to afford a person with a disability an equal opportunity to file a complaint with the Division.
- 3.4 A home owner acting in the capacity of a “complainant” as defined in section 38-12-1103(2), C.R.S., may file a complaint on behalf of their tenant if they are leasing their mobile home and the renter has experienced and communicated an alleged violation of the Act or Program to the home owner, provided that the home owner has made it clear in the complaint that it is being filed in a representative capacity.
- 3.5 Pursuant to section 38-12-1105(1), C.R.S., two or more home owners may file a complaint against the management or landlord of their mobile home park with the Division alleging similar or related violations of the Act or Program. The management or landlord of a mobile home park may also file a complaint against two or more home owners in the same park with the Division alleging similar or related violations of the Act or Program.
- 3.6 When filing a complaint with the Division under section 38-12-1105(1), C.R.S., aggrieved parties are not required to allege what specific statutory section(s) of the Act or Program have been violated. The Division will apply the appropriate reference(s) to statute or rule upon review of the information provided in the complaint form and any additional information provided to the Division in connection with the complaint.

Complaint Investigation

- 3.7 Before imposing a penalty under section 38-12-1105(13), C.R.S., and Rule 4.4 of these rules, the Division will give the management or landlord an opportunity to rebut a presumption of retaliation with sufficient evidence of a nonretaliatory purpose pursuant to section 38-12-212.5(4), C.R.S.
 - 3.7.1 The Division will consider as sufficient evidence of a nonretaliatory purpose, when provided by the management or landlord in response to a retaliation complaint, evidence including, but not limited to:
 - A. In response to an allegation of retaliatory action pursuant to section 38-12-201.5(12)(i), C.R.S., evidence that the management is asking all tenants on a particular rental agreement to update a specific section(s) of their existing rental agreement, to bring that section(s) of the rental agreement into compliance with federal, state, or local law.
 - B. In response to an allegation of retaliatory action pursuant to section 38-12-201.5(12)(k), C.R.S., evidence that:
 - i. The management or landlord reported, to an appropriate government agency, home owner conduct on park premises that materially harmed or threatened real or personal property or the health, safety, or welfare of one or more individuals or animals, including pet animals; or

- ii. The information reported to a government agency was, to the management or landlord's knowledge, truthful and relevant to an ongoing investigation by that federal, state, or local government agency.
- 3.8 Pursuant to section 38-12-214(3)(a), C.R.S., when a home owner files a complaint with the Division within sixty (60) days after receiving a written notice of the management's intent to add or amend any written rule or regulation, alleging that a new or amended park rule or regulation will increase a cost to the home owner in an amount that equals or exceeds ten percent of the home owner's monthly rent obligation:
 - 3.8.1 The Division will notify the management of the complaint and the specific rule(s), regulation(s), or amendment(s) being challenged in the complaint.
 - 3.8.2 The management shall not engage in any action to enforce the challenged rule(s), regulation(s), or amendment(s) against any resident in the park that is the subject of the complaint, unless and until the parties to the complaint reach an agreement or the dispute resolution process concludes as described in section 38-12-214(3)(a), C.R.S.
 - 3.8.3 Once the management receives notice from the Division of a complaint described in Rule 3.8 of these rules, the management shall notify all residents in the park that is the subject of the complaint in writing within fourteen (14) calendar days that the management will not enforce the challenged rule(s), regulation(s), or amendment(s) until further notice.
 - 3.8.4 Unless otherwise prohibited by law, the management may enforce the other new or amended rules or regulations against residents that are not the subject of any complaint(s) described in Rule 3.8 of these rules, after the sixty (60) day written notice period expires.
- 3.9 A landlord acting in the capacity of a "complainant," as defined in section 38-12-1103(2), C.R.S., may file a complaint with the Division alleging that a home owner does not have and will not sign a written rental agreement in violation of section 38-12-213(2), C.R.S.
 - 3.9.1 When investigating a complaint alleging that a home owner has not signed a written rental agreement in violation of section 38-12-213(2), C.R.S., the Division will consider factors including, but not limited to:
 - A. Whether the current or previous management provided a written rental agreement to the home owner prior to the rental or occupancy of a mobile home space or lot pursuant to section 38-12-213(1), C.R.S. (effective July 1, 1981);
 - B. Whether the written rental agreement the current management provided the home owner would make material changes to the terms and conditions of the home owner's existing tenancy as described in subsections 38-12-213(1)(a)-(f), C.R.S. In evaluating what the terms and conditions of an existing tenancy are, the Division may consider the following including, but not limited to:
 - i. Other written agreements between the management and the home owner;
 - ii. Verbal agreements between the management and the home owner; and
 - iii. Past charges to and payments made by the home owner as described in subsections 38-12-213(1)(a) and (f), C.R.S.; and

- C. Whether changes to the terms and conditions of the home owner's existing tenancy as described in subsections 38-12-213(1)(a)-(f), C.R.S., are necessary for the rental agreement to comply with current state law and local law.
- 3.10 Pursuant to 38-12-204(3), C.R.S., effective June 25, 2021, when investigating a complaint alleging that a landlord has increased rent more than one time in any twelve-month period of consecutive occupancy by a tenant, the Division will compare the proposed or effective date of the current rent increase to the effective date of the tenant's last rent increase, even if the effective date of the tenant's last rent increase was before June 25, 2021.

Written Determination and Notice of Violation or Nonviolation

- 3.11 A landlord found to be in violation of the Act or Program cannot pass on the costs of any remedial action(s), including penalties, fines, or fees, required by the Division or an Administrative Law Judge in a Final Agency Order to any home owner.
- 3.12 A landlord shall not pass on the costs of any attorney fees, witness fees, or other legal fees incurred by a landlord in responding to a complaint filed pursuant to section 38-12-1105(1), C.R.S., or an investigation by the Division of an alleged violation of the Program (Title 38, Article 12, Part 11, C.R.S.) to any home owner, notwithstanding any language to the contrary in a rental agreement.
- 3.13 Pursuant to section 38-12-1105(4), C.R.S., the Division may make a written determination and issue a notice of violation or notice of nonviolation against a respondent or complainant who is no longer a landlord nor home owner, provided that:
 - A. The party was a landlord or home owner, or a landlord or home owner's agent, employee, or representative authorized to act of the landlord or home owner's behalf, at both the time the violation or nonviolation occurred, and the time the complaint was filed; or
 - B. The party was a landlord or home owner, or a landlord or home owner's agent, employee, or representative authorized to act on the landlord or home owner's behalf, at the time the violation or nonviolation occurred, and such violation or nonviolation falls under section 38-12-217, C.R.S. related to Notice of change of use--notice of sale or closure of park--opportunity for home owners to purchase--procedures—exemptions.
- 3.14 Pursuant to section 38-12-1105(3)(a)-(b), C.R.S., if a complainant or respondent fails to cooperate with the Division in the course of an investigation by responding to a subpoena issued by the Division, the Division may make a written determination that a violation of Title 38, Article 12, Part 11 has occurred and issue a written notice of violation under section 38-12-1105(4)(a)-(b), C.R.S.

RULE 4. PENALTIES

- 4.1 The Division will apply the following criteria when assessing a registration delinquency fee pursuant to section 38-12-1106(9), C.R.S., and Rule 4.2 of these rules, a penalty for failure to appropriately post, maintain, or provide copies of the required Home Owner Notice pursuant to section 38-12-1104(2)(d), C.R.S., and Rule 4.3 of these rules, or a penalty for taking any "retaliatory action(s)" against a home owner pursuant to section 38-12-1105(13), C.R.S., and Rule 4.4 of these rules:
 - A. The severity of the violation;
 - B. The type of violation;

- C. The duration of the violation;
 - D. Whether the person or entity committed repeated violations;
 - E. Whether the person or entity submitted complete, accurate, and truthful information to the Division; and
 - F. Any other mitigating or aggravating circumstances, including the impact on others, cooperation with the investigation process, and the sufficiency of the penalty to deter future violations.
- 4.2 The Division will scale any registration delinquency fees assessed under section 38-12-1106(9), C.R.S., as follows:
- A. First offense, may be fined up to \$3,000.
 - B. Second offense, may be fined up to \$4,000.
 - C. Third or subsequent offense, may be fined up to \$5,000.
- 4.3 The Division will scale any penalties assessed under section 38-12-1104(2)(d), C.R.S., for failing to appropriately post, maintain, or provide copies of the required Home Owner Notice described in section 38-12-1104(2)(a), C.R.S., in the time frame, manner, and locations provided in section 38-12-1104(2)(c), C.R.S., and Rule 5 of these rules, as follows:
- A. First offense, may be fined up to \$3,000.
 - B. Second offense, may be fined up to \$4,000.
 - C. Third or subsequent offense, may be fined up to \$5,000.
- 4.4 The Division will scale any penalties assessed under section 38-12-1105(13), C.R.S., for taking any "retaliatory action(s)" against a home owner, as defined in section 38-12-201.5(12), C.R.S., and further clarified in section 38-12-212.5, C.R.S., and Rule 3.7 of these rules, as follows:
- A. First offense, may be fined up to \$5,000.
 - B. Second offense, may be fined up to \$7,500.
 - C. Third or subsequent offense, may be fined up to \$10,000.
- 4.5 The Division will scale any penalties assessed under section 38-12-1105(5), C.R.S., for failing to comply with the requirements of a Notice of Violation as follows:
- A. First offense, may be fined up to \$3,000, per violation per day.
 - B. Second offense, may be fined up to \$4,000, per violation per day.
 - C. Third or subsequent offense, may be fined up to \$5,000, per violation per day.

RULE 5. HOME OWNER NOTICE REQUIREMENTS

- 5.1 Pursuant to section 38-12-1104(2)(c), C.R.S., the management or landlord must post and maintain the Home Owner Notice described in section 38-12-1104(2)(a), C.R.S., in a clearly visible and accessible location in every common area of the mobile home park, including every

common resident mailbox location; every rent payment dropbox or other rent payment location; and every community hall, recreation hall, and clubhouse. The management or landlord must post this Home Owner Notice in a form authorized by the Division within seven (7) calendar days of receiving the Home Owner Notice from the Division.

- 5.1.1 If there is no common resident mailbox location, rent payment location, community hall, recreation hall, or clubhouse in the mobile home park, the management or landlord must post and maintain the Home Owner Notice, in a clearly visible and accessible location, at every location of another type of physical common area in the park. The types of common areas where the management or landlord may post and maintain the Home Owner Notice include, but are not limited to:
 - A. Outside every management office;
 - B. At every park entrance; or
 - C. On the front of every dumpster provided for use by residents.
- 5.1.2 If there are no physical common areas in the park the same as or similar to those described in Rule 5.1 and 5.1.1 of these rules, the management or landlord may post and maintain the Home Owner Notice in a clearly visible and accessible location on the mobile home park's online rent payment portal or other website intended for use by residents.
- 5.1.3 In addition to complying with Rules 5.1, 5.1.1, and 5.1.2 of these rules, the management or landlord must provide the Home Owner Notice in an accessible format for any home owner with disabilities (e.g. Braille or audio recording) upon request. These formats are available to the management or landlord from the Division by request.
- 5.2 In addition to complying with Rules 5.1 and 5.3 of these rules, the management or landlord must provide a copy of the required Home Owner Notice to each individual home owner within seven (7) calendar days of receiving the Home Owner Notice from the Division and on an annual basis, by posting it on the door of every home owner's mobile home or mailing it to each home owner at either the address provided in the rental agreement or the most recent mailing address of the home owner on file with the management or landlord.
 - 5.2.1 As an alternative to Rule 5.2, the management or landlord may email a copy of the Home Owner Notice to a home owner(s) only if the home owner has an email address on file with the management or landlord, and the management or landlord regularly uses that email address for other communications with the home owner, like rent payment or maintenance notices.
- 5.3 In addition to complying with Rules 5.1 and 5.2 of these rules, the management or landlord must also provide a copy of the required Home Owner Notice with each new lease executed with a home owner, and to each home owner after a change in park ownership.
- 5.4 In mobile home parks where the landlord owns all of the mobile homes and there are no independent mobile home owners with rights and responsibilities under the Act (Part 2 of Article 12 of Title 38) or Program (Part 11 of Article 12 of Title 38), the management or landlord is not required to post, maintain, or provide a copy of the Home Owner Notice pursuant to section 38-12-1104(2)(a), C.R.S., and Rules 5.1 to 5.3 of these rules.
 - 5.4.1 However, once a mobile home park has one or more independently-owned mobile homes, the management or landlord is no longer exempt from the Home Owner Notice requirements under section 38-12-1104(2)(a), C.R.S., and Rules 5.1 to 5.3 of these rules, and must post and provide a copy of the required Home Owner Notice to each individual

home owner within seven (7) calendar days of the change in ownership of the mobile home(s) in compliance with Rules 5.1 to 5.3 of these rules.

RULE 6. MANAGEMENT, LANDLORD, AND HOME OWNER RESPONSIBILITIES

- 6.1 Trees – Notwithstanding the landlord's responsibility to maintain trees on the premises under section 38-12-212.3(2)(b)(IV), C.R.S., a home owner may enter a voluntary, written agreement with their landlord to take on the responsibility for simple trimming that does not affect the safety of park residents or their property of trees located on the lot they are renting from the park, so long as the home owner was not required to assume this responsibility as a condition of tenancy in the mobile home park in violation of section 38-12-212.3(3), C.R.S.
- 6.2 Fences – Fences located on the “premises” as defined in section 38-12-201.5(8), C.R.S., are presumed to be the responsibility of the landlord pursuant to section 38-12-212.3(2)(b), C.R.S., unless:
 - A. The home owner built the fence;
 - B. The current home owner bought the fence from the previous home owner; or
 - C. The home owner agreed in their rental agreement to take on the responsibility for maintaining and repairing the fence and paying the cost thereof in their rental agreement, so long as the home owner was not required to assume this responsibility as a condition of tenancy in the mobile home park in violation of section 38-12-212.3(3), C.R.S.
- 6.3 Mobile Home Sales and Transfers – When the owner of a mobile home located in a mobile home park notifies the management or landlord of the park (whether as required by management or as a courtesy) that the owner intends to sell or transfer their mobile home in place, and the management or landlord seeks to require compliance with park rules and regulations at the time of sale or transfer of the mobile home to a new owner pursuant to section 38-12-214(2), C.R.S., the management shall promptly provide the seller and any prospective buyer(s) of the mobile home a written list of the item(s) for which the management is requiring corrections at the time of sale or transfer. The written list shall include:
 - A. Any and all items the management knows, or reasonably should have known, would require correction at the time of sale or transfer of the mobile home;
 - B. A detailed description of each item; and
 - C. A citation to the specific park rule or regulation that applies to each item on the list. Any park rule or regulation cited must be reasonable and enforceable under section 38-12-214(1)-(4), C.R.S.
- 6.4 Limitations on Charges for Noncompliance – The following rules apply when the management intends to enter a mobile home space to ensure compliance with applicable codes, statutes, ordinances, and administrative rules; the rental agreement; or the rules and regulations of the park pursuant to section 38-12-222(2), C.R.S.
 - 6.4.1 Before entering the mobile home space, the management shall first provide the home owner with a reasonable time to cure the alleged noncompliance and an estimate of the cost if the landlord cures the noncompliance instead (when an estimate is reasonably available and a charge would be permitted by the rental agreement).
 - 6.4.2 If the home owner fails to cure or contest the noncompliance (ex. by communicating with the management or filing a complaint with the Program) within a reasonable amount of time, the management shall make a reasonable effort to notify the home owner of the

management's intention to enter the mobile home space and cure the noncompliance at least forty-eight (48) hours before entry.

- 6.4.3 All of the following conditions must be met for the management to charge a home owner for the cost of ensuring compliance with applicable codes, statutes, ordinances, and administrative rules; the rental agreement; or the rules and regulations of the park:
- A. The potential for a charge must be adequately disclosed in writing in the rental agreement pursuant to section 38-12-213(1)(f), C.R.S.;
 - B. The amount of the charge or the charge itself cannot be a prohibited "entry fee," as defined in section 38-12-201.5(1), C.R.S., and prohibited by section 38-12-209(1), C.R.S.; and
 - C. If the charge is for the cost of ensuring compliance with a rule or regulation of the park, the rule or regulation must be reasonable and enforceable under section 38-12-214(1)-(4), C.R.S.
- 6.5 Limitations on Pet Deposits – Pursuant to sections 38-12-201.5(1), 38-12-209(1), 38-12-207(1) and -207(3), 38-12-102(2) (effective until October 1, 2021), 38-12-102(6) (effective October 1, 2021), and 38-12-103(1), C.R.S.:
- 6.5.1 The management or landlord cannot charge or collect a nonrefundable pet deposit from a home owner or prospective home owner.
- 6.5.2 The management or landlord may only charge or collect a refundable pet deposit from a home owner or prospective home owner, if the total combined amount of the security deposit and refundable pet deposit is no greater than one month's rent.
- 6.6 Pet Rent Definition – Pursuant to sections 38-12-201.5(1) and 38-12-209(1), C.R.S., any recurring charges to home owners with pets must either be part of the "rent," as defined in section 38-12-201.5(9), C.R.S., or fall under an exception to the prohibition on "entry fee[s]" under section 38-12-201.5(1)(c) or (e), C.R.S.
- 6.6.1 If the management or landlord charges or collects pet rent as part of a home owner's rent, instead of as an exception to the prohibition on entry fees:
- A. The amount or application of pet rent must not be discriminatory nor retaliatory in nature; and
 - B. All statutes and rules applicable to rent, including, but not limited to sections 38-12-213(1)(a) (on rental agreements), 38-12-204(2) (on notice of rent increases), and 38-12-204(3) (limiting the frequency of rent increases), C.R.S., apply to pet rent as part of the tenant's total rent.

RULE 7. WATER USAGE, BILLING, AND LEAKS

- 7.1 The requirements in section 38-12-212.4(1), C.R.S., apply to all types of water usage, including sewer and storm water usage.
- 7.2 The management or landlord may change the method of utility billing by providing sixty (60) calendar days written notice to the home owners, provided that the new method of billing is reasonable, equitable, and consistent; does not violate any of the provisions in section 38-12-212.4, C.R.S.; and is not in violation of the home owner's rental agreement established pursuant to section 38-12-213, C.R.S.

- 7.3 Only in cases where the management purchases water from a provider and charges home owners for water usage in the park, but the management does not get the master meter charge(s) from the provider until after the management calculates each home owner's monthly water bill, the management may provide the following information to each home owner to meet the billing disclosure requirements under section 38-12-212.4(2), C.R.S.:
- A. The amount owed by the home owner for the current month;
 - B. The total amount owed by all the residents in the mobile home park for the current month; and
 - C. The total amount paid by the management to the provider for the previous month.
- 7.4 In the event that any water usage, billing, or payment information required under section 38-12-212.4(2), C.R.S., and Rule 7.3 of these rules is not available to the management due solely to circumstances beyond the management's control, the management shall take reasonable steps to comply with section 38-12-212.4(2), C.R.S., and Rule 7.3 of these rules, and to provide accurate disclosures to home owner as soon as reasonably possible and in a manner that meets the intent of section 38-12-212.4, C.R.S.

RULE 8. PARK CHANGE OF USE, SALES, OR CLOSURES AND HOME OWNER OPPORTUNITY TO PURCHASE

8.1 Notice of Intent to Sell –

- 8.1.1 For purposes of giving notice pursuant to section 38-12-217(1)(a), C.R.S., a mobile home park owner demonstrates intent to sell the park when the park owner takes actions including, but not limited to:
- A. Signing a contract with a real estate broker or brokerage firm to list the park for sale, sell, or transfer the park;
 - B. Signing a letter of intent, option to sell or buy, or other conditional written agreement with a potential buyer for the sale or transfer of the park, which includes the estimated price, terms, and conditions of the proposed sale or transfer, even if such price, terms, or conditions are subject to change;
 - C. Signing a contract with a potential buyer's real estate broker or brokerage firm related to the potential sale or transfer of the park;
 - D. Accepting an earnest money promissory note or deposit from a potential buyer;
 - E. Responding to a potential buyer's due diligence request list; or
 - F. Providing a signed property disclosure form to a potential buyer.
- 8.1.2 The landlord must mail the notice required under section 38-12-217(1)(a), C.R.S., by certified mail within fourteen (14) calendar days of the park owner's earliest demonstration of intent to sell the park, which includes, but is not limited to, the actions listed in Rule 8.1.1 of these rules.
- 8.1.3 A landlord is not required to send a second or subsequent notice of intent to sell under section 38-12-217(1)(a), C.R.S., for each demonstration of intent to sell listed in, or similar to, the actions in Rule 8.1.1 of these rule if:

- A. The new demonstration of intent is within sixty (60) calendar days of the certified mailing date of the most recent notice provided under section 38-12-217(1)(a), C.R.S.; and
 - B. There have not been any material changes to the price, terms, and conditions of an acceptable offer the landlord has received to sell the mobile home park or for which the landlord intends to sell the park, which were included in the most recent notice provided under section 38-12-217(1)(a), C.R.S.
- 8.2 New Triggering Events – Pursuant to section 38-12-217(9), C.R.S., any material change(s) to the price, terms, and conditions of an acceptable offer the landlord has received to sell the mobile home park or for which the landlord intends to sell the park is considered a new triggering event, requiring notice under sections 38-12-217(1) or (2), C.R.S., and creating a new ninety-day opportunity to purchase.
- 8.3 Listing – For purposes of section 38-12-217(2)(a)(I), C.R.S., the landlord lists the park for sale when the owner of the mobile home park or their agent, employee, broker, or representative authorized to act on the owner’s behalf offers the property for sale.
- 8.4 Contents of Park Sale Notice – Pursuant to section 38-12-217(3), C.R.S., the “price, terms, and conditions” to sell the park include, but are not limited to:
 - A. Any money or compensation the seller or seller’s agent has paid or intends to pay to the potential buyer or buyer’s agent, including due diligence costs or brokerage fees;
 - B. Whether or not the seller has signed a conditional contract for the sale of the park with a potential buyer, or intends to do so within the next ninety (90) calendar days;
 - C. Whether or not the proposed sale includes more than one mobile home park or piece of real estate (for example, is part of a portfolio or bundled sale);
 - D. Any other terms or conditions which, if not met, would be sufficient grounds, in the seller’s discretion, for rejecting an offer from residents, their agents, or their assignees; and
 - E. For sales that include more than one mobile home park or piece of real estate, like portfolio or bundled sales:
 - i. The name and property description of any and all other mobile home parks or real estate included in the proposed sale;
 - ii. The total price, terms, and conditions of an acceptable offer to sell all of the properties located in the state of Colorado; and
 - iii. The price, terms, and conditions of an acceptable offer to sell each of the mobile home parks located in the state of Colorado that are included in the proposed sale.
- 8.5 Evidence of Majority Approval – When providing reasonable evidence of majority home owner approval pursuant to section 38-12-217(4)(c), C.R.S., a group or association of home owners or their assignees may submit a written statement to the landlord that the group, association, or their assignees has written evidence that at least fifty-one percent (51%) of the owners of occupied homes have approved the group, association, or their assignee’s offer to purchase. To be considered reasonable evidence, this written statement must be signed by an attorney, government official, or another mutually acceptable third party, who attests to the truthfulness of the group, association, or their assignees’ claim.

- 8.6 Landlord's Duty to Consider Offer – Pursuant to section 38-12-217(5)(b), C.R.S.:
- 8.6.1 A landlord that receives an offer(s) to purchase a mobile home park from a group or association of home owners or their assignees must provide a written response to each offer within seven (7) calendar days. The landlord's response to the group or association of home owners or their assignees shall include:
- A. Whether the landlord will accept, will consider, or will not accept the most recent offer submitted by the group or association of home owners or their assignees; and
 - B. The current price, terms, or conditions of an acceptable offer the landlord has received to sell the mobile home park, or for which the landlord intends to sell the park, if such price, terms, or conditions have changed since the landlord gave notice to the home owners pursuant to sections 38-12-217(1) or (2), C.R.S.
- 8.6.2 A landlord shall not require a group or association of home owners or their assignees to meet demands related to the price, terms, nor conditions of the sale of the park that are not universal, but instead specific to and prohibitive of a group or association of home owners or their assignees making a successful offer to purchase the park.
- 8.7 Affidavit of Compliance – Pursuant to section 38-12-217(11), C.R.S., the landlord:
- A. Shall not file the affidavit of compliance before the home owners' opportunity to purchase terminates or expires pursuant to sections 38-12-217(1)(c) or (6)(a), C.R.S.; and
 - B. Shall file the affidavit of compliance on a Division-approved form within thirty (30) calendar days after the sale or transfer of the park is final.
- 8.8 Exemption Form – If a park sale or transfer qualifies for an exemption from the notice and opportunity to purchase requirements pursuant to sections 38-12-217(12) and (13), C.R.S., the landlord shall provide evidence of compliance by filing a Division-approved exemption form within thirty (30) calendar days after the closing date of the exempt sale or transfer with:
- A. The municipality or, if the park is in an unincorporated area, the county, within which the park is located; and
 - B. The Division of Housing in the Department of Local Affairs.
- 8.9 Sale and Transfer Records – Pursuant to sections 38-12-1105(1) and (3), C.R.S., a landlord who is selling or transferring a mobile home park that is located in Colorado shall maintain any and all records related to compliance with section 38-12-217, C.R.S., for a minimum of thirty-six (36) months after any sale or transfer of a mobile home park is complete, including but not limited to:
- A. Records related to Rules 8.1, 8.6, 8.7 and 8.8 of these rules;
 - B. Notices mailed or given to home owners pursuant to sections 38-12-217(1) and (2), C.R.S.;
 - C. Postings pursuant to section 38-12-217(1)(c), C.R.S., including any forms for home owners to provide notice that they do not wish to participate in efforts to purchase the community;
 - D. Signed writings provided by home owners to the park owner expressing no interest in purchasing the park pursuant to section 38-12-217(1)(c), C.R.S.;

- E. Offers to purchase and proposed purchase and sale agreements submitted to the landlord by a group or association of home owners or their assignees pursuant to section 38-12-217(4), C.R.S.;
- F. Requests for information from a group or association of home owners or their assignees participating in the opportunity to purchase and the landlord's response(s) to these requests for information pursuant to section 38-12-217(5)(a), C.R.S.; and
- G. Offers to purchase and any conditional and unconditional purchase and sale agreements submitted by the successful purchaser of the mobile home park.

Adopted on November 8, 2019, to implement House Bill 19-1309 effective December 30, 2019.

The following changes were adopted on October 11, 2021 and are effective November 30, 2021:

- Created: Rules 1.1(A)-(C), 3.9 – 3.9.1(C), 3.13(A)-(B), 6.5 – 6.5.2, 6.6 – 6.6.1(B), 8.1 – 8.1.3(B), 8.2, 8.4 – 8.9(G)
- Amended: Rule 2.7
- Renumbered: Rules 1.1 – 1.7, 3.1 – 3.10, 8.1
- Relocated: Rule 3.3.1 (now Rule 1.8)

The following changes were adopted on March 11, 2020 and are effective April 30, 2020:

- Created: Rules 1.3, 2.5.1(A)-(B), 3.3.2, 3.7, 3.8, 5.1.1- 5.1.2, 5.2.1, 5.4, 6.2
- Amended: Rules 1.4(I)-(J), 2.1, 2.2, 2.5.1, 3.2, 3.3, 3.3.1, 3.3.3, 4, 4.1-4.4 (restated statute), 5.1, 5.2, 5.3, 6.1
- Renumbered: Rules 1.4, 2.1- 2.5, 3.6, 5.1.3, 6.1
- Deleted: Rules 2.1 (restated statute)

The following changes were adopted on October 11, 2020 and are effective November 30, 2020:

- Created: Rules 1.2(A); 1.4; 1.5; 1.6; 1.7; 2.2(B)-(D) and (I)-(N); 2.3; 2.4; 3.1.1; 3.3.2(A)-(B); 3.5; 3.10-3.10.4; 4.1(E); 6.3; 6.4; 7.1; 7.2; 7.3; 7.4; 8.1
- Amended: Rules 1.1; 1.2 and 1.2(B) (updated statutory cite); 1.3 and 1.3.1 (updated statutory cite); 2.1.1; 2.2(A) and (F); 2.6; 2.7-2.7.1(A); 3.1; 3.8; 4.1; 4.1(A)-(D) and (F); 4.3; 4.4 (updated statutory cite); 5.1-5.1.3; 5.2-5.2.1; 5.3; 5.4-5.4.1; 6.1; 6.2 and 6.2(C) (updated statutory cite)
- Renumbered: Rules 2.2(A), (E) and (G)-(H); 2.5; 3.3-3.3.2; 3.6; 3.7; 3.9; 4.2; 4.5
- Deleted: Rules 1.2 (added to statute); 2.2(A); 3.3 (added to statute); 3.3.2 (added to statute)

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00543

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

Division of Housing

on 10/11/2021

8 CCR 1302-15

MOBILE HOME PARK ACT DISPUTE RESOLUTION & ENFORCEMENT PROGRAM

The above-referenced rules were submitted to this office on 10/19/2021 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 29, 2021 14:37:29

A handwritten signature in blue ink, appearing to read "P. J. Weiser".

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Treasury

Agency

State Treasurer

CCR number

8 CCR 1508-1

Rule title

8 CCR 1508-1 UNCLAIMED PROPERTY 1 - eff 11/30/2021

Effective date

11/30/2021

DEPARTMENT OF TREASURY

State Treasurer

UNCLAIMED PROPERTY

8 CCR 1508-1

1.1 Authority

This regulation is adopted pursuant to the authority in section 38-13-104, C.R.S. and is intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 et seq. (the "APA"), C.R.S. and the Revised Uniform Unclaimed Property Act, sections 38-13-101 et seq. (the "Act"), C.R.S.

1.2 Scope and Purpose

- A. It is the intent of the Colorado State Treasurer to enforce the unclaimed property statutes so that property presumed abandoned under those statutes is reported to and collected by the State of Colorado, and returned to its rightful owner through an efficient advertising and claims processing program. Transferring the unclaimed property and related information to the Colorado State Treasurer allows the property and information to be compiled in a single location for the convenience of the absent owner and makes it possible for the Colorado State Treasurer to better protect the interests of missing owners. The State of Colorado indemnifies the holder against claims by individuals or other states once the holder reports and delivers unclaimed property to the Colorado State Treasurer in accordance with the Revised Uniform Unclaimed Property Act. This law shall also be observed by the Colorado State Treasurer when reporting and delivering property belonging to other states.

1.3 Applicability

The passage of the Revised Uniform Unclaimed Property Act modernizes the previous act, necessitating changes to the department's previous rules. The Amendments to existing rules and the creation of new rules relate to the handling of unclaimed property owner records, the remittance of records to the Unclaimed Property program, the oversight of third-party auditors, locator fees and other administrative functions. The amendments ensure that the rules comply with State statutes and Treasury Department operating guidelines. Amendments to the rules were adopted on October 11, 2021.

1.4 Definitions

The definition of any terms used herein specific to the Unclaimed Property Program are consistent with the definitions prescribed in 38-13-102, C.R.S. in addition;

- A. Division shall mean the Colorado Department of Treasury, Division of Unclaimed Property
- B. The Revised Uniform Unclaimed Property Act, or RUUPA in section 38-13-101 et seq., C.R.S

1.5 Rules

1.5.2 Knowledge of Owner

- A. A holder of unclaimed property may establish its knowledge of the existence or whereabouts of the owner of that property by recording any owner-generated activity relating to that property. The mailing of a statement, confirmation or other correspondence by a holder of unclaimed property to the last known address of the owner of that property and the nonreturn of such mail to the holder is insufficient to establish that the holder has knowledge of the existence or whereabouts of the owner. A holder may cross-reference with another account in the same institution or business that has current owner generated activity. To cross-reference a dormant or inactive account with an active account the same names must appear in some form either on the account, signature card or contract.
- B. A holder may establish a code for indicating "customer contact" or "owner-generated activity" for purposes of record-keeping. That code must be well documented.

1.5.7 Indemnification

- A. Upon payment or delivery of property to the Administrator, the state assumes custody and responsibility for safekeeping of the property. A person who pays or delivers property in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim with respect to the property.
- B. A holder who has paid or delivered property to the Administrator may make payment to a person who appears to be entitled to payment and upon filing proof of payment and proof that the payee was entitled to payment the Administrator shall promptly reimburse the holder for the payment without imposing any fee or charge.
- C. If the holder pays or delivers property to the Administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its unclaimed property laws, the Administrator, upon written notice of claim, shall defend holder against the claim and indemnify the holder against liability on the claim.

1.5.11 Located Property

- A. Except as otherwise provided in the Act, agreements to pay compensation to recover or assist in the recovery of property reported under the RUUPA are unenforceable within 24 months after date of payment or delivery to the Administrator. Compensation shall not exceed 10% except as provided by the Act.

1.5.13 Electronic Reporting

- A. Holders shall report unclaimed property as prescribed in 38-13-401, C.R.S. in electronic format only. The format of such report shall be through the current NAUPA Standard Electronic File Format uploaded on the Division website. Holders may file their reports using the manual reporting feature on the Colorado Treasury Unclaimed Property website or file their report electronically via reporting software. The Colorado Treasury Unclaimed Property website shall provide a list of vendors known to currently provide required reporting software along with what forms of reporting that are not accepted by the Colorado Treasury Unclaimed Property Division.
- B. Notwithstanding the filing of such electronic report, the Holder shall pay or deliver to the Treasurer all unclaimed property reported as required in 38-13-603, C.R.S.

1.5.14 Electronic Signatures

- A. Any electronic signatures for ~~Holder reporting or other~~ unclaimed property business as the Administrator may prescribe shall be consistent with the Uniform Electronic Transactions Act, 24-71.3-101, et seq., C.R.S.

1.5.15 Power of Attorney

- A. A claim made pursuant to 38-13-903, C.R.S. by a person with a duly authorized Power of Attorney on behalf of the original owner may be processed as required by law at the Administrator's discretion. If claim by a Power of Attorney is initiated, such action does not preclude the Administrator from seeking verification from the original owner.

1.5.16 Aggregate Deduction Reporting

- A. Aggregate reporting under 38-13-402(j)(2), C.R.S. shall consist of like properties each of which has an individual value of less than \$25. The holder shall maintain a record of the itemized information for ten (10) years.

1.5.17 Continuity of Records

- A. When a holder acquires unclaimed property from another holder, such as in a merger, acquisition, reorganization, consolidation or transfer, the successor holder shall have a duty to maintain and continue the records of the prior holder concerning unclaimed property, as prescribed in 38-13-404, C.R.S.

1.5.18 Remittance and Custody of Securities

- A. For payment or delivery of property as identified in 38-13-603(8), C.R.S. a holder is not required to deliver to the Administrator a security statutorily defined as nonfreely transferable. This includes securities that may be under global lock, restricted, worthless or nonfreely transferable for any reason.
- B. For unclaimed property as identified in 38-13-402, C.R.S. the report made by the Holder as prescribed in 38-13-401 C.R.S. for such property must match the dollar value of the property as transferred to the Administrator under 38-13-603, C.R.S. CUSIP changes, stock splits, etc. must be fully expressed on holder reports. For example, holders should not report 100 shares of stock A and then deliver 75 shares of stock B or 33 shares of stock A.
- C. The Administrator may decline to take custody of property pursuant to 38-13-607, C.R.S. if:
 - 1. The property has a value less than the estimated expenses of notice and sale of the property; or
 - 2. Taking custody of the property would be unlawful.

1.5.19 Nature of Unclaimed Property

- A. A holder must report under 38-13-402, C.R.S. the original nature of the property being reported, if known, and shall be reported according to the timeline specified for the original nature of the item. For example, if the underlying transaction is an unclaimed wage but the financial instrument is a cashier's check, the reportable item is the wage, and not the cashier's check.
- B. The report required under section 38-13-402, C.R.S. must include the name, last known address and social security number or tax payer identification of the apparent owner or property with a value of twenty-five dollars or more.

1.6.1 Reporting Deadlines and Extensions

- A. Unclaimed property reports, as identified in 38-13-403, C.R.S. must be filed before November 1 of each year with the exception of Insurance Companies as defined in 38-13-102, C.R.S., for which the report must be filed before May 1 of each year.
- B. Under 38-13-403(3), C.R.S., the Administrator may grant an extension in the form of 30 days for holders that are unable to submit their report before the deadline. Extension requests must be submitted for review to the Administrator at least 30 days prior to the original filing due date.

1.6.2 Local Government Agency Opt-Out Option

For local government unclaimed property exemption as identified in 38-13-1504, C.R.S., local government agencies that choose to opt-out from delivering unclaimed property to the State Treasurer must complete and submit an official opt-out form provided by the Division. This must be accepted by the division in advance of the local government annual report submission.

1.6.3 Notary of Claims

- A. The administrator shall require notarization for claims submitted by a person if the claim is equal to or greater than \$1000. This includes securities and tangible properties.

1.6.4 Audit Examination Estimation

The Administrator may examine the records of a holder to determine compliance with the Act under 38-13-1002, CRS or the Administrator may contract with a third-party to conduct examinations under 38-13-1009, C.R.S.

- A. Pursuant to 38-13-1006, C.R.S., if a Person subject to examination does not retain the records required by Section 38-13-401, C.R.S., the Administrator may determine the value of property due using a reasonable method of estimation based on all information available to the Administrator, including extrapolation and use of statistical sampling when appropriate and necessary.
- B. A payment not made in a timely manner based on estimation is considered a penalty as prescribed in 38-13-1204, C.R.S. A holder required to file shall retain records for ten years after the later of the date the report was filed or the last date a timely report was due to be filed. Estimation does not relieve a Person from an obligation to report and deliver property to a State in which the holder is domiciled.
- C. Unless agreed to by a Person subject to examination, estimation should be used only when there are insufficient records to perform an examination.
- D. An Auditor may not use estimation in an examination unless either:
 - 1. Person subject to examination agrees in writing to the use of estimation as part of an audit resolution agreement; or,
 - 2. Administrator approves in writing the use of estimation in the examination.
- E. Prior to approving the use of estimation in an examination under the Act the Administrator shall:
 - 1. Pursuant to 38-13-1003, notify the Person subject to examination in writing that the Administrator is considering the use of estimation because of a failure to maintain the records required by 38-13-404, C.R.S of the Act;

2. After considering any evidence submitted by the Auditor and the Person subject to examination, make a written determination that the Person subject to examination has failed to maintain the records required by Section 38-13-104, of the Act;

3. Provide an opportunity for the Person subject to examination to submit written objections including, but not limited to:

a. submitting evidence that the Person subject to examination has maintained sufficient records to perform the examination for some or all of the years during the time period covered by the examination; or

b. proposing an estimation methodology;

F. Notify in writing the Person subject to examination of the estimation methodology to be used and for which years during the time period covered by the examination estimation will be used.

1.6.5 Third Party Audit Contracts

A. Subject to the requirements of 38-13-1009, C.R.S., the Administrator may contract with a Person (hereinafter, "Auditor") to conduct unclaimed property examinations to determine compliance with the Act. Auditor is defined as the Administrator's agent in 38-13-202, C.R.S.

1. A contract to conduct an examination may provide for compensation of the Auditor based on a fixed fee, hourly fee, or contingent fee.

2. A contract with an Auditor to conduct an examination is a public record under the Colorado Open Records Act.

3. An Auditor and the Auditor's staff shall collectively possess sufficient training and experience to adequately perform unclaimed property examinations.

4. An Auditor shall not engage in any unclaimed property examination to determine compliance with the Act without written authorization from the Administrator.

5. An Auditor shall maintain independence in performing the examination and avoid conflicts of interest.

6. An Auditor shall report in writing to the Administrator at least monthly on the status of all unclaimed property examinations which the Auditor has been authorized to perform by the Administrator.

1.6.6 Notice of Third Party Audit Examination

A. All third party audit unclaimed property examinations should begin with an official notice of examination letter.

1. A notice letter will:

a. Notify the Person subject to examination that its books and records (including those belonging to subsidiary and related entities or maintained by a third party that has contracted with such Person) are subject to examination;

b. Identify the assigned Auditor; and,

c. Include Auditor contact information.

B. A notice letter may either be sent

1. Directly to the Person subject to examination by the Administrator or;
2. to the Auditor assigned to the examination for delivery to the Person subject to examination.

1.6.7 Third Party Audit Examination Entrance Conference

A. Once an examination is assigned and written notice of an examination is provided to the Person subject to examination, the Auditor and/or Examiner should schedule an entrance conference to include representatives of the Person subject to examination. A representative of the Administrator may, but is not required to, participate in an entrance conference.

B. During the opening conference, by way of example and not limitation, the Auditor shall:

1. Identify to the extent possible the types of property that will be subject to the examination and the time period covered by the examination;
2. Discuss an examination work plan, a tentative schedule, and any potential issues related to scope;
3. Provide contact information for both the Auditor and the Administrator;
4. Provide the Person subject to examination a draft confidentiality agreement, if a draft has not been presented prior to the opening conference;
5. Notify the Person subject to examination of their ability to request an informal conference with the Administrator pursuant to the Act;
6. Advise the Person subject to examination that the Administrator and not the Auditor makes determinations concerning such Person's liability under the Act and that interpretations of the Act are made by the Administrator;
7. Request records and materials necessary to proceed with the next steps of the examination;
8. Explain the requirement to provide a due diligence notice to the apparent owner of property presumed abandoned. Due diligence requirements are described in 38-113-501 and 38-113-502, C.R.S.; and,
9. Explain that, unless otherwise agreed to in writing by the Administrator, the Person subject to examination shall remit to the Auditor any unclaimed property identified during the examination that is owed to the state.

1.6.8 Third Party Audit Examinations Advocates

A. A Person subject to examination may retain third-party Advocates (an "Advocate") to assist them in the examination process.

B. The retention of an Advocate is no basis to delay the commencement of the examination and the Administrator will not delay the examination so that the Advocate may conduct a review or its own audit of the books and records of the Person subject to examination in advance of the Administrator's examination.

- C. The Administrator should cooperate with the Person subject to examination and its Advocate and keep both of them apprised of records requests, interviews, and the progress of the audit in general.

1.6.9 Third Party Audit Examination Guidelines

- A. The Auditor and the Person subject to examination shall act in good faith to conduct the examination under the terms and within the time frame established in the entrance conference.

1. During the examination, the Auditor may make subsequent requests to the Person subject to examination for additional books and records as needed to complete the examination.

a. The Auditor shall submit record requests to the Person subject to examination in writing, or if the request is made verbally, shall follow up with written documentation of the request.

b. Record requests shall have reasonable deadlines in order to move the examination forward and avoid unnecessary delays. The Person subject to examination is responsible for advising the Auditor in advance of any anticipated difficulties in achieving deadlines and agreed upon deliverables.

c. The Auditor shall provide a reasonable timeframe for the Person subject to examination to respond to the request based on the type and extent of the information requested and other relevant facts and circumstances.

d. The Auditor shall provide confirmation of receipt to submissions received from the Person subject to examination, with reasonable projected response times.

2. The examination shall not be limited to a review of work papers, compilations, or record summaries prepared by the Person subject to examination or an Advocate but shall include, but not be limited to, access to the original books and records deemed by the Administrator to be necessary to ascertain compliance with the Act. The Third-Party Auditor may utilize data sources in their examination, for example the Social Security Administration's Death Master File (DMF), the United States Post Office National Change of Address database (NCOA), etc.

3. The Auditor shall properly document the examination and make the working papers gathered during the unclaimed property examination available for review by the Administrator. Such working papers will include planning information and all related calculations, statistical analyses, and summarizations.

1.6.10 Confidentiality of Records Obtained or Compiled During the Third Party Audit Examination

- A. Records obtained and records, including work papers, compiled by the Administrator or the Administrator's agent in the course of conducting an examination are subject to the confidentiality and security provisions of the Act and are not public records.

1.6.11 Confidentiality Agreement- Third Party Audit Examination

- A. The person subject to examination may require, as a condition of disclosure of the records of the Person to be examined, that each person having access to the records disclosed in an examination execute and deliver to the Person to be examined a confidentiality agreement that:

1. is in a form that is satisfactory to the Administrator; and

2. requires the Person having access to the records to comply with the provisions of Part 14 of the Act.

- B. If the Person subject to examination and the Auditor are unable to enter into a confidentiality agreement within 60 calendar days from the date an agreement reasonably satisfactory to the Administrator was first presented to the Person subject to the examination by the Auditor or the Administrator, then the examination may commence without a confidentiality agreement in place and the parties shall rely on the confidentiality provisions of Part 14 of the Act.
- C. Auditors shall not disclose confidential information obtained during an unclaimed property examination to any Person other than to the Administrator or the Administrator's designee and, in the case of a multistate examination, to authorized representatives of a state participating in the examination.
- D. Auditors shall not use confidential information obtained from the person subject to an examination for any purpose other than for purposes of the examination. Auditors shall take reasonable steps to ensure that the confidential information provided by the Person subject to an examination is securely maintained.

1.6.12 Third Party Audit Examination Bankruptcy

- A. If at any time before or during the course of an examination the Person subject to examination files for bankruptcy, such Person shall give notice of the filing to the Auditor. The Auditor shall, within ten calendar days of receiving notice or the discovery of the event, notify the Administrator of the bankruptcy filing. If the Administrator so elects, the Auditor shall assist the Administrator to ensure that a proper proof of claim is filed timely in the bankruptcy action.

1.6.13 Third Party Audit Examination Audit Resolution Agreements

- A. Pursuant to the Administrator's authority to conduct an examination, the Administrator possesses the authority to resolve an examination via negotiation and settlement with the Person subject to examination. This provides flexibility to both the Person subject to examination and the Administrator to resolve issues that could require formal appeal or litigation. Such settlements are often referred to as "audit resolution agreements."
- B. The Administrator may agree to reduce or waive interest and penalties as part of a settlement, to the extent permitted by law.
- C. A mutually-agreed upon settlement resolves a specific examination and does not create any precedent on specific legal issues.

1.6.14 Third Party Audit Examination Report to Holder

- A. At the conclusion of an examination, unless waived in writing by the Person being examined, the Administrator shall provide to the Person whose records were examined a report that specifies:
 - 1. the work performed;
 - 2. the property types reviewed;
 - 3. the methodology of any estimation technique, extrapolation, or statistical sampling used in conducting the examination;
 - 4. each calculation showing the value of property determined to be due; and,

5. the findings of the Auditor conducting the examination.

1.6.15 Multistate Third Party Audit Examinations

- A. The Administrator may agree to participate in an examination of a Person for compliance with unclaimed property laws of multiple states, including the Act, where a single Third-Party Auditor performs an examination for more than one state.
- B. Multistate examinations are intended to be more efficient and effective for both the Person being examined and the states which have authorized the examination.

STATE OF COLORADO
DEPARTMENT OF THE TREASURY

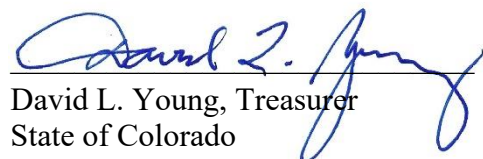
Dave Young
State Treasurer



Eric Rothaus
Deputy Treasurer

Rule Adoption

I, David L. Young, Treasurer for the State of Colorado, pursuant to § 38-13-104, CRS, do hereby adopt the revised Rules to administer the Revised Uniform Unclaimed Property Act, § 38-13-101, CRS, et seq.


David L. Young, Treasurer
State of Colorado

October 11, 2021
Date

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00337

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

State Treasurer

on 10/11/2021

8 CCR 1508-1

UNCLAIMED PROPERTY

The above-referenced rules were submitted to this office on 10/12/2021 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 27, 2021 10:46:51

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Income Maintenance (Volume 3)

CCR number

9 CCR 2503-6

Rule title

9 CCR 2503-6 COLORADO WORKS PROGRAM 1 - eff 03/01/2022

Effective date

03/01/2022

9 CCR 2503-6

3.600 COLORADO WORKS PROGRAM [Rev. eff. 3/1/2022]

3.600.1 Performance Contract

County departments shall enter into a performance contract with the State Department, which may be called a memorandum of understanding (MOU), regarding the delivery of Colorado Works programming. This contract will outline performance measures that the county department is required to meet.

3.600.2 County Policies

County departments shall submit the following county policies to the State Department for review and approval. The State Department is responsible for reviewing and approving county policies, assuring that all counties are complying with all federal and State statutes and regulations. After approval by the State Department, the county department shall have their State approved policies signed by their county board of commissioners or the board's designee and provide a signed copy back to the State Department. The State Department will communicate, in advance, when a change to the list of required policies is made. Counties who do not provide signed county policies within the timeframe required by the State Department will operate under these broad State rules and default to the State defined policies.

The following policies are required:

- A. Diversion
- B. County Approved Settings
- C. Workforce Requirements and Employment Outcomes
- D. Disaster Assistance
- E. Domestic Violence
- F. Other Assistance and Supportive Payments
- G. Hardship Extensions
- H. Substance Abuse (only required if practiced)

County departments should regularly review their Colorado Works policies to ensure alignment with current county practice.

3.600.3 Contracting

3.600.31 Private Contracting

The Board of County Commissioners may contract all or part of the Colorado Works program operation to private or public providers. They may also choose to contract out the provision of goods or services to Colorado Works (CW) eligible persons/families.

- A. Prior to initiating a contract with a provider, the county shall:
 - 1. Verify that the provider has not been debarred or suspended or otherwise found to be ineligible for participation in federal assistance programs by consulting the ineligible parties list at <http://www.epls.gov>.

2. Determine if the provider is acting as a sub-recipient and is therefore subject to OMB Circular A-133 (2003) and expanded auditing and oversight requirements. No later editions or amendments are incorporated. This circular is available at no cost from the U.S. Government Publishing Office at 732 North Capitol St., N.W., Washington, D.C. 20002, or at <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/a133/a133.pdf>. These regulations are also available for public inspection and copying at the Colorado Department of Human Services, Office of Economic Security, 1575 Sherman St., Denver, CO 80203, during regular business hours.

B. All contracts shall:

1. Specify the Temporary Assistance for Needy Families (TANF) purpose(s) that is served and/or supported, as outlined in the Code of Federal Regulations at 45 CFR 260.20 (2021). No later editions or amendments are incorporated. These regulations are available at no cost from the U.S. Department of Health and Human Services at 200 Independence Ave., S.W., Washington D.C. 20201, or at <https://www.ecfr.gov/>. These regulations are also available for public inspection and copying at the Colorado Department of Human Services, Office of Economic Security, 1575 Sherman St., Denver, CO 80203, during regular business hours.
2. Approximate, with reasonable certainty, the number of CW eligible persons to be served and include the method used to calculate this number. This number and the calculation used must be documented and made available upon request by the State Department for audit purposes.
3. Outline the provider's eligibility verification process to ensure that goods and services are provided to CW eligible persons/families.
4. Explain how the costs for the goods/services are calculated.
5. Prohibit supplantation.
6. Include a regular accounting of activities and costs at least twice a year.
7. Clarify that all expenditures for goods, services, or start-up funds be documented with a purchasing document.
8. Ensure that the agency has the ability to clearly identify CW eligible individuals from others in situations where an agency receives funding from multiple sources.
9. Outline specific and measurable performance goals for the contract.
10. Require, if the county chooses to, that a client apply for CW, sign a written agreement, or complete an Individualized Plan.
11. Ensure that a HIPPA agreement is signed and on-file in instances where the provider will obtain protected health information. All other contracts must ensure reasonable expectations for the provider to keep client information confidential and secure.
12. Complete an audit in instances where the county is contracting \$750,000 or more in CW funds during the fiscal year, in compliance with OMB Circular A-133, as incorporated by reference in section 3.600.31.a.2.

C. Some contracts may be classified as a community resource investment contract pursuant to Section 26-2-707.5(1), C.R.S. These contracts do not require clients to complete an application, a

written agreement, or Individualized Plan, though the county may continue to require such documentation per their own individual contracting procedures.

Community resource investment contracts shall meet all contract requirements as outlined above in section 3.600.31 and shall:

1. Include the purpose of the contract and investment in the community.
2. Specify the income eligibility standards that are used.
3. Outline the county's dispute resolution process if it differs from that outlined in section 3.609.6.

3.600.32 County Contract with Religious Organizations

Counties may contract with religious organizations for the payment of cash assistance or provision of services. If the individual objects to being served by the religious organization chosen as a contractor, the county must provide alternative means for the individual or family to receive benefits, assistance, or services. Contract agencies providing services to individuals must have the ability to provide services that are equitable and make all services available offered to every client.

3.600.4 State Flexibility for Pilot Programs

Nothing in these rules prohibits the State Department from piloting programs to serve the TANF population within the bounds of federal regulations for the program. Pilot programs may be offered at the State level or in partnership with one or more county departments. Pilot programs may be designed to serve a subset of clients based on broad-based eligibility factors and may have different eligibility criteria than listed in this rule volume.

3.600.5 Program Review and Oversight

County department supervisory personnel and/or quality assurance staff shall review eligibility determinations (certifications, denials, and/or pending cases) monthly. Supervisory personnel and/or quality assurance staff shall:

- A. Review a minimum number of cases, including specific programs and/or actions, per month as outlined annually by the State Department based on the county department's Colorado Works caseload size. The State Department will notify the county of the minimum number of cases to be reviewed.

The county may elect to:

1. Create a plan to pull a random sample that includes at least the minimum number of Colorado Works cases set forth by the State Department and submit that plan to the State for approval.
 2. Use the State prescribed random sample.
- B. Determine the correctness of eligibility determinations;
 - C. Ensure correction of any errors within ten (10) business days or the time frame specified within the approved review plan;
 - D. Maintain a record of the cases reviewed for audit purposes, including audit results and any required actions taken by the county. County departments must keep case file reviews for a minimum of three (3) years; and;

E. Report these results and actions to the State on a monthly basis via the state prescribed process.

3.601 Program Definitions

“Adequate” (related to notice) means a written notice sent to the client which details any determination of eligibility, as well as a change or discontinuation of grant payments and the reason for that change.

“Administrative Disqualification Hearing” (ADH) means a disqualification hearing against an individual accused of wrongfully obtaining or attempting to obtain assistance.

“Administrative error claim” means a grant payment was overpaid and a claim validated based on an error on the part of the county department of human services.

“Administrative Law Judge” (ALJ) means an Administrative Law Judge appointed pursuant to Section 24-30-1003, C.R.S.

“Adverse action” means a county action to reduce grant payments or to deny an application. A reduction may be the result of a sanction, a demonstrable evidence closure, or ineligibility based on income or household changes.

“Affidavit” means a State prescribed form wherein a client attests, subject to the penalties of perjury, that he or she is lawfully present in the United States. An affidavit need not be notarized.

“Applicant” means any individual or family who individually or through an authorized representative or someone acting responsibly for him or her has applied for benefits under the programs of public assistance administered or supervised by the State Department pursuant to Title 26, Article 2, C.R.S., as defined at Section 26-2-103(1), C.R.S.

“Application” means an initial or redetermination request on State approved forms (paper or electronic) for a grant payment and/or services.

“Approval” means assistance is authorized by the county department.

“Assessed need” means any identified need of a client or family receiving Colorado Works grant payments beyond ordinary, routine living expenses that is designed to deal with a specific crisis situation or episode of need, is not intended to meet recurrent or ongoing needs, and will not extend beyond four (4) months without a new assessment.

“Assistance unit” means individuals who live together and who are receiving grant payments as one household.

“Authorized representative” means someone acting reasonably for the client with the authority to make decisions on behalf of the client and who has taken responsibility for the case, including but not limited to, signing documents and speaking with county departments. The authorization must be in writing and signed by the client.

“Basic cash assistance” means a recurrent cash payment intending to meet ongoing needs.

“Budgetary unit” means those people whose income is considered in the determination of eligibility and grant payment calculation because they are considered financially responsible for members of an assistance unit. Members of the budgetary unit can be in the assistance unit or outside of the assistance unit.

“Caretaker” means a person who exercises the responsibility for a child.

“Certification period” means the time period for which a CW client is approved to receive grant payments before a redetermination is required.

“Claim” means an overpayment of a grant payment that needs to be researched and validated by the county department.

“Clear and convincing” evidence is stronger than “a preponderance of evidence” and is unmistakable and free from serious or substantial doubt.

“Client” means a current or past applicant or a current or past recipient of a Colorado Works grant payment.

“Client error claim” means a grant payment was overpaid and a claim was validated based on unintentional or willful withholding of information on the part of the client.

“Collateral contact” means a person outside the client’s household (excluding sponsor(s) and landlord who also live in the home) who has first-hand knowledge of the client’s circumstance and provides a verbal or written confirmation thereof. This confirmation may be made either in person, in writing, electronically submitted, or by telephone. Acceptable collateral contacts include but are not limited to: employers, landlords, social/migrant service agencies, and medical providers who can be expected to provide accurate third-party verification. The name/title of the collateral contact as well as the information obtained must be documented in the statewide automated system.

“Colorado Works” is the Temporary Assistance for Needy Families (TANF) program in Colorado.

“Countable income” means income considered available to the individual after the application of valid exemptions, disregards, and deductions.

“County department” means the county department of human/social services.

“County policy(ies)” means the written county policies governing the Colorado Works program as approved by the State Department and county board of commissioners or their designee.

“County worker” means an employee or designated representative of the county department.

“County approved setting” means a living arrangement evaluated and deemed appropriate by the county department according to county policy.

“Demonstrable evidence” means evidence that a Colorado Works client has refused to comply with the workforce program.

“Denial” means that a Colorado Works application was denied because the client was not eligible for a grant payment upon application.

“Dependent child(ren)” means a person who resides with a parent or non-parent caretaker and who is:

- A. Under eighteen (18) years of age; or,
- B. Between the ages of eighteen (18) and nineteen (19) and a full-time student in a secondary school or in the equivalent level of vocational or technical training (including seeking to obtain high school equivalency) and expected to complete the program before age nineteen (19).

“Discontinuation” means that a client who is currently receiving a grant payment is no longer eligible and his or her grant payment will be stopped.

“Disqualified person” means a person who would be a member of the assistance unit but is ineligible due to program prohibitions.

“Diversion” means a short-term cash payment (not to extend beyond four (4) months) intended to meet an episode of need.

“Domestic violence” (also known as family violence) means a pattern of coercive control one individual inflicts upon another in the context of familial, household, or intimate partner (current or former) relationships including marriage and dating. Violence may be inflicted through a variety of means including, but not limited to:

- A. Physical acts threatening or resulting in physical injury to the individual, including hitting, punching, slapping or biting;
- B. Intimidation resulting in fear of imminent bodily harm through the use of gestures, displays of weapons, or destruction of property, including pets;
- C. Threats of or attempts at physical or sexual abuse or other means of coercion and control, including harm to or threats to harm children, other family members, or pets;
- D. Sexual abuse or threats to inflict nonconsensual sexual acts, including sexual activity with a minor;
- E. Mental, emotional, or psychological abuse including degradation, constant put-downs, or humiliation that results in a reduced ability to engage in daily activities;
- F. Isolation from friends, family, or any type of emotional support system;
- G. Neglect or deprivation of medical care;
- H. Stalking;
- I. Economic abuse or control of finances through withholding money or sabotaging attempts to attain economic self-sufficiency; and/or,
- J. Child molestation, incest.

“Domestic violence survivor” means any person who has experienced or is experiencing domestic violence as defined above.

“Earned income” means payment in cash or in-kind received by an individual for services performed as an employee or as a result of being engaged in self-employment.

“Effective date of eligibility” means the first date a client is eligible for the public assistance program.

“Eligibility requirements” means criteria used to determine individuals eligible or ineligible to receive grant payments and/or services.

“Eligible client” means a client whose countable income is below the grant standard and who meets all non-financial eligibility criteria.

“Emancipated juvenile” means the same as in Section 19-1-103(45), C.R.S.

“Exceptional disengagement” means a pattern of documented non-compliance with the Individualized Plan over a span of time without reporting good cause. The pattern must clearly demonstrate repetitive disengagement from the program over a span of not more than two (2) months, such as three (3)

consecutive times in one (1) month or four (4) times in two (2) months. Exceptional disengagement does not exist when a client has demonstrated an unmet need for transportation or childcare or when domestic violence or a disability impact a client. Exceptional disengagement is reported to the State Department via a State prescribed review process.

“Excluded person” means a person who is not included in the assistance unit or budgetary unit.

“Exempt income” means any income that is not countable income for the purpose of eligibility.

“Federal Poverty Guidelines” also called Federal Poverty Level (FPL) means the income level for a household as set forth in the Federal Register 86 FR 7732, 7732-7734, as of February 1, 2021. This rule does not contain any later amendments or editions. These guidelines are available for no cost at <https://www.federalregister.gov/>. These guidelines are also available for public inspection and copying at the Colorado Department of Human Services, Director of the Employment and Benefits Division, 1575 Sherman Street, Denver, Colorado, 80203, or at any state publications library during regular business hours.

“Fleeing felon” means a person fleeing to avoid prosecution or custody or confinement after conviction for a felony.

“Fraud” means the same as in Section 26-1-127(1), C.R.S.

“Family violence option (FVO) trained worker” means a county worker or contract staff who has participated in the State prescribed FVO training.

“Good cause” means circumstances beyond the control of the client. Good cause includes, but is not limited to, medical emergencies or hospitalization; a client who has a disability or other medical condition(s) requiring additional time and/or assistance; a delayed appointment with the Social Security Administration beyond the client's control; or other good cause determined reasonable by the county department using the prudent person principle, including the reasons outlined in 3.608.3. Related to the appeal process, the following circumstances do not constitute good cause: an excessive workload of a party or his or her representative or attorney; when a party obtains legal representation in an untimely manner; a party or his or her representative or attorney's failure to either receive or timely receive, a timely mailed initial decision, or other timely mailed correspondence from the Office of Administrative Courts, the Office of Appeals, or the county department; when a party or his or her representative or attorney has failed to advise the Office of Administrative Courts, the county department, or the Office of Appeals of a change of address or failed to provide a correct address; or any other circumstance which was foreseeable or preventable.

“Grant payment” means the Colorado Works program payment that can either be basic cash assistance or diversion. Grant payments may also be referred to as the benefit.

“Grant standard” means the maximum Colorado Works grant payment that can be provided to a client based on the household composition, not including diversion or assessed need.

“Guardian” means the same as in Section 15-14-102(4), C.R.S.

“Immediate family member” means spouses, child(ren), parents, siblings, and the spouses of those persons.

“Income” means any financial gain by means of money payment or in-kind payment. Payments made directly to a vendor are not income.

“Income reporting standard” means the amount of income which requires an assistance unit to report an increase in earnings during a certification period.

"In-kind" means something of value received for the benefit of a client or sponsor(s) of a client and is considered either earned or unearned income. Examples of this are food or shelter that the client received for free or at fair market value or less.

"Intent" and/or "intentionally" means the same as in Section 18-1-501(5), C.R.S.

"Intentional program violation" (IPV) occurs when an individual makes a false or misleading statement or fails to disclose by misrepresentation or concealment of facts, or acts in a way that is intended to mislead or conceal any eligibility factor on any application or other written and/or electronic communication for the purpose of establishing or maintaining eligibility to:

- A. Receive a grant payment for which the client is not eligible; or,
- B. Increase a grant payment for which the client is not eligible; or,
- C. Prevent a denial, reduction or termination of a grant payment.

"Irregular" (related to income) means income which an individual cannot reasonably expect to receive on a monthly basis.

"Liable individual" means a person financially responsible for an overpayment including the client, sponsor(s) of a client, a payee, parents of dependent children, and/or other persons determined to be financially liable by a court.

"Medical services" means services that are allowable or reimbursable under Title XIX of the Social Security Act.

"Minor" means a person who is under the age of eighteen (18).

"Noncustodial parent" means an individual who, at the time he or she requests and receives program services:

- A. Is a parent of a minor child; and,
- B. Is a resident of Colorado; and,
- C. Does not live in the same household as the minor child.

"Overpayment" means a grant payment was made in excess of the amount a client was eligible for.

"Parent" means an adoptive or natural/biological parent, including an expectant parent, upon verification of that pregnancy.

"Periodic payments" means payments that are irregular or a one-time payment.

"Potential income" means a benefit or payment to which the client or sponsor(s) of a client may be entitled and could secure, such as spousal support, annuities, pensions, retirement or disability benefits, veterans compensation and pensions, workers' compensation, Social Security retirement or disability benefits, Supplemental Security Income (SSI) benefits, and unemployment compensation.

"Produce" means to provide for inspection either: 1) an original or 2) a true and complete copy of the original document. A document may be produced either in person, electronically, or by mail.

"Program prohibitions" means any of the following that prevents a required member of the assistance unit from participating in the Colorado Works program.

- A. The individual has misrepresented his or her residence to receive TANF benefits or services simultaneously in two or more states;
- B. The individual is a fugitive or fleeing felon;
- C. The individual has been convicted of a drug-related felony on or after July 1, 1997, unless the county has determined that the person has taken action toward rehabilitation, such as, but not limited to, participation in a drug treatment program;
- D. The individual is a non-citizen who does not meet the definition of an eligible qualified non-citizen;
- E. The individual has been convicted of welfare fraud under the laws of this State as described in Section 26-1-127, C.R.S., any other state, or the federal government. The individual convicted of fraud shall not be permitted to receive grant payments but may receive services as deemed necessary; or,
- F. The individual lacks or failed to provide a Social Security Number (SSN) or proof of application for a SSN.

"Prudent person principle" means that, based on experience and knowledge of the program, the county department exercises a degree of discretion, care, judiciousness, and circumspection, as would a reasonable person, in a given case.

"Qualified non-citizen" is the same as "qualified alien" in 8 U.S.C. 1641(b) and may also be referred to as a legal immigrant.

"Questionable" means the information provided is unclear, conflicting information has been provided, or the county has reason to believe facts presented are contrary to the information provided by the client.

"Received" (for the purpose of income) means the date on which the income is actually received or legally becomes available for use, whichever occurs first, whether reported timely by the client or not.

"Received" (as it applies to receipt of verification, documentary evidence, and reported changes in circumstances) means the date the verification, documentary evidence, and reported changes were received by the county department.

"Recovery" means the collection of a valid claim to repay grant payments to which a client was not entitled.

"Redetermination" means a case review/determination of necessary information and verifications to determine ongoing eligibility and may also be called renewal.

"Responsibility/exercising responsibility" means the accountability for and obligation to make decisions on behalf of a child(ren).

"Sanction" means a reduction in Colorado Works grant payments for an established period of time as a result of not participating in the Workforce Development program.

"Scheduled appointment" or "scheduled interview" means an appointment or interview set using a State prescribed or State approved appointment notice provided to the client.

"Self-employment" means work that is performed at the client's discretion either informally, as an independent contractor or as the owner of a business and not for an employer. Self-employment does not include S-Corps or Limited Liability Companies (LLC).

“Signature” means handwritten signatures, electronic signature techniques, recorded telephonic signatures, or documented gestured signatures. A valid handwritten signature includes a designation of an x. For Individualized Plans and conditions agreements, a verbal agreement is an acceptable signature and must be substantiated with an electronic, recorded telephonic, or written agreement of the terms.

“Sponsor” means any person(s) who executed an affidavit of support (USCIS form I-864 or I-864a (March 6, 2018)) or another form deemed legally binding by the Department of Homeland Security on behalf of a non-citizen as a condition of the non-citizen's date of entry or admission into the United States as a permanent resident. These forms are herein incorporated by reference. This rule does not contain any later amendments or editions. These forms are available at no cost from <https://www.uscis.gov/forms>. These forms are also available for public inspection and copying at the Colorado Department of Human Services, Director of the Employment and Benefits Division, 1575 Sherman Street, Denver, Colorado, 80203, or at any state publications library during regular business hours.

“State Department” or “the Department” means the Colorado Department of Human Services.

“Statewide automated system” means the electronic platform used to calculate public assistance program benefits and grant payments.

“Supplantation” means the replacement of county funds serving Colorado Works clients with block grant funds and the use of those county fund savings for purposes other than the Colorado Works program.

“Supportive payment” means a payment and/or service in addition to basic cash assistance or diversion that is based on an assessed need.

“Termination” means that the client who is currently receiving Colorado Works program grant payments is no longer eligible and his or her grant payments will be stopped.

“Timely notice” means the county shall generate a notice to the client at least eleven (11) calendar days prior to the initiation of any adverse action. This shall be sent to his or her last address known to the county department.

“Unearned income” means any income received by a client or sponsor(s) of a client that is not earned through employment or self-employment.

“Unintentional” or “without intent” means an act, or something done or performed that was not voluntary or intended.

“Verification” or “verify” means confirming statements, application information, and other case information by obtaining written, audio, or other evidence or information that proves such fact or statement to be true.

“Verified upon receipt” means information that is provided directly from the primary source and is not questionable and no additional verification is required.

“Willful” means the same as in in Section 18-1-501(6), C.R.S.

“Willful withholding of information” includes:

- A. Willful misstatement including understatement, overstatement, or omission, whether verbal or written, made by a client in response to verbal or written questions from the county department; and/or,
- B. Willful failure by a client to report changes in income or other circumstances which may affect the amount of grant payment.

“Withdraw” or “withdrawal” means an application is not processed because the client who submitted the application withdraws his or her request for assistance prior to eligibility determination, or requests his or her grant payment be discontinued.

“Workforce Development (WD)” means the program provided to clients determined to be work eligible as described in section 3.607.

3.602 Applications for Colorado Works

3.602.1 Applications

- A. An individual shall have the opportunity to apply for Colorado Works assistance without delay. When an individual is unable to make an application in person at the county department, the county department, upon request of the applicant, shall mail the State Department’s prescribed public assistance application form or assist the individual in applying for assistance utilizing other forms of the State Department’s prescribed application.
 - 1. County departments shall not require any pre-eligibility screening process designed to deter individuals from applying for Colorado Works benefits, services, and/or payment. All applications shall be accepted by the county department and entered into the statewide automated system to determine the applicants’ eligibility for the program.
 - 2. County departments shall accept applications for Colorado Works during normal business hours. They shall not be restricted to a certain day or time of day. County departments shall not refer applicants to community resource providers in place of allowing them to apply for Colorado Works benefits or otherwise limiting opportunities to apply for Colorado Works. In addition, county departments shall accept applications at all Human/Social Services departments for public assistance locations. The application date shall be the date that the application is received in the public assistance office.
 - 3. If the applicant wishes to terminate the process before the application is completed, it shall be treated as an “inquiry” and the application will not be acted upon for a determination of eligibility. An inquiry is a request of information about eligibility requirements for public assistance. If the applicant wishes to terminate the process after the application is submitted, it shall be treated as a “withdrawal/denial.”
 - 4. An applicant may choose to withdraw his or her application anytime during the application process or after a grant payment is determined. A decision by the applicant to withdraw shall be treated as a denial by the county department. The applicant shall be notified of the action of the county department on the State-approved Notice of Action form.
- B. Administrative Review

All Colorado Works clients whose benefits have been denied, reduced or terminated shall receive timely and adequate notice of the denial or change in benefits in accordance with section 3.609.1. In addition, the client shall have the right to appeal a county department’s action in accordance with State rules pursuant to Section 3.609.7. A Colorado Works client receiving basic cash assistance shall have benefits continued if an appeal is filed timely in accordance with rules at Section 3.609.2.E.2.
- C. General information concerning public assistance programs shall be provided to all persons seeking information. This shall be provided in writing by the county department. In addition, verbal notice shall be provided to all persons seeking information when requested. Available information shall include:
 - 1. Information about the Colorado Works Program;

2. Conditions of eligibility;
3. Scope of benefits;
4. Time limits;
5. Related services available;
6. Domestic violence waivers; and,
7. Rights and responsibilities of clients.

- D. The county department shall ensure that no information concerning a client is released without authorization except as outlined in E.2.i below. In circumstances when a client needs assistance with the application process, information shall not be released by the county department to the assisting individual(s) unless the individual is accompanied by the client, or is the client's authorized representative, or a written authorization to release information is obtained from the client. Upon request, the county department shall provide assistance in completing the application form.

When a client is a person with disabilities and is unable to complete the forms the spouse, other relative, friend, or authorized representative may complete the forms. When no such person is available to assist in these situations, the county department must assist the client in the completion of the necessary forms. The county department also may refer the client to a legal or other resource. The county shall provide reasonable accommodations under the Americans with Disabilities Act for disabled clients. The county department shall make referral to the Social Security Administration (SSA) office for all aged, disabled, or blind clients that may be eligible to receive SSA benefits. However, this shall not negate the county department's responsibility to obtain and process the application. In the event that a client needs assistance in submitting and completing an application, the individual providing this assistance is not considered to be the authorized representative unless the required prescribed or approved State form has been signed indicating such authority for the individual to be the authorized representative on the case.

Applications for clients in special situations shall be handled as follows:

1. Clients who cannot write their names shall make a mark, and such mark shall be witnessed by the signature of at least one witness. The printed name and address of such witness shall follow the signature. County workers may act as witnesses if not related to the client.
2. A client receiving medical treatment in a medical facility shall submit an application to the county department in which the facility is located. When a county department receives an application for a client whose place of residence is in another county, the application shall be forwarded to that county department for processing. When a client has no determinable county of residence, the county department in which the facility is located shall process the application.
3. An application for a client in a public institution shall be processed by the county department where the client has established residence or the county in which the court is located which issued a confinement order. When the application process is completed, the case shall become the responsibility of the county department in which the institution is located.
4. All clients' rights shall be preserved. The signed release of information form/authorization to release information form may be used only for the entities/agencies for which it is

intended. No subset of that agency or legal entity attached to that agency shall be included in the authorization to release information unless specified by the client.

E. Receiving Applications for Colorado Works Benefits

1. When receiving applications for benefits, county workers shall:
 - a. Record the date the signed application was received by the county department.
 - b. Review applications for completeness and determine eligibility for assistance;
 - c. Schedule an interview with the client if the interview is not taking place immediately.
 - 1) The client shall be offered an in-person interview at redetermination. if the client does not elect an in-person interview, the county shall schedule and conduct a phone interview.
 - 2) The client shall be provided written notice of the interview at least four (4) calendar days of the scheduled interview. The client may provide a written or verbal waiver that written notice of the scheduled interview is not necessary when the county department is able to conduct the interview during application processing. Notice shall include:
 - a) The date and time for the interview;
 - b) Identification of any documentation that may be needed;
 - c) The opportunity to reschedule the appointment or make other arrangements in the event of good cause.
 - 3) When the client does not keep the interview appointment and does not request an alternate time or arrangement, as described in this section, grant payments will be denied.
 - d. Make a home visit when required by county policy to determine a county approved setting for a minor client; and,
 - e. Refer the client to other services when appropriate. Applications that have been approved for refugees shall be referred to the Colorado Refugee Services Program for other ongoing case management and services offered through Colorado Works.
2. The application process shall consist of all activity from the date the application is received from the client until a determination concerning eligibility is made. Language translation via interpreter shall be provided by the county department of residence as needed. The major steps in the application process shall include:
 - a. The application shall be date stamped by the county department to secure the application date for the client;
 - b. An explanation shall be provided to the client of the various benefit options;
 - c. An explanation shall be provided to the client of the eligibility factors;

- d. An explanation shall be provided to the client of the client's responsibility to accurately and fully complete the application, provide documents to substantiate or verify eligibility factors, and that the client may use friends, relatives, or other persons to assist in the completion of the application;
- e. An assurance shall be provided to the client of the county worker's availability to assist in the completion of the application and to secure needed documentation which the client is unable to otherwise secure;
- f. An explanation shall be provided to the client of the process to determine eligibility;
- g. An explanation shall be provided to the applicant of the client's rights and responsibilities including confidentiality of records and information, the right to non-discrimination provisions, the right to a county dispute resolution process, the right to a State-level appeal, the right to apply for another category of assistance and that a determination of the client's eligibility for such other assistance will be made;
- h. An explanation shall be provided to the client that the client may withdraw from the application process at any time.
- i. The agency shall inform all clients in writing at the time of application that the agency will use all Social Security Numbers (SSN) of required household members to obtain information available through state identified sources. One interface includes, but is not limited to, the Income and Eligibility Verification System (IEVS) used to obtain information of income, eligibility, and the correct amount of assistance payments. Information gathered through State identified sources may be shared with other assistance programs, other states, the Social Security Administration, the Department of Labor and Employment, and the Child Support Services Program as permitted by Section 26-1-114, C.R.S.; and,
- j. An explanation shall be provided to the client of all Colorado Works program benefits and requirements applicable to the family members in the household. The county department shall, when appropriate, provide the information verbally and in written form.
- k. An explanation provided regarding the process of utilizing the Electronic Benefit Transfer (EBT) card. This explanation shall include:
 - 1) Identification of the following establishments as described in Section 26-2-104(2), C.R.S. in which clients shall not be allowed to access cash benefits through the Electronic Benefits Transfer services from automated teller machines and point of sale (POS) devices:
 - a) Licensed gaming establishments as defined in Section 44-30-103(18), C.R.S.;
 - b) In-state simulcast facilities as defined in 44-32-102(11), C.R.S.;
 - c) Tracks for racing as defined in Section 44-32-102(24), C.R.S.;
 - d) Commercial bingo facilities as defined in Section 24-21-602(11);
 - e) Stores or establishments in which the principal business is the sale of firearms;

- f) Retail establishment licensed to sell malt, vinous, or spirituous liquors except for liquor-licensed drug stores as defined in Section 44-3-410, C.R.S.;
 - g) Establishments licensed to sell medical marijuana or medical marijuana-infused products, or retail marijuana or retail marijuana products; and,
 - h) Establishments that provide adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.
- 2) An explanation that the cash portion issued on the EBT card may be suspended with identified misuse of the EBT card at the above prohibited locations.
- 3. An application has been made when the county department receives the signed public assistance application forms meeting the criteria identified in Section 3.602.1.F. An application is different from an inquiry.
- 4. An application must be accepted by any county department; however, it is the responsibility of the county of residence to determine eligibility. The county department that received the application incorrectly shall forward the application to the county of residence promptly.
- 5. An application may be submitted by the client or by an individual acting on the client's behalf when the client is unable to submit an application.
- 6. To be accepted, applications for Colorado Works can only be made by a caretaker with whom a dependent child(ren) is living.

F. Minimum Application Requirements

- 1. The county department shall require a written application, signed under penalty of perjury, using the State Department's prescribed public assistance form.
- 2. The application form shall be used as the primary source of information. To be considered complete, the application shall contain, at a minimum, the name of the client, signature of the client or authorized representative, and an address for the client which can include general delivery or a county office. If an address is not provided, another means of contact such as phone number or email address must be utilized to obtain an address.
- 3. The date of application shall be the first working day the county department receives a signed application form, which indicates the client's desire to receive public assistance. The application must be date stamped with the date the county department receives the signed application to secure the application date.

G. Information Sharing

There are public assistance programs that are to be jointly administered by county departments. This requires sharing of information to the extent permitted by Section 26-1-114, C.R.S. Communications from one division to the other shall be formalized so that they serve a purpose, and there is a record of that purpose.

H. Confidentiality

Information regarding families shall remain confidential and available only for the purposes authorized by federal or State law as described in Section 3.609.73, Protections to the Individual.

I. Processing Standard

The county department shall process applications as expeditiously as possible but no later than forty-five (45) calendar days following the application date as described in Section 3.602.1.F.3.

1. The county department shall consider an application for Colorado Works to be an application for all programs of public assistance, except for child welfare services, for which the client has requested assistance. County departments shall make clients aware of other services and assistance under other public assistance programs that they may be eligible.
2. The determination should be followed by a written notification of eligibility status to the client. Clients who refuse to cooperate in completing the application processes shall be denied based upon timely noticing in accordance to Section 3.609.1. In cases where verification is incomplete, the county department shall provide the client with a statement of required verification on the State prescribed notice form and offer to assist the client in obtaining the required verification. The county department shall allow the client eleven (11) calendar days to provide the missing verifications, unless the client can provide good cause or the verification falls under the programs verification at an individual level described in Section 3.604.3 . If good cause is provided, the client shall have until the twentieth (20th) calendar day following the date of application to provide the necessary verification. The State prescribed notice form shall reflect specific months of eligibility and ineligibility.
3. Following a determination of ineligibility, applications remain valid for a period of thirty (30) calendar days.
 - a. If the client has good cause and notifies the county department that he/she is requesting benefits within thirty (30) calendar days of the denial, the county department shall reschedule the interview if not already completed, and the current application date shall be used.
 - b. If the client does not have good cause and notifies the county department that he/she is requesting benefits, and the request is made within thirty (30) calendar days of the current application, that application can be used, but the date of application shall be the most recent date the client requested benefits.
 - c. If the client requests benefits more than thirty (30) days from the date of the denial, they must submit a new application, unless good cause is provided within ninety (90) days.
4. County departments shall require no more than one interview for a Colorado Works client. When an interview is conducted, the county worker shall review the application for completeness and secure, if necessary, signed copies of the Authorization for Release of Information form, and any other forms or documentation necessary to determine eligibility.

J. Information Concerning Immunizations

At the time of application, the county department shall provide information concerning immunizations to all clients seeking benefits through the Colorado Works program. The information shall include parent education of vaccines, information concerning where to access vaccines in the local community, and the exemptions listed in Section 25-4-903, C.R.S. The Department of Public Health and Environment or the County or District Public Health Agency shall provide the immunization information to the county department for this purpose.

K. Reporting Case Actions

1. "Denied," is the action that the county shall take when the client fails to meet the eligibility requirements of the category of assistance desired. A denial also may be on the basis of such factors as, but not limited to:
 - a. The client refuses to furnish information necessary to determine eligibility;
 - b. The client is unwilling to have the county department contact a collateral source to secure information, and the client refuses to sign the State-approved Authorization for Release of Information form;
 - c. The client does not supply information or otherwise fails to cooperate with the county department within ten (10) calendar days of the request for information unless good cause is granted and after having received notification of the reason for delay;
 - d. The client moves to an unknown address before determination of eligibility has been completed;
 - e. A third-party refuses to provide documentation of essential verifications and the client is unwilling to cooperate in obtaining such information personally.
 - 1) Authorization of the release of such information alone does not constitute cooperation if the county department requests further assistance from the client. Documentation of lack of cooperation must be entered by the county in the case record.
 - 2) However, if the client is willing to cooperate but unable to obtain the information, no denial or delayed determination of eligibility shall occur. The county shall assist the client in gaining the information required to make a determination of eligibility.
2. A decision by the client to "withdraw," shall be treated as a denial by the county department.

3.602.2 Right and Opportunity to Register to Vote

A client for public assistance shall be provided the opportunity to register to vote. The county department shall provide public assistance clients the prescribed voter registration application at application and redetermination for public benefits.

3.603 Case File Maintenance

3.603.1 Purpose and Use of Case File Records

- A. Preparation of Case Record

Preparation of the case record shall begin at the point of initial application with the client and case maintenance shall continue as long as the case is open for assistance.

B. Purpose

The major purposes of a case record shall be:

1. To assist the county worker in reaching a valid decision concerning eligibility or case action, and the amount of payment and type of assistance;
2. To ensure assistance is based on factual information and verifications received;
3. To provide for continuity of assistance when a worker is absent, when a case is reopened, and when a case is transferred from one county worker/department to another;
4. To ensure valid administration of the county department in keeping with its function and purposes;
5. To serve as a valuable basis for research, for interpretation of the work of the county department, and as a basis for development and evaluation of policy and procedure.

C. Case Numbering

A case number shall be assigned to the client at the time of application for assistance.

D. The county department shall document all case actions in case comments. This information shall include actions taken by the county department, the basis of such actions, and the result or outcome of the action taken on the case, and must also include:

1. All case decisions related to the prudent person principle;
2. All decisions related to the disposition of claims;
3. Any interactions with the client;
4. Actions related to a county conference and/or state level fair hearing;
5. Cause of untimely processing of the application or redetermination;
6. Other information that would be critical to document county department actions and/or would be necessary to justify case decisions during a case review, audit, appeal, or lawsuit; and,
7. Information pertaining to eligibility, verifications, collateral contacts, program participation, and associated expenditures.

E. Documentation

The county department shall document all income and non-financial eligibility information into the statewide automated system.

1. The county department shall not omit case information from the statewide automated system based on the assumption that the information is unnecessary for eligibility determination.

2. All case information used to determine eligibility and changes in basic biographical information shall be updated at the time of redetermination.

F. Arrangement of Case Record and Content of the Case Record

All case files, including electronic files, shall contain all documents necessary to determine the eligibility and participation in program requirements. All case files, including electronic files, at a minimum shall be:

1. Labeled clearly, and,
2. Easily accessible for state reviews and/or audit purposes.

G. Storing County Records

The county department shall be responsible for the provision of a safe place for storage of case records and other confidential material to prevent disclosure by accident or as a result of curiosity of persons other than those involved in the administration of the programs. Data of any form shall be retained for the current year, plus three previous years unless:

1. There is a written statutory requirement, rule, or regulation available from a county (i.e., a broader county policy), State or federal agency requiring a longer retention period; or,
2. There has been a claim, audit, negotiation, litigation or other action started before the expiration of the three-year period. If any such action has been started, the county must maintain the case record for the duration of the action. If a county department shares building space with other county offices, locked files to store case material shall be used. Facility and other maintenance personnel shall be instructed concerning the confidential nature of information.

H. Removal of Case Records

Case records are the property of the State Department and shall be restricted to use by the State Department and county department.

3.604 Eligibility Criteria for Colorado Works Payments and Services

3.604.1 Eligibility Criteria

To receive a Colorado Works grant payment, a client must:

A. Be a resident of Colorado.

1. There shall be no durational residency requirement and a client who establishes intent to remain in Colorado shall be considered a resident.
2. Residence shall be retained until abandoned.
3. Persons receiving TANF benefits from another state shall not be eligible for Colorado Works grant payments during any month a payment was made by the other state.

B. Be lawfully present in the United States as:

1. A citizen of the United States (including persons born in the United States, Puerto Rico, Guam, Virgin Islands (U.S.), American Samoa, or Swain's Island; persons who have

become citizens through the naturalization process; persons born to U/S. citizens outside the United States with appropriate documentation); or,

2. A qualified legal non-citizen who entered the United States prior to August 22, 1996; or,
 3. A qualified legal non-citizen who entered the United States on or after August 22, 1996, who has been in a qualified non-citizen status for a period of five years or, unless they meet one of the exceptions to the five-year bar consistent with 8 U.S.C. 1613(b).
- C. Be a member of an assistance unit who meets income eligibility requirements and has provided required verifications or be a noncustodial parent (noncustodial parents may receive services, but not basic cash assistance).
- D. Not be admitted to an institution as a patient for tuberculosis or mental disease, unless the person is a child and receiving "under 21" psychiatric care under Medicaid benefits.
- E. Not be in the custody of or confined in a county, state, or federal correction facility or institution as an inmate, which is one who is confined or serving time imposed by a court, except as a patient in a public medical institution. Those considered to not be an inmate also include, but are not limited to, those on a work release or court monitoring system.
- F. Not be a temporary resident or non-citizen in one of the following situations:
1. Non-citizens with no status verification from the United States Citizenship and Immigration Service (USCIS);
 2. Non-citizens granted a specific voluntary departure date;
 3. Non-citizens applying for a status; or,
 4. Citizens of foreign nations residing temporarily in the United States on the basis of visas issued to permit employment, education, or a visit.

3.604.2 Household Composition

- A. A Colorado Works household consists of clients who are part of the assistance unit and/or budgetary unit.
1. The assistance unit consists of individuals who live together and who must apply for and receive Colorado Works grant payments as a single household.

Members of the same assistance unit who meet the requirements of the Colorado Works program shall receive basic cash assistance or shall be considered when determining diversion grant amounts.

Persons not required to be in one assistance unit, but residing in the same household, shall have the option of applying for Colorado Works as separate units. Each assistance unit shall be budgeted using the appropriate need standard for the unit.
 2. The budgetary unit consists of individuals who are part of the assistance unit as well as individuals who are outside of the assistance unit but considered financially responsible for members of the assistance unit.
 3. Clients must provide any information or verification needed to determine who must be in the assistance unit and budgetary unit.

B. Two parent household cases will be paid with county maintenance of effort (MOE) funds. All other single parent and child only cases will be paid with county TANF block grant funds.

C. Members of the Assistance Unit

1. The following individuals must be included in the assistance unit when living in the home:

- a. Dependent child(ren) who live in the home of a caretaker.
- b. Parents of dependent child(ren) who live in the home unless the child is a minor parent who is requesting assistance for their own child or responsibility is established with another caretaker through court order, child welfare, or adoption.
- c. Siblings of dependent child(ren) who live in the home and are legally in the care of the requesting caretaker.
- d. Half siblings of the dependent child(ren) who live in the home that do not receive child support payments.
- e. The spouse of a pregnant parent.

2. The following individuals are optional members of the assistance unit. These individuals are included in the assistance unit when living in the home and requesting assistance:

- a. The spouse of a parent who is not themselves a parent of dependent child(ren) who live in the home.
- b. A non-parent caretaker.
- c. The spouse of a non-parent caretaker.
- d. Half siblings of the dependent child(ren) who live in the home and are receiving child support. The parent or non-parent caretaker of the half sibling receiving child support shall decide whether to include such half sibling receiving child support in the assistance unit.
- e. Siblings of the dependent child(ren) who live in the home but are not in the legal custody of the requesting caretaker due to an established court order, child welfare involvement or an adoption.
- f. A parent who lives in the home of another caretaker and no longer has legal custody of the dependent child(ren) who live in the home.
- g. Parent(s) of a minor parent who is requesting assistance for their own child.

3. The following individuals are excluded from the assistance unit.

- a. Individuals receiving SSI payments.
- b. Individuals who receive other title iv benefits such as foster care, adoption subsidy or Title IV kinship payments.

D. Members of the Budgetary Unit

1. The following individuals must be included in the budgetary unit:

- a. Any individual who is part of the assistance unit (to include optional members of the assistance unit who requested assistance) regardless of whether or not the individual is eligible to receive assistance.
 - b. The spouse of a parent or non-parent caretaker who requested assistance, regardless of whether or not the spouse has requested assistance for themselves.
 - c. The unborn child of a pregnant parent.
 - d. The non-recipient parent(s) of a minor parent.
 - e. The sponsor of a non-citizen who is part of the assistance unit (whether or not the non-citizen is themselves eligible to receive Colorado Works grant payments).
- 2. The following individuals are excluded from the budgetary unit:
 - a. An optional member of the assistance unit who chooses not to receive assistance for himself or herself.
 - b. Individuals who are excluded from the assistance unit as identified in Section 3.604.2.C.3.
- E. A dependent child is considered to be living in the home of a caretaker as long as the caretaker exercises the responsibility for the care of the child even if the following occurs:
 - 1. The child or the caretaker is temporarily absent from the home to receive medical treatment;
 - 2. The child is under the jurisdiction of the court;
 - 3. Legal custody is held by an agency that does not have physical custody of the child;
 - 4. The child is in regular attendance at a school away from home.
- F. School-aged, dependent children must be in school, home school, pursuing a GED, or attending online courses to obtain a high school diploma or GED. A dependent child is still considered to be a student in regular attendance during official school or training program vacation periods, absences due to illness, convalescence or family emergencies. County departments must work with families to enroll children not enrolled in and attending school.
- G. Assistance units may remain eligible and payment for the child shall continue for Colorado Works when children are absent from the home for a period greater than forty-five (45) consecutive calendar days for the following reasons:
 - 1. Child(ren) receiving medical care or education that requires him or her to live away from the home; or,
 - 2. Child(ren) visiting a noncustodial parent, as specified in a parenting plan entered by the court or a parenting plan signed by both parties, the visit not exceeding six (6) months unless otherwise specified; or,
 - 3. Child(ren) residing in voluntary foster care placement for a period not expected to exceed three (3) months. Should the foster care plan change within three months and the

placement become court-ordered, the child is not longer considered to be living in the home as of the time the foster care plan is changed.

H. When more than one caretaker exercises responsibility for a child, the following hierarchy shall be followed. A caretaker:

1. Is a parent; or,
2. Is a relative by blood, marriage, or adoption who is within the fifth degree of kinship to the dependent child (not to be separated due to death or divorce); or is appointed by the court to be the legal guardian or legal custodian of the dependent child; or,
3. If those identified in a-b above are not available, is a person who exercises responsibility for a dependent child within the person's home and provides verification of such responsibility such as a court order, school or medical records listing the individual as the child's contact, collateral contact with child welfare, or another document acceptable to the county department. the prudent person principle may be used to determine that a non-parent caretaker other than a guardian, legal custodian, or a relative exercises responsibility for a child. The individual who exercises responsibility and is highest in the above hierarchy list shall be deemed the caretaker for the assistance unit.

I. A parent or non-parent caretaker is considered to be living in the home and may continue as a member of the assistance unit/ family needs unit if the individual is temporarily away from home if one of the following occurs:

1. Is on active duty in the uniformed service of the United States.
2. Is temporarily absent from the home to receive medical treatment.
3. Is temporarily absent from the home for less than forty-five (45) calendar days and has established an intent to return.

J. Indian Tribe Eligibility

Members of an Indian Tribe not eligible for assistance under a Tribal Family Assistance Plan are eligible for Colorado Works.

K. Assistance for Eligible Refugees

Refugees are qualified aliens exempt from the five-year bar. Those refugees eligible for assistance through TANF/Colorado Works shall submit an application to their county of residence. Those applications that have been approved shall be referred to the Colorado Refugee Services Program (CRSP) for other ongoing case management and services offered through the TANF/Colorado Works program.

1. The CRSP is responsible for performing the eligibility assessment as required by section 3.607.3 for all refugees referred to them by county departments and will apply uniform guidelines that apply to all county departments regarding the assessment of refugees.
2. Based on the assessment of the refugee, CRSP will make recommendations to the county departments and will apply uniform guidelines that apply to all county departments regarding the assessment of refugees. These recommendations shall include, at a minimum:
 - a. Whether the refugee is determined to be ready to work.

- b. The type(s) of activities that will be most beneficial to the refugee; and,
 - c. The amount and duration of supportive services and other assistance payments necessary to achieve self-sufficiency for the refugee.
- 3. The county department shall consider the recommendations of CRSP and the recommended supportive services and other assistance within the county policy, within an agreed upon timeframe not to exceed forty-eight (48) hours.

L. Individuals Ineligible for Colorado Works Program

The following individuals shall not be eligible under Colorado Works:

- 1. Fugitive or fleeing felons;
- 2. Persons convicted of a drug-related felony, as defined in 21 U.S.C. 862A and Section 18-1.3-401.5 and Section 4 of Article 18 of Title 18 of the C.R.S. on or after July 1, 1997, unless the county department has determined that the person has taken action toward rehabilitation, such as, but not limited to, participation in a drug treatment program;
- 3. Assistance units with an adult participating in a strike;
- 4. Qualified legal non-citizens or those who are not federally exempt, who entered the United States on or after August 22, 1996, are ineligible for cash assistance for five (5) years from date of entry into the United States.

M. Penalties for Disqualified or Ineligible Persons

Persons who are required members of the assistance unit, but who are disqualified from receiving or are ineligible to receive Colorado Works basic cash assistance or diversion due to program prohibitions or violations, shall be removed from the assistance unit for the purposes of determining the assistance unit size. Disqualified individual's' income must be considered when determining eligibility without applying income disregards.

The following disqualified or ineligible individuals shall have such month counted as a month of participation in the calculation of their overall sixty-month (60) lifetime maximum as referenced in section 3.606.6 when a grant payment is received for others in the assistance unit.

- 1. Individuals convicted by a court or whose disqualification was obtained through an intentional program violation (IPV) waiver for misrepresenting their residence in order to obtain assistance in two states at the same time shall have their Colorado Works assistance denied for ten (10) years.
- 2. Individuals who have committed fraud as determined by a court or determination of an IPV by administrative hearing shall result in the disqualified caretaker being removed from the grant for a twelve (12) month period for the first offense, twenty-four (24) months for the second offense, and lifetime for the third offense. An IPV from another state shall be used to determine eligibility for an individual. The level of the IPV established by the Administrative Law Judge from the other state shall be used to determine the level of the IPV for Colorado Works. The timeframes established herein shall be used; the timeframe established from the other state shall no longer be valid.
- 3. Individuals who are fleeing felons for the time that that person meets the definition of fleeing felon as described in 3.601.

4. Individuals who have been convicted of a drug-related felony, as defined in 21 U.S.C. 862A and Section 18-1.3-401.5 and Section 4 of Article 18 of Title 18 of the C.R.S., unless the county department has determined that the person has taken action toward rehabilitation, such as, but not limited to, participation in a drug treatment program.
5. Individuals who have failed to apply for a Social Security Number unless good cause exists. Once that person has taken action to apply for a Social Security Number, they may become eligible.
6. Individuals who are non-citizens and do not meet the definition of a qualified non-citizen, those who fail to prove citizenship or fail to provide proof that they are otherwise possess a qualified non-citizen status and/or proof of lawful presence.

N. Minor Parent Applicants/Participants

A minor who is also a parent may apply for Colorado Works.

1. When a minor parent is not emancipated and has a marital status of single, grant payments may not be approved unless the minor parent resides with another adult caretaker or the minor parent resides in another setting which the county has determined is an appropriate setting.
 - a. Counties shall assist minor parents who are otherwise eligible and are not living in a county approved setting according to the county's policy to find an appropriate living arrangement.
 - b. Counties shall assist assistance units which include an unmarried minor parent(s) who has a child at least twelve (12) weeks of age, who has not completed his or her high school education or GED, and who is not participating in educational activities or an approved training program, in participating in such programs within sixty (60) calendar days from the date the initial assessment is completed for those sixteen (16) or older or within sixty (60) calendar days from the date the eligibility interview takes place for those under the age of sixteen (16). Participation means enrollment, attendance, or an action otherwise specified by the county department. Failure to participate without good cause will result in the termination or discontinuation of Colorado Works basic cash assistance.
2. When a minor parent does not live in the home of another caretaker:
 - a. The minor parent may not receive benefits until deemed to be in a county approved setting by the county department unless the minor is emancipated, has a marital status other than single, or resides with an adult relative.
 - b. A minor parent who is emancipated or has a marital status other than single is not considered to be living in the home of a caretaker even if they are living in the home of their parent.
 - c. A minor who is a parent and does not live in the home of a caretaker will receive assistance as an adult if approved.
3. Minor Parents and Caretakers
 - a. If the minor parent lives with an unrelated non-parent caretaker who chooses not to be a member of the assistance unit, the minor must be in a county approved setting.

- b. If the minor parent lives with an unrelated non-parent caretaker who chooses to be a member of the assistance unit, the county department may choose if it is necessary to approve the setting before grant payments are provided per county policy.
- c. If the minor parent lives with his or her parent, the county department does not need to approve a setting even if the minor's parent chooses not to be a member of the assistance unit.
- d. A minor parent who is the dependent child of a caretaker will receive assistance as a child if approved even if the caretaker is not included in the assistance unit.

O. Out of the Home

- 1. For Colorado Works purposes, a client who is out of State temporarily shall be provided assistance on the same basis as one who is in the state as long as the individual has established intent to return. The client's temporarily out of the State status shall not exceed ninety (90) consecutive days.
- 2. A client who is a resident of an institution is not considered to be in the home. A client shall be considered a resident in an institution when the recipient's stay is at least thirty (30) consecutive days. Institutions include general medical and surgical hospitals, nursing homes, assisted living residences, and mental institutions. Residents of an institution who continue to have the responsibility of a dependent child may receive Colorado Works if the dependent child also resides in the institution or continues to be cared for in the home, unless individual needs are provided for through other state.

3.604.3 Program Verifications

- A. The county department shall not require any documentary evidence (verification) and/or written statements for eligibility determination until the county department receives a signed and dated application. The client has the primary responsibility for providing documentary evidence for required verification and the responsibility to resolve questionable information. The county worker shall assist the client in obtaining the necessary documentation if the client is cooperating with county workers. The client may supply documentary evidence in person, through mail, by facsimile, through an electronic device, or through an authorized representative. The county worker shall accept all pertinent documentary evidence provided by the client and shall be primarily concerned with how adequately the verification proves the statements on the application and/or program participation, if applicable. If written verification cannot be obtained, county workers shall substitute an acceptable "collateral contact" if available, as defined in section 3.601 program definitions and E-F of this section.

If the client is missing any verification, the county department shall request additional and/or required verifications from the client. the request shall include:

- 1. A specific list of verifications necessary to determine eligibility;
- 2. The due date for when the verifications must be returned, which shall be eleven (11) calendar days from the date the verification was requested in writing; and,
- 3. Notification that if the client fails to return the verifications by the due date, the county department shall process the application without those verifications, which may lead to a denial of grant payments.

If proper verification is not received and a collateral contact is unavailable, the client will be noticed (in writing or verbally) with information that the county worker will assist with obtaining verification, provided that he or she is cooperating with the county department.

Verification is an eligibility requirement. Failure to provide requested verification may result in the case and/or client being denied, closed, terminated, or discontinued. The verification process shall begin the date the application is date stamped by the county and shall continue throughout the life of the case, including program participation and applicable verifications for ongoing redeterminations of eligibility.

B. Required Primary Verifications

1. All information received through the Income and Eligibility Verification (IEVS) System shall be reviewed and verified. Assistance shall not be denied, delayed, or discontinued pending receipt of information requested through IEVS, if other evidence establishes the client's eligibility for assistance.
2. All participating clients shall provide to the county the following information:
 - a. Verification of lawful presence in the United States; section 3.604.3.I.
 - b. Verification of citizenship or qualified non-citizenship status; section 3.604.I-J.
 - c. A Social Security Number (SSN) for each client applying for benefits or proof that an application for a SSN has been made. Proof of application is only valid for up to eight (8) months without good cause. The agency shall explain to the client that refusal or failure without good cause to provide a SSN or a receipt of a SSN application will result in ineligibility for the client for whom an SSN or receipt is not obtained. Only the client for whom the SSN or receipt is not provided will be ineligible, and not the entire assistance unit.
 - 1) For clients that made application for a SSN at initial eligibility determination, verification of the SSN must be received prior to the next recertification.
 - 2) For clients added to the assistance unit within sixty (60) days of the certification period expiring, verification of the SSN must be received by the following recertification.
 - 3) The county department shall verify the SSNs provided by the assistance unit with the Social Security Administration (SSA) in accordance with procedures established by the state department for the State On Line Query (SOLQ) system.
 - 4) The county department shall accept as verified a Social Security Number that has been verified by any program agency participating in SOLQ system.
 - d. Verification of a caretaker's responsibility for the child(ren) must be provided, unless the caretaker is the child(ren)'s parent. Verification may include, but is not limited to, verbal or written confirmation from the child's parent, a court order, school or medical records listing the individual as the child's contact, or collateral contact with child welfare. The prudent person principle may be used to determine that a non-parent caretaker other than a guardian, legal custodian, or a relative exercises responsibility for a child.

- e. Verification of income of any member of the assistance unit or other household member whose income is used to determine eligibility and payment.
 - f. Verification of Colorado residency.
3. Counties may require further verification of any information that is received that is determined to be questionable or inconsistent. Such a determination must be documented in the applicant's case file.
 4. An applicant may request an extension of time beyond the forty-five (45) day maximum to process an application for Colorado Works benefits in order to obtain necessary verification. The extension may be provided at county discretion. The worker must document the reason for the extension in the statewide automated system and/or case file.
 5. All immigrants shall have non-citizen status verified through the Systematic Alien Verification for Entitlements (SAVE) system. Assistance shall not be delayed or discontinued pending this verification.

C. Secondary Verifications

When applicable, secondary verifications for eligibility and program participation, may include, but are not limited to:

1. Verification of relationship of a dependent child to other household members;
2. Verification of good cause, to include good cause for a delay in providing verifications for assistance, good cause for not cooperating with child support services, and good cause for not participating in work activities;
3. Verification of child support, to include information of the noncustodial parent and/or child support income/expenses as specified in section 3.606;
4. Verification of school attendance for all school-aged children included in the assistance unit, including home school, GED, and online attendance;
5. Verification of work participation;
6. Verification establishing allowable absences of an adult or child in the assistance unit if leaving the state/home and requesting to continue benefits; and/or,
7. Verification of pregnancy, if applicable.

D. Sources of Verification

Counties may use collateral contacts, interfaces, prudent person principle, documentary evidence, and in some cases, client statement as sources of verification.

E. Use of a Collateral Contact, Review, and Follow-up

Applications shall be reviewed and any necessary follow-up activities such as collateral contacts, verifications, etc., shall be initiated within five (5) calendar days of when the county department obtains information containing the collateral contacts information from the client. Priority shall be given to those applications where critical and emergent need is apparent.

F. Requirements for Collateral Contact to Make a Determination of Eligibility

1. The client shall be given the opportunity to provide documentation necessary to determine eligibility. When necessary, the county department shall assist the client to secure documentation. If documentation that is necessary to determine eligibility is not received, a notice shall be sent to the client to advise him or her of the proposed action to deny or discontinue the case. The notice to the client shall also include a specific description of the documentation necessary to determine eligibility.

In general, the county department shall rely on the client to provide the documentation necessary to determine eligibility.

2. A collateral contact is an oral or written confirmation of a household's circumstances by a person outside of the household. The signature on the application shall be considered consent for the use of collateral contacts. The county department may rely on members of the household to provide the name of any collateral contact. If the individual provides an unacceptable collateral contact who cannot be expected to provide accurate verification, the county department shall:
 - a. Request the name of another collateral contact; or,
 - b. Ask for alternative forms of verification; or,
 - c. Substitute a home visit to establish a county approved setting when applicable.
3. Confidentiality shall be maintained when talking with collateral contacts. The county department shall disclose only the information that is absolutely necessary to obtain information being sought. If the client fails to provide a collateral contact or provides a contact that is unacceptable to the eligibility worker, the county worker may select a collateral contact that can provide information that is needed. Except for contacts to verify information provided through IEVS, the collateral contact selected by the county worker shall not be contacted without first obtaining the prior written or verbal approval of an adult household member or the authorized representative. Collateral contacts for IEVS do not require household designation or prior contact approval. The notice of proposed action shall advise the household that they have the option to consent to the collateral contact, to provide acceptable verification in another form, or to withdraw the application. If the household refuses to choose one of the above options, the application shall be denied.

The case file shall be documented to support action taken by the county department. The county department shall not determine the household to be ineligible when a person outside the household refuses to provide information required for the client to resolve a request for verification (i.e. a former employer will not provide verification of employment termination and does not respond to attempts for a collateral contact by the county department). In such scenarios, the prudent person principle must be used to determine eligibility without the unavailable verification.

Household members who are disqualified or in an ineligible status are not considered individuals outside the household.

4. In cases in which the information from another source contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to an eligibility determination.
- G. The rules contained herein are intended to be sufficiently flexible to allow the eligibility worker to exercise reasonable judgment to determine when a request for verification is unnecessary because the facts of the case are clear. In making a certification decision, the eligibility worker

should ask whether his or her judgment is reasonable, based on experience and knowledge of the program.

The prudent person principle may not be used to waive the requirement to verify lawful presence for clients over the age of eighteen (18).

The prudent person principle may be used to determine that a non-parent caretaker other than a guardian, legal custodian, or a relative exercises responsibility for a child and/or when determining good cause for non-cooperation with the workforce development program activities or child support services.

All case decisions related to the prudent person principle must be documented in case comments.

H. Interfaces are acceptable verification sources for Colorado Works.

1. Income and Eligibility Verification System (IEVS)

IEVS provides for the exchange of information for Colorado Works with the SSA and the Colorado Department of Labor and Employment (DOLE). The county department shall act on all information received through IEVS. The county department shall, at a minimum, prior to approval of benefits, verify potential earnings and unemployment benefits through DOLE for all applicants, except institutionalized applicants. Benefits shall not be delayed pending receipt of verification from a collateral contact (e.g., employers). In cases where the county department has information that an institutionalized or group home recipient is working, wage and unemployment insurance benefits matches are required at application. All other matches will be initiated through IEVS upon approval of benefits. Through IEVS, recipient SSNs will be matched with source agency records on a regular basis to identify potential earned and unearned income, resources and assets, including:

- a. The following data shall be considered verified when entered into the statewide automated system:
 - 1) SSA (Beneficiary and Earnings Data Exchange/Bendex, State Data Exchange/SDX) Social Security benefits, SSI, pensions, self-employment earnings, federal employee earnings; and,
 - 2) Unemployment Insurance Benefits (UIB).
- b. DOLE wage data shall not be considered verified upon receipt. Additional verification must be obtained to verify wage information.
- c. At initial application and at redetermination, a client of Colorado Works shall be notified through a written statement provided on or with the application form that the information available through IEVS: will be requested and used for eligibility determinations; shall be verified through sources, such as collateral contacts with the client, when discrepancies are found by the county department; and may affect the assistance unit's eligibility and level of payment.
 - 1) All verification types obtained by a collateral contact to validate or invalidate the IEVS discrepancy shall be documented; and,
 - 2) Case documentation shall be available in the case file or statewide automated system documenting the action taken on the case within forty-five (45) calendar days of initial receipt. Case documentation must include the purpose of the review, the action taken on the case, and how

the determination was made that supported the action taken by the county department.

- d. The county department shall review and process IEVS within forty-five (45) days. No more than twenty (20) percent of the IEVS reviewed may remain unprocessed beyond forty-five (45) days when:

- 1) The reason that the action cannot be completed within forty-five (45) days is the non-receipt of requested third-party verification; and,
- 2) Action is completed promptly, when third-party verification is received or at the next time eligibility is redetermined, whichever is earlier. If action is completed when eligibility is redetermined and third-party verification has not been received, the county department shall make its decision based on information provided by the recipient and any other information in its possession.

2. Public Assistance Reporting Information System (PARIS)

The county department shall query PARIS at initial application and at redetermination to determine whether the client is receiving benefits in another state, veterans' benefits, or military wages or allotments.

3. Systematic Alien Verification for Entitlements (SAVE)

The county department shall query SAVE at initial application and at redetermination to:

- a. Determine whether a qualified non-citizen has a sponsor(s);
- b. Verify the non-citizen registration number provided by the client and, if the number and name submitted do not match, take prompt action to terminate assistance to the client; and
- c. Determine if there has been a change in the non-citizen's status.

4. Colorado Department of Revenue, Division of Motor Vehicles (DMV)

The Colorado DMV may be used by the county department to verify lawful presence and identity.

I. Verification of Citizenship and Lawful Presence

1. Verification of citizenship in the United States

Citizenship may be verified by a birth certificate, possession of a U.S. passport, a Certificate of U.S. Citizenship (USCIS form N-560 or NH-561), a Certificate of Naturalization (USCIS form N-550 or N-570), a Certificate of Birth Abroad of a Citizen of The United States (Department of State Forms FS-545 or DS-1350), or identification cards for U.S. citizens (USCIS-I-179 or USCIS-I-197). Documents that are acceptable as verification of citizenship can be found in the Department of Revenue rules at 1 CCR 204-30, Rule 5, Appendix A and B (Mar. 2, 2021), no later editions or amendment are incorporated. These regulations are available at no cost from the Colorado Department of Revenue, 1881 Pierce St., Lakewood, CO 80214 or at <https://www.sos.state.co.us/ccr>. These regulations are also available for public inspection and copying at the Colorado Department of Human Services, Office of Economic Security, 1575 Sherman St., Denver, CO 80203, during regular business hours.

2. Verification of questionable citizenship information

The following guidelines shall be used in considering questionable statement(s) of citizenship from a client:

- a. The claim of citizenship is inconsistent with statements made by the client, or with other information on the application, or on previous applications.
- b. The claim of citizenship is inconsistent with information received from another source.
- c. The claim of citizenship is inconsistent with the documentation provided by the client.

Application of the above criteria by the eligibility worker must not result in discrimination based on race, religion, ethnic background or national origin, and groups such as migrant farm workers or Native Americans shall not be targeted for special verification. The eligibility worker shall not rely on a surname, accent, or appearance that seems foreign to find a claim to citizenship questionable. Nor shall the eligibility worker rely on a lack of English speaking, reading, or writing ability as grounds to question a claim to citizenship.

3. The client whose citizenship is in question shall be ineligible to participate until proof of citizenship is obtained. If a non-citizen is unable to provide any USCIS document at all, there is no responsibility to offer to contact USCIS on the non-citizen's behalf. Responsibility exists only when the non-citizen has a USCIS document that does not clearly indicate eligible or ineligible non-citizen status. The county department shall contact the State Department, not the USCIS, to obtain information about the non-citizen's correct status. The method used to document verification of citizenship and the result of that verification shall be contained in the case file.

4. All persons eighteen years of age or older must establish lawful presence in the United States prior to receiving Colorado Works with the exception of those exempt in the list provided in this section, as outlined in section 24-76.5-103, C.R.S. The requirements of this section do not apply to clients under the age of eighteen (18).

- a. In order to verify his or her lawful presence in the United States, a client must:

1) Produce and provide to the county department:

- a) A valid Colorado driver's license or a Colorado identification card issued pursuant to article 2 of title 42, C.R.S.; or,
- b) A United States military card or military dependent's identification card; or,
- c) A United States coast guard merchant mariner card; or,
- d) A Native American tribal document; or,
- e) Any other document authorized by rules adopted by the Department of Revenue (1 CCR 2204-30, Rule 5, Appendix A, as incorporated by reference in section 3.604.3.I.1 of these rules); or,

- f) Those clients who cannot produce one of the required documents may demonstrate lawful presence by both executing the affidavit described in section 3.604.3.1.4.a.2, and executing a request for waiver as described in 1 CCR 204-30, Rule 5, as incorporated by reference in section 3.604.3.1.1, above.

The request for waiver must be provided to the Colorado Department of Revenue in person, by mail, or online, and must be accompanied by all documents the client can produce to prove lawful presence. A request for a waiver can be provided to the Department of Revenue by a client representative.

Once approved by the Department of Revenue, the waiver is assumed to be permanent, but may be rescinded and cancelled if, at any time, the Department of Revenue becomes aware of the client's violation of immigration laws. If the waiver is rescinded and cancelled, the client has the opportunity to appeal. The county department is responsible for verifying that the client is the same individual indicated as being lawfully present through the waiver; and,

- 2) Execute an affidavit saying that:
 - a) He or she is a United States citizen or legal permanent resident; or,
 - b) He or she is otherwise lawfully present in the United States pursuant to federal law.

- b. The requirements of this section do not apply to the following clients, programs and services:

- 1) For any purpose for which lawful presence in the United States is not required by law, ordinance, or rule;
- 2) For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and are not related to an organ transplant procedure;
- 3) For short-term, non-cash, in-kind emergency disaster relief;
- 4) For programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter specified by federal law or regulation that:
 - a) Deliver in-kind services at the community level, including services through public or private non-profit agencies;
 - b) Do not condition the provision of assistance provided on the individual recipient's income or resources; and,
 - c) Are necessary for the protection of life or safety;
- 5) Pregnant women;

- 6) For individuals over the age of eighteen years of age and under the age of nineteen years who continue to be eligible for medical assistance programs after their eighteenth birthday.
5. A non-citizen considered a legal immigrant will normally possess one of the following forms provided by the citizenship and immigration services (USCIS) as verification:
 - a. I-94 arrival/departure record.
 - b. I-551 resident alien card (I-551).
 - c. Forms I-688b or I-766 employment authorization document.
 - d. A letter from USCIS indicating a person's status.
 - e. Letter from the U.S. Department of Health and Human Services (HHS) certifying a person's status as a victim of a severe form of trafficking.
 - f. Iraqi and Afghan individuals who worked as translators for the U.S. military, or on behalf of the U.S. government, or families of such individuals; and have been admitted under a Special Immigrant Visa (SIV) with specific visa categories of SI1, SI2, SI3, SI6, SI7, SI9, SQ1, SQ2, SQ3, SQ6, SQ7, OR SQ9. Eligibility limitations are outlined in section 3.710.31, H.
 - g. Any of the documents permitted by the Colorado Department of Revenue rules for evidence of lawful presence (1 CCR 204-30, appendix B, as incorporated by reference in section 3.604.3.I.1 of these rules).
6. Legal immigrants applying for public assistance must present documentation from USCIS showing the applicant's status. All documents must be verified through SAVE to determine the validity of the document. Benefits shall not be delayed, denied or discontinued awaiting the SAVE verification.
- J. Verification required from non-citizens
 1. As a condition of eligibility for financial assistance, when a sponsored non-citizen is included in the assistance unit or budgetary unit, the client must provide income information about the non-citizen's sponsor(s).
 2. As a condition of eligibility for financial assistance, any legal immigrant applying for or receiving financial assistance shall agree in writing that, during the time period the recipient is receiving financial assistance, the recipient will not sign an affidavit of support for the purpose of sponsoring a non-citizen seeking permission from the USCIS to enter or remain in the United States. A legal immigrant's eligibility for financial assistance shall not be affected by the fact that the legal immigrant has signed an affidavit of support for a non-citizen before July 1, 1997.
- K. When a client is unable to provide verification for citizenship, qualified non-citizenship status, lawful presence, identity, and/or their social security number, the county department shall grant thirty (30) calendar days to the client to provide the verification. If the verification is provided in the allotted time, the same application may be used to determine eligibility and benefits provided. Verification shall be provided for each individual requesting/receiving payments at the time of application and redetermination. In addition, supportive services, special needs payments and assistance in obtaining verifications shall be provided.

Individuals unable to provide this verification will not receive payment for themselves and their income will be used to determine eligibility for the household.

3.604.4 Colorado Works and Child Support Services

- A. As a condition of continued eligibility, clients for Colorado Works are statutorily required to assign all rights to child support on their own behalf or on behalf of any other member of the assistance unit for whom the application is made. A client's failure to sign and date the application form to avoid assignment of support rights precludes eligibility for the assistance unit. Failure to cooperate with Child Support Services at application and/or while receiving basic cash assistance, without good cause, will result in the termination or discontinuation of the Colorado Works basic cash assistance.

This assignment is effective for child support due and owed during the period of time the person is receiving public assistance. The assignment takes effect upon a determination of eligibility for Colorado Works cash assistance. The assignment remains in effect with respect to the amount of any unpaid support obligation accrued and owed prior to the termination of Colorado Works cash assistance to the client. The application form shall contain acknowledgement of these provisions and shall be signed and dated by the client.

1. Clients may request that their case not be referred to child support services based upon good cause. Claims found to be valid are:
 - a. Potential physical or emotional harm to a child(ren).
 - b. Potential physical or emotional harm to a parent or caretaker.
 - c. Pregnancy or birth of a child related to incest or forcible rape.
 - d. Legal adoption before court or a parent receiving pre-adoption services.
 - e. Other reasons documented by the county department.
 - f. Reasons considered to be in the best interest of the child.
 - g. Other court order.
 2. Every client shall be given notice and the opportunity to claim that his or her case should not be referred to Child Support Services based upon good cause.
 3. Determination of such good cause must be in writing and documented in the case file by the county director or designee of the county director.
 4. Each case not referred based upon good cause shall be reviewed by the county director or designee at least yearly.
- B. Basic cash assistance shall be considered part of the Unreimbursed Public Assistance (UPA) as defined in the Child Support Services Rule Manual at 9 CCR 2504-1 section 6.002.
- C. If a family is ineligible for Colorado Works basic cash assistance due to child support income and the income received from child support is either not received or is less than the family need standard, the family may request to be reinstated for assistance in that month. The income from the current month will be used to determine eligibility and payment prospectively.

3.604.5 Family Violence Option (FVO) Waiver

The federal government allows state Temporary Assistance for Needy Family (TANF) programs to participate in the option to waive certain program requirements for individuals who have been identified as survivors of family (domestic) violence.

A. Waiver provisions

1. The FVO waiver allows a county to exempt Colorado Works clients from the following standard program elements if it is determined that participation in these elements would unfairly endanger or penalize an individual or their child(ren) as a result of their experience of family violence:
 - a. Work activities
 - b. TANF time clock. Assistance received while the FVO waiver is in effect does not prevent the TANF time clock from advancing, but is an allowable reason to extend assistance beyond the sixtieth (60th) month.
 - c. Child support services
2. The county department shall involve the client when choosing to invoke a FVO waiver. The individual at their discretion may accept or refuse any waiver offered.

B. Requirements for FVO waivers:

When a county department and client invoke the FVO waiver the following are required:

1. Implement county written policies which at a minimum address:
 - a. Domestic violence and FVO;
 - b. How counties intend to provide information about the FVO waiver, related benefits, domestic violence services, and options provided by Colorado Works and others to all clients on an ongoing basis.

This information should be provided in accordance with section 3.602.1 and at a minimum shall include (1) procedures for voluntarily and confidentially self-identifying as a survivor of domestic violence and how self-disclosed information will be used and (2) benefits of and procedures for applying for waivers from any program requirements and extension of time limits;
 - c. The process for screening and assessing domestic violence continually.
2. Training and case actions for county staff.
 - a. The core FVO/domestic violence training shall be mandatory for all staff who play a role in determining, modifying, or granting FVO waivers, including intake, assessment, case management, or Workforce Development staff. This training must be completed prior to contact with Colorado Works clients. CDHS strongly recommends that all county staff, including experienced staff, supervisors, and/or managers, attend the core FVO training at least once every five (5) years, and attend ongoing and specific training offered or recommended by Colorado Works and local agencies that address domestic violence issues.
 - b. County staff who have participated in the core FVO training shall be the only staff who shall provide information about and screen for domestic violence, assess for domestic violence waiver eligibility, make waiver determinations, review waivers

and extensions, consider sanctions, and/or develop and modify an Individualized Plan of a client who has a waiver.

3. Follow certain processes with regard to all Colorado Works clients including:
 - a. Screen Colorado Works clients by identifying those who are or have been survivors of domestic violence by using the State Department domestic violence screening form.
 - b. Assess Colorado Works clients who are identified as a survivor of domestic violence by:
 1. The nature and extent to which the individual may engage in work activities;
 2. The resources and services needed to assist the individual in obtaining safety and self-sufficiency; and,
 3. A plan to increase the client's safety and self-sufficiency.
 - c. Domestic violence exemptions (or waivers) of certain Colorado Works requirements may be granted for good cause based on circumstances that warrant non-participation in program work requirements described in this section, non-cooperation with Child Support Services as defined in section 3.604.4.A.1, or a program extension. Good cause may also be determined through the use of the prudent person principle as specified in section 3.604.3.G. And defined in section 3.601.
 1. Good cause for granting an FVO waiver of work activities and/or the sixty (60)-month time limit extension is defined as anything that would potentially endanger or unfairly penalize a client or the client's family if he/she participated in work activity requirements or grant payments were discontinued.
 2. Good cause for granting a waiver of the Child Support Services cooperation requirement is defined as anything in section 3.604.4.A.1, including circumstances that are not in the best interest of the child, e.g., potentially endangering or unfairly penalizing the client or child if the individual cooperated with Child Support Services.
4. Provide certain resources to all Colorado Works clients and survivors of domestic violence. Counties are to make immediate referrals to appropriate services, including: domestic violence services, legal services, health care, emergency shelter, child protection, and law enforcement. Such referrals are to be documented in the client's case file.

C. FVO provisions

1. Screening clients includes:
 - a. All clients are to be screened continually for domestic violence by trained workers.
 - b. At any point in Colorado works program participation, a client may be identified or may self-identify as a survivor of domestic violence.

- c. Workers are to use sensitivity and discretion in selecting the appropriate setting for domestic violence screening. The screening and any information related to the client's domestic violence shall remain confidential in accordance with section 3.609.73.
- 2. Waiver provisions, case documentation, and the Individualized Plan (IP)
 - a. The county shall use only FVO-trained workers to work with survivors of domestic violence throughout the application, screening, waiver/IP development, and case management processes, and when implementing, modifying, and monitoring sanctions for a domestic violence survivor.
 - b. Workers shall use the prudent person principle in determining what FVO waiver(s) will most benefit the individual. The IP shall be developed with a priority on safety and self-sufficiency for the individual and the individual's child(ren).
 - c. Waivers shall be based on need, and may be granted as long as need is demonstrated. This can be accomplished at application or throughout the life of the case.
 - d. Waivers shall be documented in the statewide automated system describing and taking into account:
 - 1) The past, present, and ongoing impact of domestic violence on the individual and the family;
 - 2) The individual's available resources;
 - 3) The maximized safety of the individual and the individual's family while leading to self-sufficiency;
 - 4) Identification of specific program/work activities requirements being required and/or waived;
 - 5) Prioritization of work, excepting those cases where work would lead to greater risk of family violence; re-assessment should occur every six (6) months, at minimum.
- 3. Appeal of a waiver denial
 - a. If a waiver is denied, and the client wishes to dispute this decision, he or she may appeal through the State Employment and Benefits Division. The Division will review and make decisions on the appeal. If the State Employment and Benefits Division denies the client's appeal, he or she has the right to appeal further through the judicial review process in section 24-4-106, C.R.S.

The appellant shall be granted all requested waivers and continue to receive benefits through the appeal process.
 - b. Any individual may reapply for a waiver at any time.

3.605 Income

3.605.1 Income

- A. For Colorado Works grant payments, all countable gross income that members of the assistance unit and budgetary unit have received or expect to receive shall be used to determine eligibility.
1. Consideration of income - for purpose of determining need, all countable gross income received in the month prior to, if available, and in the month of application shall be used to determine eligibility of members of the assistance unit.
 2. Availability of income - income shall be countable when actually available, when the client has a legal interest in a sum, and has the legal ability to make such sum available for support and maintenance. Income, in general, is the receipt by a client of a gain or benefit in cash or in-kind during a calendar month. Received means the date on which the income becomes legally available.
 3. Securing potential income - a client must make every reasonable effort to secure potential income.
 - a. The time required to make income available shall not be used as a basis for delaying the processing of an application.
 - b. When the client is taking appropriate action to secure potential income, the assistance unit shall continue without adjustment until the income is available.
 - c. If the client refuses to make a reasonable effort to secure potential income, such income must be considered as if available. Timely and adequate notice must be given to the assistance unit regarding a proposed action to deny, reduce, or terminate assistance, based on the availability of the income.
 - d. If, upon the receipt of the prior notice, the client acts to secure the potential income, the proposed action to deny, reduce, or terminate assistance shall be withdrawn and assistance must be approved and/or continued without adjustment until the income is, in fact, available.
 4. Income of a non-participant stepparent and a non-participant parent of an unmarried minor parent
 - a. A stepparent's countable income is considered available to stepchildren included in the assistance unit as dependent children. The countable income of a non-participant parent(s) of an unmarried minor parent who is living in the same home as the minor parent, shall also be deemed to the assistance unit.

The countable income equals gross earned income minus the employment disregard of \$90, minus the maintenance or child support paid to others outside the assistance unit, minus the amounts actually paid by the individual to other individuals not living in the home and who could be claimed by the individual for federal income tax purposes, plus any unearned income received by the stepparent or non-participant parent. The needs of the stepparent or parent of the minor parent, and the needs of individuals living in the home for whom the stepparent or parent are responsible shall be deducted from the result to determine the amount attributed to the assistance unit.
 - b. Income of parents living in the same home as the unmarried minor parent shall be attributed to the assistance unit of the minor parent.
 5. Sponsored non-citizens

- a. It shall be presumed that an affidavit of support demonstrates the sponsor's ability to make income available to a non-citizen whom he or she sponsors at a minimum of one hundred twenty-five percent (125%) of the Federal Poverty Level. Therefore, the net income of a non-citizen's sponsor and the sponsor's spouse shall be deemed to the assistance unit.
- b. Sponsor net income equals gross earned income minus twenty percent (20%) or \$175, whichever is less, minus support paid to dependents not living in the sponsor's home, plus any unearned income. The remaining income shall be considered available as unearned income to the non-citizen for the purpose of establishing eligibility and payment for Colorado Works.

The client may rebut the county department's determination that the income of the sponsor is available. If such a determination is made, the sponsor's income will not be deemed to the assistance unit.

- c. The income of the sponsor will not be deemed to the assistance unit if any of the following are true:
 - 1) The non-citizen is a qualified non-citizen who is not a legal permanent resident (i.e. refugees, asylees, parolees and Cuban and Haitian entrants).
 - 2) The non-citizen adjusted their status to legal permanent resident from refugee or asylee status.
 - 3) The non-citizen's sponsor signed the sponsorship agreement prior to December 19, 1997.
 - 4) The non-citizen is a victim of battery or extreme cruelty.
 - 5) The total income of the non-citizen and non-citizen's spouse, together with the total income of the sponsor and the sponsor's spouse (who is also a sponsor) is less than one hundred twenty-five percent (125%) of the Federal Poverty Guidelines for the household size of both the non-citizen and the sponsor.
 - 6) The non-citizen earned or can be credited with forty (40) qualifying quarters of coverage as defined under Title II of the Social Security Act.
 - 7) The non-citizen was sponsored on an affidavit of support other than the I-864. Or the non-citizen entered in a nonfamily or employment classification that did not require the sponsor to sign form I-864.
- d. If it is determined that the legal immigrant received financial assistance benefits that were the responsibility of the sponsor, the State Department or county department may recover such funds from the sponsor or the legal immigrant via the following:
 - 1) Income assignments;
 - 2) State income tax refund offset;
 - 3) State lottery winnings offset; and,
 - 4) Administrative lien and attachment.

Enforcement of duties under affidavit of support shall be the responsibility of the sponsored immigrant.

6. Net income of persons who are required to be included in the assistance unit, but who are disqualified due to failure to meet citizenship, non-citizen status, lawful presence or Social Security Number requirements, or are ineligible as defined in section 3.604.2.C, shall be deemed to the assistance unit. Net income equals gross earned income minus employment disregards and employment incentives plus any unearned income.

B. Countable Income

All countable income, including earned and unearned income received, or unearned income an assistance unit expects to receive in the application month and any month following shall be used to determine eligibility for the assistance unit.

3.605.2 Earned Income

A. Earned In-kind Income

Earned in-kind income shall be income resulting from the performance of services by the client for which he or she is compensated in shelter or other items in lieu of wages.

B. Consideration of Earned Income

"Earned Income" is still considered when:

1. Money payments obligated to the employee are diverted to a third-party for the employee's household or other expenses;
2. Wages are being garnished by a court order.

With the exception of contract employment, wages that are paid to an employee for a period for which services were rendered are considered available when paid rather than when earned, except that wages held at the request of the employee are considered income in the month they would otherwise have been paid.

C. Income from Short-Term Employment

Income received from short-term employment such as temporary employment (ninety days or less) and subsidized employment shall not be considered to determine eligibility as long as the client has not been terminated or has terminated the employment due to a fault of their own. This employment may be documented in the Individualized Plan.

D. Countable Earned Income

1. Consideration of Earned Income Against the Program Income Standard
Unless otherwise specified, any earned income is countable and the applicable earned income must be considered against the applicable needs standard.
2. Determining Earned Income
The amount of wages, salaries, or commissions available to the client after the applicable disregards is considered the net earned income.
3. Wages for Providing Home Care Allowance Services

When a client is the care provider to another client for whom a Home Care Allowance (HCA) payment is made, the HCA payment is considered earned income to the client who is the care provider.

4. **Earned Income of a Dependent Child not in School**
All earned income of dependent children who are not students or making satisfactory progress in an equivalent activity shall be considered in determining eligibility for Colorado Works.

E. **Self-Employment Income**

1. A client who is self-employed shall have the following applied to their income:
 - a. To determine the net profit of a self-employed client, deduct the cost of doing business from the gross income.
 - 1) These expenses include, but are not limited to, the rent of business premises (if working out of the home, the cost of the room used when doing business shall be used to determine the amount of the expense), wholesale cost of merchandise, utilities, interest, taxes, labor, and upkeep of necessary equipment.
 - 2) Depreciation of equipment shall not be considered as a business expense.
 - 3) The cost of and payments on the principal of loans for capital assets or durable goods shall not be considered as a business expense.
 - 4) Personal expenses such as personal income tax payments, lunches, and transportation to and from work are not business expenses, and are included in the applicable earned income disregards computation.
 - b. Appropriate allowances for the cost of doing business for clients who are licensed, certified, or approved day care providers are:
 - 1) For the first child for whom day care is provided, deduct \$55, and
 - 2) For each additional child deduct \$22. If the client can document a cost of doing business that is greater than the amounts above, the procedure described in (a), above, shall be used.
 - c. The result net profit amount, secured after the appropriate deductions described above, shall be treated as described in section 3.605.2.D, concerning earned income.
 - d. An allowable form of verification for self-employment is a client's ledger of income and expenses.
2. **Income Received From Self-Employment**
All self-employment income that is received regularly shall be considered income in the month it is received.
3. **Irregular Receipt of Self-Employment Income**
If receipt of self-employment income is irregular or varies significantly from month to month, it shall be averaged over a twelve-month period.

4. Other Types of Self-Employment Income

Some different types of self-employment income and how they are considered include, but are not limited to, the following:

- a. Self-employment income earned by the owner of a farm – shall be considered in the month it is received.
- b. Rental income – shall be considered as self-employment income only if the client actively manages the property for an average of twenty (20) hours per week or more.
- c. Board (to provide a person with regular meals only) payments shall be considered earned income in the month received to the extent that the board payment exceeds the maximum Food Assistance allotment for a one-person household per boarder and other documented expenses directly related to the provision of board.
- d. Room (to provide a person with lodging only) payments shall be considered earned income in the month received to the extent that the room payment exceeds other documented expenses directly related to the provision of room.
- e. Room and board payments shall be considered earned income in the month received to the extent that the payment for room and board exceeds the Food Assistance allotment for a one-person household per room and boarder and other documented expenses directly related to the provision of room and board.

F. In-Kind Countable Earned Income

1. Donated in-kind earned income is countable when it:
 - a. Is regular and for a specific time period;
 - b. Is a necessary service; and,
 - c. If not performed by the client, someone would have to be hired to perform the service.
2. If donated services meet these requirements, the value of these services is determined by:
 - a. The going rate in the community; or
 - b. From two employers of like services.
3. The client shall be informed that the continuation of donation of services will result in an income deduction from the assistance grant after all applicable earned income disregards have been applied.

G. In-Kind Income In Exchange For Employment

In-kind income received in exchange for employment is employment income and shall have the appropriate earned income disregards applied to the total value of the income. The amount considered as earned income when a client is paid in-kind is the value of the item supplied. The current market value of the item is used if the value of the item is not provided.

3.605.3 Countable Unearned Income

Unless otherwise specified, any unearned income is countable and together with all other countable income of the client it must be considered against the applicable assistance program need and/or grant standards specified in the regulations covering the different programs.

A. Countable Unearned Income

Countable unearned income includes, but is not limited to the following, as well as other payments from any source, which can be construed to be a gain or benefit to the client and which are not earned income:

1. Veteran's Compensation and pension.
2. Income from rental property is considered as unearned income where the client is not actively managing the property on an average of at least twenty (20) hours a week. Rental income is countable to the extent it exceeds allowable expenses. Allowable expenses are maintenance, taxes, management fees, interest on mortgage, and utilities paid. This shall not include the purchase of the rental property and payments on the principal of loans for rental property.
3. Current spousal maintenance (also referred to as alimony).
4. U.S. Department of Veterans Affairs (VA) educational assistance (G.I. Bill) payments or any other benefits which are conditional upon school attendance are income to the extent that they exceed expenses necessary for school attendance.
5. Proceeds of a life insurance policy to the extent that they exceed the amount expended by the beneficiary for the purpose of the insured recipient's last illness and burial which are not covered by other benefits.
6. Proceeds of a health insurance policy or personal injury lawsuit to the extent that they exceed the amount to be expended or required to be expended for medical care.
7. Strike benefits.
8. Income from jointly owned property - in a percentage at least equal to the percentage of ownership or, if receiving more than percentage of ownership, the actual amount received.
9. Lease bonuses (oil or mineral) received by the lessor as an inducement to lease land for exploration are income in the month received.
10. Oil or mineral royalties received by the lessor are income in the month received.
11. Stepparent and non-citizens' sponsors' attributable income for Colorado Works cases.
12. Amounts withheld from unearned income because of a garnishment are countable as unearned income.
13. Loans or inheritances.
14. Gifts or prizes.
15. Dividends and interest received on savings bonds, leases, etc.

16. Annuities, pensions, or retirements payments.
17. Disability or survivor's benefits.
18. Worker's Compensation payments.
19. Unemployment Compensation.
20. Social Security benefits.

B. Periodic Payments

The following types of periodic payments are countable unearned income:

1. Annuities - payments calculated on an annual basis which are in the nature of returns on prior payments or services; they may be received from any source;
2. Pension or retirement payments - payments to a client following retirement from employment, such payments made by a former employer or from any insurance or other public or private fund;
3. Disability or survivor's benefits - payment to a client who has suffered injury or impairment, or to such client's dependents or survivors; such payments may be made by an employer or from any insurance or other public or private fund;
4. Worker's Compensation payments - payments awarded under federal and state law to an injured employee or to such employee's dependents; amounts included in such awards for medical, legal, or related expenses incurred by a client in connection with such claim are deducted in determining the amount of countable unearned income;
5. Veteran compensation and pension - payments based on service in the armed forces; such payments may be made by the VA, another country, a state or local government, or other organization. Any portion of a VA pension that is paid to a veteran for support of a dependent shall be considered countable unearned income to the dependent rather than the veteran.
6. Unemployment Compensation - payments in the nature of insurance for which one qualifies by reason of having been employed and which are financed by contributions made to a fund during periods of employment;
7. Railroad retirement payments - payments, such as sick pay, annuities, pensions, and unemployment insurance benefits, which are paid by the Railroad Retirement Board (RRB) to a client who is or was a railroad worker, or to such worker's dependents or survivors;
8. Social Security benefits - old age (or retirement), survivors, dependent, and disability insurance payments (OASDI or RSDI) made by the Social Security Administration; also included are special payments at age seventy-two (72) (Prouty Benefits and Black Lung benefits);
9. Supplementary Medical Insurance Benefits (SMIB)- Social Security "Medicare" supplementary medical insurance benefit is a voluntary program, therefore the full Social Security award amount is counted as income to determine Colorado Works eligibility and to determine the amount of financial assistance to the client. The lump sum SMIB refund

received by the “buy-in” recipient is exempt income as the client has previously been charged with that income.

10. Military Allotment- A military allotment received on behalf of a client for those individuals included in the budget unit shall be considered as income in the month received. The military allotment received by the non-recipient spouse, parent, or stepparent on behalf of individuals not in the assistance unit shall be considered as income in the month received to the extent that such income exceeds the need standard concerning those persons not in the budget unit.

3.605.4 Exempt Unearned Income

- A. For the purpose of determining eligibility for Colorado Works, the following shall be exempt from consideration as income:
 1. Income Tax refunds.
 - a. The Earned Income Tax Credit (EITC) shall also be exempt for the month in which the EITC payment is received and for the following month.
 - b. County departments shall provide assistance to help clients apply for and receive the federal and State EITC.
 2. Third-Party Payments- The value of any third-party payment for medical care or social services paid on behalf of a client.
 3. Emergency Assistance- Emergency Assistance received on a one-time basis in cash or in kind from other agencies and organizations.
 4. Energy Assistance- Home energy assistance granted to a client by a private non-profit organization or home energy supplier, whether in kind, by voucher, or vendor payment.
 5. Personal Care and Home Care- Personal care or home care allowances paid to a recipient or non-recipient spouse, parent, stepparent, or child, from a federal, state, or local government program for in-home supportive services (attendant, chore, housekeeping) shall be exempt as income in determining the amount of attributable non-recipient spouse, non-recipient parent, or non-recipient stepparent income. However, it shall be classified as employment income in determining the attendant's own eligibility for assistance.
 6. VA Aid and Attendance- VA Aid and Attendance may be paid to qualified veterans in addition to their regular VA benefit. VA Aid and Attendance is exempt income to the applicant or recipient to determine eligibility for public assistance in the applicant's or recipient's own home, if the VA Aid and Attendance is used for medical supplies and medical or attendant care not covered by Medicare or Medicaid, or other health insurance programs. The remainder is deducted from the assistance grant. (Amounts for attendant care are treated in the same manner as specified in the preceding paragraph.)
 7. General Assistance- General Assistance granted to a client by the county department prior to or as a supplement to categorical assistance.
 8. Crime Victims Compensation Act.
- B. General Income Exemptions – Exemptions from Consideration as Income

For the purpose of determining eligibility for Colorado Works, the following shall be exempt from consideration as income:

1. A bona fide loan. Bona fide loans are loans, either private or commercial, which have a repayment agreement.
2. Benefits received under the Older Americans Act, Nutrition Program for the Elderly.
3. The value of supplemental food assistance received under the special food services program for children provided for in the National School Lunch Act and under the Child Nutrition Act, including benefits received from the special supplemental food program for Women, Infants and Children (WIC).
4. Home produce utilized for personal consumption.
5. Payments received under Title II of the Uniform Reconciliation Act and Real Property Acquisition Policies Act; relocation payments to a displaced homeowner toward the purchase of a replacement dwelling are considered exempt for up to six (6) months.
6. Experimental Housing Allowance Program (EHAP) payments made by HUD under Section 23 of the U.S. Housing Act.
7. Payments from Indian judgment funds and tribal funds held in trust by the Secretary of the Interior and/or distributed per capita; and the initial purchase made with such funds.
8. Distributions from a native corporation formed pursuant to the Alaska Native Claims Settlement Act (ANCSA) which are in the form of: cash payments up to an amount not to exceed \$2,000 per individual per calendar year; stock; a partnership interest; or an interest in a settlement trust. Cash payments, up to \$2,000, received by a client in one calendar year is excluded as income.
9. Assistance from other agencies or organizations that are provided for items not included in the need standard or do not duplicate a component of the need standard in total.
10. Major disaster and emergency assistance provided to clients, and comparable disaster assistance provided to states, local governments, and disaster assistance organizations.
11. A child receiving foster care or kinship care funds under Title IV of the Social Security Act shall be excluded from the assistance unit and his or her income shall be exempt from consideration for Colorado Works eligibility and payment.
12. Payments to volunteers serving as foster grandparents, senior health aids, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other program under Title I (AmeriCorps VISTA) when the value of all such payments adjusted to reflect the number of hours such volunteers are serving is not equivalent to or greater than the minimum wage, and Title II and Title III of the Domestic Volunteer Services Act.
13. Training allowances or training scholarships granted by Workforce Innovation and Opportunity (WIOA) or other programs to enable any individual to participate in a training program is exempt.
14. Payments received from the Youth Incentive Entitlement Pilot Projects (YIEPP), the Youth Community Conservation and Improvement Projects (YCCIP), and the Youth Employment and Training Programs (YETP) under the Youth Employment and Demonstration Project Act (YEDPA).

15. Social Security benefit payments and the accrued amount thereof paid to a client when an individual plan for self-care and/or self-support has been developed under the following conditions:
 - a. Supplemental Security Income (SSI) permits such disregard under such developed plan for self-care-support goal, and
 - b. Assurance exists that the funds involved will not be for purposes other than those intended.
16. Income received through the Workforce Innovation and Opportunity Act, including supportive services through that program.
17. Money received from the Radiation Exposure Compensation Trust Fund, P.L. No. 101-426 as amended by P.L. No. 101-510.
18. Reimbursement of out-of-pocket expenses.
19. Payments received by clients because of their status as victims of Nazi persecution pursuant to P.L. No. 103-286.
20. Individual Development Accounts (IDAs).
21. Distributions from retirement savings accounts.
22. Distributions from health care savings accounts.
23. Income paid to children of Vietnam veterans who were born with spina bifida pursuant to P. L. No. 104-204.
24. Income of A client who is attending school (student in a secondary education or undergraduate degree program) shall be considered as follows:
 - a. Income received from a college work-study program grant shall be exempt.
 - b. All earned income, including earned income from WIOA, that is received by a dependent child who is a full-time student or a part-time student who is not a fulltime employee shall be disregarded.
25. Educational savings accounts.
26. Educational grants, loans, stipends, and/or scholarships.
27. A client receiving SSI payments shall be excluded from the assistance unit and his or her income shall be exempt from consideration for Colorado works eligibility and payment.
28. Refugee resettlement funds and reception and placement money.
29. Interim Cash Payment received through the Colorado Refugee Services Program.
30. Life or disability insurance policies that may have a cash value taken.
31. The benefits provided from the Low-Income Energy Assistance Program (LEAP).

32. A child receiving subsidized adoption funds shall be excluded from the assistance unit and his or her income shall be exempt from consideration for Colorado Works eligibility and payment.
33. Income that is exempt shall also be exempt if received as a lump sum or excluded if designated or legally obligated for legal fees related to obtaining the lump sum payment, medical bills, funeral and burial expenses, or income taxes.
34. Income tax credits when identified as exempt by the state or federal government.
35. Wages earned through subsidized employment programs including employment, apprenticeships, on-the-job training, and transitional jobs.

3.605.5 Child Support Income

- A. At initial application, current child support payments received by the assistance unit shall be considered income and counted against the need standard to determine eligibility.
- B. Once found eligible, child support income is excluded in the basic cash assistance grant calculation.
- C. For purposes of redetermination (RRR):
 1. Inconsistent child support payments are not countable. Child support payments are considered consistent when received in all six (6) of the six (6) previous months.
 2. Once consistency of payments has been established, current child support is averaged over the previous six (6) months. If that averaged amount is \$500 or less for the household, the child support income is disregarded for both eligibility and grant calculation. If that amount is over \$500 for the household, it is counted, in combination with other income, against the need standard to determine continued eligibility.
 3. If found eligible, the child support income is disregarded for basic cash assistance grant calculation.
- D. Child support arrears are exempt income and are not used for eligibility or grant calculation.

3.606 Colorado Works Certification and Benefit Calculation

3.606.1 Basic Cash Assistance

- A. Payment of Basic Cash Assistance (BCA) Grants

Counties or groups of county departments shall not reduce the BCA grant, restrict eligibility, or impose sanctions that are inconsistent with state and federal laws or the rules of this Section 3.606.1.

- B. Unreimbursed Public Assistance

The BCA grant shall be considered part of the Unreimbursed Public Assistance (UPA) as defined in the Child Support Services rule manual at 9 CCR 2504-1 Section 6.002.

- C. Recipient's Right to Decide

In accordance with the principle of the unrestricted money payment, a client shall have the right to decide how any payment received shall be spent.

D. Vendor Payments for client Protection

The county may pay the basic cash assistance grant to vendors on behalf of the client with the client's voluntary agreement. In all other situations the payment shall be made to the client.

E. Considering Income for Eligibility and Payment

Applications received will be certified for six (6) consecutive months beginning the first month the assistance unit is found eligible for basic cash assistance. The certification period consists of the calendar months beginning with the first day of the budget month (day/month the application is received and the assistance unit is found eligible) and ending with the last day of the sixth (6th) month (unless found ineligible) in which financial assistance is provided and that is intended to cover the ongoing basic needs of the assistance unit.

For eligibility and payment, income shall be considered in the month of application and throughout the certification period. This is also true for redetermination and establishing a new certification period going forward. The following calculation shall be used: countable earned income minus applicable earned income disregards, plus countable unearned income.

F. Determining Eligibility for Basic Cash Assistance Grant Based on the Need Standard

The basic cash assistance grant shall be determined based upon income using the following need standard. If the participant has zero income the following cash payment shall be received based upon those included in the assistance unit:

COLORADO WORKS STANDARDS OF ASSISTANCE CHART

**Caretaker(s)
of Children**

Number of Dependent Children

	0	1	2	3	4	5	6	7	8	9	10	Ea. Add.
No Caretaker												
Need Std.	0	117	245	368	490	587	678	755	830	904	977	67
Grant Amt.	0	141	296	444	593	711	821	915	1004	1095	1195	74
One Caretaker												
Need Std.	253	331	421	510	605	697	770	844	920	992	1065	67
Grant Amt.	306	400	508	617	732	844	932	1022	1113	1201	1289	74
Two Caretakers												
Need Std.	357	439	533	628	716	787	861	937	1009	1082	1155	67
Grant Amt.	431	531	645	760	866	952	1042	1135	1222	1309	1398	74

G. Pregnancy Allowance

Upon verification of pregnancy, pregnant parents are eligible for the basic cash assistance grant plus a ten dollar (\$10.00) pregnancy allowance. The client is eligible for the pregnancy allowance through the month in which the pregnancy ends.

H. Gross Income

To be eligible for Colorado Works basic cash assistance, the countable gross earned and unearned income together shall not exceed the need standard for the household size after disregards have been applied in accordance with section 3.606.2.

I. Calculation of the Basic Cash Assistance Grant for an Eligible Assistance Unit

To calculate the basic cash assistance amount for an eligible assistance unit:

1. Deduct the earned income disregard(s) from the gross earned income, received or expected to be received by members of the assistance unit, in the month of application;
2. Add to the result from step 1, above, the unearned income received or expected to be received by members of the assistance unit;
3. Deduct the total from step 2, above, from the grant amount for the household size.

J. Reporting of Earned Income

When the assistance unit reports earned income:

1. Apply the appropriate earned income disregards to the gross earned income of each employed member of the budgetary unit as described in Section 3.606.2; and,
2. Add the unearned income received by each member of the budgetary unit; and,
3. Compare the total to the need standard for the household size.
4. If the net countable income equals or exceeds the need standard, the assistance unit is not eligible for Colorado Works basic cash assistance.

K. Calculation of an Eligible Assistance Unit

To calculate the basic cash assistance grant amount for an eligible assistance unit:

1. Deduct the net countable income from the grant amount for the assistance unit; and,
2. Drop the cents, and the remainder is the authorized grant.

3.606.2 Earned Income Disregards

For all cases with eligible members that have earned income (not including disqualified individuals), payment and eligibility will be determined using the income disregards as described below. All payments shall be calculated by using applicable disregards.

A. Earned Income Disregards Calculations

The following earned income disregards shall be applied to gross wages for clients:

1. At application the gross earned income minus the ninety dollar (\$90) earned income disregard, plus any countable unearned income received or expected to be received by members of the assistance unit, shall not exceed the need standard for the household size and shall be applied at application. If income does not exceed the need standard for the household size, the sixty seven percent (67%) disregard shall be applied to determine payment amount.
2. For an assistance unit currently receiving basic cash assistance, the gross earned income minus the sixty seven percent (67%) earned income disregard, plus any countable unearned income received or expected to be received by members of the assistance unit, shall not exceed the need standard for the household size and shall be applied during the certification period. If income does not exceed the need standard for the household size, the 67% disregard shall be applied to determine payment amount.

B. Calculation Steps

If the assistance unit is eligible, calculate the payment utilizing the following steps:

1. Deduct the earned income disregard(s) from the gross earned income, received by or expected to be received by members of the assistance unit, in the month of application;
2. Add to the result from step 1, above, the unearned income received or expected to be received in that month by members of the assistance unit;
3. Deduct the total resulting from step 2, above, from the grant amount for the household size. The remainder is the grant amount.

3.606.3 Changes and Reporting Requirements

Colorado Works clients shall report information concerning income, household composition, and residency. The income reporting standard for an assistance unit is provided on the change report form and in noticing. Information on such changes may be reported to the county of residence by use of a change report form, the client's redetermination packet, and/or by making the county aware of the change. Changes shall be reported by the tenth (10th) of the month following the month the change occurred. The county must act on all changes reported within ten (10) calendar days of the report by entering the change into the statewide automated system. By acting on changes, the county department shall determine eligibility.

A. Negative and positive changes during the certification period

1. If the assistance unit will receive an increase in grant payments as indicated by the total net change of all changes in the month, the increase will affect the case the month following the date the change is reported and verified.
2. If the assistance unit will receive a decrease in grant payments, the grant payment amount will remain the same until redetermination when a new payment amount will be set for the upcoming certification period or the case discontinues.

The only decreases that occur during the certification period are identified in section 3.606.3.C below. These changes take effect after timely noticing is applied.

B. Limited reporting standard

A recipient with an established certification period must report certain changes in household circumstances by the tenth (10th) day of the month following the month in which the change occurred. The client will be notified in writing of the changes they are required to report. The county worker must act on reported changes within ten (10) calendar days from the date the change is reported by entering the change into the statewide automated system. The following changes must be reported during the certification period:

1. When the income of the assistance unit exceeds the income reporting standard for that assistance unit.
 - a. The reporting standard for earned income is a reflection of the amount of earned income the household could receive and still be eligible for Colorado Works after applicable disregards are applied (calculated by dividing the need standard for the household by .33).

- b. The reporting standard for unearned income is the need standard for the household, as identified in 3.606.1.F.
 - 2. When the assistance unit receives earned or unearned income from a new source.
 - 3. When a change to the number of people living in the home occurs.
 - 4. When the assistance unit no longer resides at the address previously reported to the county department.
- C. Ongoing eligibility and the effect of negative and positive changes to the certification period

The certification period does not guarantee ongoing eligibility. To remain eligible, the primary eligibility criteria must still be met, including remaining below the need standard. All changes are compared against the assistance unit size and grant amount.

- 1. A negative change may result in the reduction of payment or case closure before the end of the certification period. When a negative change occurs, the reduction of payment or closure shall take place after the appropriate noticing timeframe as identified in 3.609.1.

A negative change shall include, but is not limited to:

- a. An increase in income in which the budgetary unit's total countable income is over the need standard after applicable income disregards are applied.
- b. Income is received from a new source which results in the exclusion of a member of the assistance unit.
- c. A member leaves the household.
 - 1) If the member leaving the home is the only dependent child on the case.
 - 2) If a pregnancy ends.
 - 3) When a government agency provides information that a dependent child is no longer in the household and the child's new household is in need of services (such as child support) with a different caretaker or parent.
 - 4) When a member leaves the home and applies for assistance and/or someone is requesting assistance for that member during the original assistance unit's certification period:
 - a) A new assistance unit may apply for the member as he/she leaves the original assistance unit but the member shall not receive a portion of the new assistance unit's basic cash assistance grant until benefits have been terminated for that member in the original assistance unit.
 - b) The individual is considered to be a part of the original assistance and budgetary units during the noticing period. After the noticing period, the grant amount for the original assistance unit will be recalculated using the new household size and benefits will continue as long as eligibility continues for that assistance unit until the certification period ends.

- 5) When a member requests assistance to stop for him or herself, or a caretaker who remains a part of the original assistance unit requests that they stop receiving benefits for another member who has left the home.

when a member of the assistance unit or budgetary unit leaves the home, the individual's income shall be excluded beginning the first day of the month following the month the individual reported they left the home and the basic cash assistance grant adjusted accordingly.

- d. An eighteen-year-old who is the only dependent child graduates from high school or stops attending school.
 - e. Death of a client.
 - f. Imposing sanctions.
 - g. Imposing actual intentional program violation (IPV) penalties.
2. A positive change results in a payment increase and shall be effective the month following the month the change is reported and verified. Payments shall be adjusted accordingly and provided to the recipient timely. A positive change shall include, but is not limited to:
 - a. Termination of or decrease in income.
 - b. Adding a member to the assistance unit.
 - 1) The initial application for Colorado Works is sufficient to cover all members who join the assistance unit after initial application. Verification is still needed to establish eligibility for the member joining the assistance unit.
 - 2) A new member(s) who is added to an existing assistance unit shall be added effective the first day of the following month that the assistance unit reported the change and provided any necessary verifications.
 - a) if the new member has income, it will be considered income to the assistance unit in the month that the new member joined the household. The income shall be used to determine eligibility and payment according to the negative and positive change rules in section 3.606.34.a.
 - b) if the new member is a newborn and a pregnancy has been previously verified, the newborn shall be added effective the first day of the month of birth and documentation shall consist of the birth date and a Social Security Number (SSN) or an SSN application. No other documentation is required to add a baby to the assistance unit after the birth is reported unless there is questionable information regarding relationship to a parent(s), citizenship, or qualified non-citizenship status.
 - c. Verifying a pregnancy.
 - d. Providing individual level verification.

- e. A member who was previously ineligible becomes eligible.
- 3. Positive and negative changes may occur at the same time. All changes will be taken into consideration and the net result of the change will be compared to the client's base eligibility determination. The comparison will be used to determine if there is a negative change, positive change, or complete ineligibility to the assistance unit's basic cash assistance grant.
- D. At any time while receiving basic cash assistance, if there is questionable information regarding the circumstances of a household, the county worker can request verification of the questionable information. If the client fails to submit verification of the questionable information, grant payments may be discontinued.

3.606.4 Redetermination of Eligibility

- A. Filing a redetermination (RRR) to continue benefits

Colorado Works clients shall file their RRR with the county by the 15th of the month as specified in the RRR packet. A client's failure to file a RRR timely may delay the determination of benefits. All RRR forms must be entered into the statewide automated system within two (2) business days. Complete forms received timely must be acted upon by the county department by the last day of the month in which the forms were due. Complete forms received between the 16th and the last day of the month the RRR is due must be approved as soon as possible. The county department will have ten (10) days to act on such redeterminations, to include scheduling and conducting the interview and requesting any necessary verification. The county must make an eligibility decision on redetermination forms received between the 16th and the last day of the month within thirty (30) days from receipt of such RRR.

An interview for Colorado Works basic cash assistance cases shall take place annually and necessary verifications must be requested and obtained at each RRR to determine whether the client continues to be eligible for Colorado Works.

- B. Redetermination procedures- mail out

Forms that the client is required to complete shall be mailed to the client at least thirty (30) calendar days prior to the first of the month in which eligibility redetermination is due. This is considered the prior notice period. The following procedures relate to mail-out redetermination:

1. An RRR packet shall be mailed to the client which identifies the RRR due date and the date when Colorado Works grant payments will stop if the RRR packet is not returned;
2. The RRR packet shall be completed, signed by the client, and returned to the county department no later than the 15th of the month in which the client's existing certification ends; and,
3. When the client is unable to complete the RRR packet due to physical, mental, or emotional disabilities, and has no one to help, the county department shall either assist the client or refer the client to a legal or other resource.
4. When initial arrangements or a change in arrangements are being made, an extension of up to thirty (30) days may be allowed. The assistance and/or referral action of the county department shall be recorded in the case record.

- C. Complete RRR packet

A complete RRR packet has all questions applicable to Colorado Works and/or specific to the household's circumstances completed by the client and is signed by the client or authorized representative.

D. Redetermination process

The redetermination process shall consist of all activity from the date the RRR is received from the client until a determination concerning eligibility is made.

During the redetermination process, the county worker shall:

1. Date the RRR packet to record the date of receipt by the county department.
2. Enter the RRR into the statewide automated system within two (2) business days.
3. Schedule and conduct an interview when required. The client shall be provided with written notice of a scheduled interview in accordance with section 3.602.1.E.1.c. When the client does not keep the appointment and does not request an alternate time or arrangement, as described in section 3.602.1.E.1.c, grant payments will be terminated at the end of the current certification period.
4. Explain the purpose of the interview and the use of the information supplied by the client on the RRR form and any additional required forms.
5. Inform all clients in writing at the eligibility redetermination that Social Security Numbers for all clients will be used to request and exchange information with other agencies as part of the eligibility process, including the Department of Labor and Employment (State Wage And Unemployment Data), Social Security Administration, and Internal Revenue Service (unearned income). IEVS information may also be exchanged with other state or federal agencies administering public assistance programs, including the Department of Labor and Employment, Child Support Services, and the Social Security Administration.
6. Have the client complete the forms or complete the form on behalf of the client.
7. Explain the appeal rights to the client.
8. Witness the signature of the client and sign as a person who helped complete the forms, when applicable.
9. Review documents, verifications, and any other information supplied by the client with the client in order to obtain clarification if needed. Information requested shall include:
 - a. Income.
 - b. Other eligibility factors to be verified unless satisfactory documentation is in the case record.

E. Redetermination not returned

When the RRR packet is not returned by the 15th of the RRR due month, discontinuation of benefits shall occur at the end of the RRR due month. This action to discontinue shall not be taken, however, if the completed and signed forms are returned between the 16th and the end of the RRR due month as defined in section 3.606.4.A. If no response is received by the end of the RRR due month, the case shall be discontinued upon the effective date of the notice sent to the client with the RRR packet.

F. Incomplete redetermination packets

If the RRR packet is received by the first filing deadline, but it is incomplete, a correction notice shall be sent to the client advising the client that the RRR packet is incomplete and must be corrected by the correction deadline to avoid termination and/or the county department shall work with the client to complete the packet.

G. Termination of benefits and adequate notice

When the information provided in the RRR packet, or otherwise provided by the client, is the basis for reduction in the amount of assistance or in termination of assistance, such actions shall be taken after adequate notice, as defined in section 3.601 and described in 3.609.1,C and D, is given.

H. Termination of benefits and adequate notice redetermination requirements

A redetermination of eligibility shall be complete for Colorado Works when:

1. All necessary forms concerning the redetermination are completed and have been reviewed;
2. Requested verification is obtained and recorded in the case file;
3. All factors are evaluated and decisions on continued eligibility and amount of money payment have been reached; and
4. Notice of change in payment, if applicable, is completed and mailed to the client. A state-approved notice of proposed action form shall be used for positive actions and for negative or adverse actions.

I. Reopening and reinstatements

Cases may be reopened prior to the effective date of closure with good cause and may be reinstated if closed within thirty (30) calendar days or less.

1. Reinstatement in lieu of an application- when a request is made for the category of assistance from which the client was discontinued within thirty (30) calendar days following the effective date of discontinuation, the following procedures shall be followed:
 - a. A RRR packet or current application shall be in the case file or completed and signed by the client;
 - b. Income shall be verified;
 - c. Other eligibility factors shall be verified unless satisfactory documentation is in the case record;
 - d. Eligibility determination shall be completed and appropriate actions shall be taken.
2. Reopening in lieu of an application- when a client requests assistance prior to the effective date of the client's discontinuation from assistance, the following procedures shall be followed:
 - a. A RRR packet or current application form shall be in the case file or completed and signed by the client;

- b. Income shall be verified;
- c. Other eligibility factors shall be verified unless satisfactory documentation is in the case record;
- d. Eligibility determination shall be completed and appropriate actions shall be taken;
- e. If reopened, child support services and other appropriate units shall be so advised.

3.606.5 Clients Moving to a New County of Residence

- A. Colorado Works clients transferring from one county to another shall remain eligible for the basic cash assistance and shall continue to be eligible. For work required individuals, the client remains eligible until assessed by the new county, in accordance with the timeframes outlined in 3.608.1.A. The benefits shall continue without interruption.
- B. Clients who are transferring to another county are required to continue to report changes and the transferring county shall continue to process the client's changes during the period in which the transfer to another county is in process.
 - 1. Clients shall continue to report changes by the tenth (10th) of the month following the month in which the change occurred and complete redeterminations as required by the paying county; and,
 - 2. The paying county shall continue its activities; and,
 - 3. The paying county shall resolve all issues concerning the client's continuing eligibility or termination before the transfer is completed; and,
 - 4. The paying county shall assure that the case is updated in a timely way to enable acceptance by the county of residence.

3.606.6 Time Limits and Extensions

- A. Time Limits

Each month for which a basic cash assistance grant is received shall be counted toward the time limits of adult members who are part of the assistance unit regardless of whether or not the adult is eligible to receive assistance. Any assistance unit containing an adult may receive Federal TANF grant payments for up to sixty (60) cumulative months.
- B. Time Limits and Sanction Periods

Months in which a partial Colorado Works payment was made due to a sanction shall be counted toward the time limit.
- C. Extensions

An assistance unit containing an individual who has received Federal TANF assistance in Colorado or another state as an adult for sixty (60) or more cumulative months shall not be eligible for Colorado Works assistance in Colorado unless granted an extension by the county department due to hardship or domestic violence. Assistance units that contain disqualified members shall not be eligible for consideration of an extension.

1. The State Department shall send a notification to clients who are approaching the sixty (60) month time limit on Federal TANF assistance. The county department shall make all reasonable efforts to contact these clients by phone or in person to explain the extension process and to accept a request for an extension.
2. All clients shall have the opportunity to request an extension. Requests for an extension of Colorado Works shall be made in the county of residence and may be made in person, by phone, or in writing. The client's county of residence shall approve or deny an extension request.
3. The county department shall have thirty (30) days after the receipt of a request for an extension to make a decision whether to grant or deny the extension. The county shall send a notice to the client concerning the decision.
4. If the request for an extension is denied, the notice shall include the reason for the denial and the right to appeal the decision per Section 3.609.6. A client who has been granted an extension may request an additional extension prior to the end of the current extension period. If a timely request is not made, the county department may grant an extension if the client is able to demonstrate good cause. Good cause shall be determined by the county department and cannot be appealed.
5. An extension may be granted for up to six (6) months. A client who has been granted an extension may request additional extensions, but the request must be made prior to the end of the current extension period.
6. Nothing in these rules shall be construed to prohibit a former client from requesting a hardship or domestic violence extension, after the lapse of the 60-month lifetime limit, when new hardship or domestic violence factors occur, to the extent permissible under State and federal law.
7. The client receiving an extension shall meet with the county worker on a regular basis to address specific needs and to identify a plan to move off of assistance in an Individualized Plan.

D. Hardship

A household may be considered to be experiencing a hardship if one or more of the following prevents the adult member(s) of the assistance unit from securing or maintaining employment:

1. Disability of the caretaker, his or her spouse, the dependent child(ren) or immediate relative for whom the caretaker is the primary caregiver, pursuant to the definition of "persons with disabilities" at Section 3.604.3; or,
2. Involvement in the judicial system because a member of the assistance unit has an existing case; or,
3. Family instability which may include a caretaker with proven inability to maintain stable employment or inability of the caretaker to care for the children in his or her own home or in the home of a relative; or,
4. Inadequate or unavailable:
 - a. Child care,
 - b. Housing,

- c. Transportation; or,
- d. Employment opportunities.

County departments shall include additional criteria for Item “d”, regarding employment opportunities specific to the county. A county department may define additional reasons for granting an extension due to hardship. The detailed information and additional hardship reasons shall be defined and described in the county policies and procedures.

E. Hardship Due to Domestic Violence

Domestic violence extension may be granted when domestic violence problems, as defined at Section 3.604.5 prevent the adult member(s) from participating in work activities or securing employment.

F. Exemptions From the 60-Month Time Limit

Any month of receipt of assistance by an adult while living in Indian Country, or a Native Alaskan village where at least fifty percent (50%) of the adults were not employed, shall not be counted toward the sixty (60) cumulative months of Federal TANF assistance. Indian Country is defined in 18 U.S.C. Section 1151.

G. Twenty Percent (20%) Allocation of Extensions

Up to twenty percent (20%) of the Statewide caseload receiving Colorado Works may be granted an extension beyond the sixty (60) month time limit due to hardship or domestic violence. At any point that records indicate that the State will exceed the twenty percent (20%) maximum on the number of Colorado Works extensions granted to assistance units, the State shall determine if this is due to the provision of federally recognized good cause domestic violence waivers. If the records support this determination, as allowed by federal law, the State shall provide information to the federal government to demonstrate that the reason for exceeding the twenty percent (20%) maximum was due to granting federally recognized good cause domestic violence waivers. The State Department has the sole responsibility of monitoring this federal limit. County departments are not restricted to a certain number of extensions unless the Statewide limit is reached.

3.606.7 Funeral, Burial, and Cremation Expenses

A. Death Reimbursement

1. A death reimbursement benefit shall in some circumstances be available to assist in paying for the funeral, burial, and cremation expenses of a deceased client. Death reimbursement benefits paid for the disposition of a deceased client under these rules are not entitlements. Benefit levels for such dispositions shall be adjusted by the State Department in order to contain expenditures within the available legislative appropriation.
2. The total amount of death reimbursement benefit paid by the county department pursuant to this section shall not exceed one thousand five hundred dollars (\$1,500). To be eligible for a state contribution, the total combined reasonable charges (including those paid by the deceased client's estate, family, State Department funds, or any other source) for services, property, and supplies shall not exceed two thousand five hundred dollars (\$2,500).
3. A birth certificate and death certificate shall not be required for a burial in the circumstances of a stillborn child or a pregnancy ended by miscarriage. Documentation

from a medical provider and/or a collateral contact shall take the place of the birth and death certificate.

B. When State Funds may be Contributed

A death reimbursement benefit covering reasonable funeral expenses or reasonable cremation or burial expenses or any combination thereof shall be paid by the State Department for a deceased client, subject to state appropriations, as follows:

1. The expenses are incurred for the disposition of a deceased client who received Colorado Works while alive; and,
2. The deceased client's estate is insufficient to pay all or part of such expenses (a deceased client's estate is defined as property of any kind that the deceased client owned at the time of death); and,
3. The county department shall issue a written authorization and itemization of the services, property, and supplies for which the State Department funds shall be contributed. The total charge and amount of State Department funds authorized for each item shall be included in this authorization; and,
4. The total combined reasonable charges (including those paid by the deceased client's estate, family, State Department funds, or any other source) for services, property, and supplies which have been authorized by the county department shall not exceed two thousand five hundred dollars (\$2,500).

C. Disposition by Funeral, Burial, and Cremation

In those cases where disposition of a deceased client is by funeral/memorial service and burial or cremation, the county department may authorize that State Department funds shall be contributed toward the expenses for the following:

1. Transportation of the deceased client's body from the place of death to a funeral home or other storage facility;
2. Storage of the body during the time prior to final disposition;
3. Embalming, where necessary for preservation of the body;
4. Funeral or memorial service;
5. Purchase of casket;
6. Preparation of body for placement in casket;
7. Transportation of body and casket to site of funeral/memorial service and/or cemetery;
8. Purchase of gravesite;
9. Purchase of vault (liner), when required by the cemetery;
10. Opening and closing of grave;
11. Purchase and placement of grave marker;
12. Perpetual care of gravesite by owner of cemetery;

13. Cremation of body;
14. Purchase of an urn or other receptacle for the cremated remains of the decedent;
15. Burial of the cremated remains of the decedent, including purchase of gravesite, vault (liner) if required by the cemetery, opening and closing of grave, purchase and placement of grave marker, and perpetual care of gravesite;
16. Storage of the cremated remains for no more than one hundred twenty (120) days, in those cases where they are not buried and are not claimed by the decedent's family or friend; and/or,
17. Any other items that are incidental to the funeral/memorial service and burial/cremation.

D. Arranging for Details of Disposition

Even though State Department funds may be contributed toward the expenses for the items listed in the preceding sections, some of those items will not be requested, necessary, or affordable in some situations (e.g., in the case of a direct burial with or without graveside service, or immediate cremation with no burial). In the course of contacting relatives of the deceased client in order to arrange for disposition, the county department and any provider which is involved (e.g., a funeral home or cemetery) should consult with the family members about the applicable regulatory provisions, the resources of the decedent's estate and family/friends, and the relative costs of the various types of disposition.

In those cases where the client or family has requested that the disposition include items which cannot be provided within the limitations of these regulatory provisions, and where the family is unable or unwilling to make separate financial arrangements without a State Department contribution, the county department shall make arrangements for disposition of the client's body in a reasonable, dignified manner which approximates the wishes and the religious and cultural preferences of the client or family.

E. Limitation of Total Charges for Disposition

Regardless of the manner of disposition, State Department funds shall not be contributed if the total charges (including those paid by the deceased client's estate, family, state funds, or any other source) for services, property, and supplies related to the disposition exceed two thousand five hundred dollars (\$2,500).

F. Procedures to be Followed by County Departments

The county department in which the deceased client's case is active shall be responsible for determining whether and in what amounts State Department funds may be contributed for the disposition of the deceased client's body.

1. When assistance for funeral, burial, or cremation services is requested on behalf of a deceased client, the county department shall obtain a completed application for funeral/burial/cremation assistance as prescribed by the State Department. This form is used to make a determination of eligibility for State Department funds for such services. The county department shall ensure that a choice of disposition by the client or a family member is made in writing. The choice of disposition may be made in the client's will, on the application for funeral/burial/cremation assistance, or by any other document that the county department deems to be credible. When a choice of disposition between burial and cremation was made by the client in writing, and the client is determined to be

eligible for burial assistance, the choice shall be honored by the county department within the limits of costs and reimbursement available.

If a choice of disposition was not previously made by the client, the county department shall request a family member (spouse, adult children, parents, or siblings) to make the choice. The application form provides a section to be used by the family to make a written choice of disposition. Once the choice of disposition is determined, the appropriate providers shall be contacted to obtain signed proposals of items and charges for disposition. The Provider's Proposed Charges for Funeral/Burial/Cremation of Deceased Recipient of Assistance form shall be used for this purpose. If more than one provider is involved, a separate form for each provider MUST be used.

Once the application and proposals from providers are received, the county department will be able to determine if a State Department funded death reimbursement is appropriate.

If the combined charges from the providers exceed two thousand five hundred dollars (\$2,500), no death reimbursement shall be paid from State Department funds. Providers may seek contributions from non-responsible persons only to the extent that monies are available from such parties.

2. In determining the extent of the State Department funded contribution, if any, toward the expenses of disposition, the county department shall proceed in accordance with the following steps:
 - a. If the client did not make a written choice between burial and cremation, the county department shall determine whether the client's family has any preference. The county department shall encourage such relatives, in making a choice of disposition, to consider the relatives' ability to contribute to the costs of the available options.
 - b. After determining the method of disposition for the deceased client, the county department shall next determine whether any funds for disposition are available from the deceased client's estate using the guidelines in section 26-2-129(6), or from those individuals legally responsible, as defined in section 26-2-129(2)(E), C.R.S., for the deceased client's support. The county department shall also inquire about the availability of such funds from persons who appear to be interested in the manner of the deceased client's disposition, even if such persons are not legally responsible for the deceased client's support.
 - c. The county department shall require the legally responsible person to financially participate towards the charges for funeral, burial, or cremation unless their resources are less than the Supplemental Security Income (SSI) resource limit which is \$2,000 for an individual and \$3,000 for a couple as described in C.R.S. 26-2-129(5). The amount of resources over the SSI limit shall be used to reduce the State Department funded Death Reimbursement payment. Money voluntarily contributed by the responsible party towards the burial, funeral, or cremation costs by the responsible party is also used to reduce the Death Reimbursement Benefit.
 - d. The value of a prepaid burial plot of two thousand dollars (\$2,000) or less when purchased is exempt and not counted toward the total funeral, cemetery, or burial expenses. If the final resting place was purchased by someone other than the decedent and donated to the deceased client, it shall not be counted as personal resource of the deceased client or legally responsible person.

- e. Social Security lump sum death benefits payable to a legally responsible person shall not be used in reducing the maximum Death Reimbursement Benefit.
 - f. Funds disbursed from any insurance policy of the deceased client to a legally responsible person or non-responsible person who is named as beneficiary or a joint beneficiary of the deceased client's policy, are counted as available and shall be used to reduce the maximum Death Reimbursement. Providers may seek contributions from non-responsible persons to the extent that monies are available from such parties.
 - g. Contributions made by non-responsible parties shall not reduce the Death Reimbursement Benefit. These funds are used to offset the maximum combined charges to the providers. The county department shall make every reasonable effort to minimize the contribution of State Department funds for a deceased client's disposition. The State Department may limit the maximum State Department contribution to a figure lower than one thousand five hundred dollars (\$1,500) in order to contain total State Department expenditures within the available legislative appropriation. The State prescribed form shall be used to inform the county department accounting office of itemized total charges and the total State Department contribution.
3. The county department shall use the following procedures in cases where the county department becomes aware of a deceased client, and a family member cannot be located:
- a. If a family member has not been located within twenty-four hours after the client dies, the county department shall have the deceased client's body refrigerated or embalmed.
 - b. If a family member has not been located within seven days, the county department shall make the determination to bury or cremate the deceased client based on the best option available.
 - c. The county department shall complete and send the State required form, Authorization of Cremation, to the appropriate funeral home/crematorium to authorize the cremation.
 - d. The county department may authorize payment for funeral, burial, and cremation expenses up to one year after the death of the client. Those persons who made arrangements for the disposition of the deceased recipient's body must provide all necessary information to enable the county department to determine whether and to what extent a contribution of State Department funds is appropriate.

G. Provider Agreement

The county department shall have a statement of agreement between the providers that sets forth the charges and the amounts of any disbursement of funds by the county department. The agreement shall assure that the distributions of death reimbursement benefits are equitable. All vendor(s) who are providing the services must sign the agreement. The form must be approved and signed by the county department before death reimbursement is provided. Payment shall be made pursuant to the agreement.

3.606.8 Diversion, Other Assistance, and Family Needs Payments

- A. A Colorado Works client may receive a diversion payment to address a specific crisis situation or episode of need. Such payments are not designed to meet clients' basic ongoing needs. A

diversion payment may address needs over a period of no more than four (4) months. In addition to a diversion payment, a client who is eligible for diversion may receive supportive services based on a defined need.

A Colorado Works client may receive a diversion payment (diversion grant) under the following terms and conditions:

1. The client does not need long-term cash assistance or basic cash assistance as determined by the assessment.
2. The client demonstrates a need for a specific item or type of assistance, including but not limited to, cash, supportive services, housing, or transportation. Such assistance may be provided in the form of cash payment, vendor payments, or in-kind services.
3. The client enters into a written or verbal agreement with the county department. The agreement shall be documented in the statewide automated system and shall:
 - a. Document the reason why the client does not need basic cash assistance; and,
 - b. Define the expectations and the terms of the diversion payment; and,
 - c. Specify the need(s) for and the specific type(s) of non-recurring cash payment.
4. The client shall agree not to apply for any further Colorado Works assistance in the county where he or she received the diversion payment or any other county for a period of time to be established by the county that issued the diversion payment. This Period of Ineligibility (POI) shall start in the month that the payment is provided.
5. If the client is unable to sustain the agreement because of circumstances beyond his or her control, he or she may apply for and the county may grant basic cash assistance or another diversion payment prior to the end of the POI. The county department can end the POI before it expires if good cause exists and is granted by the county department.
6. A diversion payment is a needs-based, cash or cash-equivalent payment made to a client who is eligible for basic cash assistance, or, at county option, and based on the county's policy, a higher income limit not to exceed the maximum criteria established in the State plan for non-recurrent short-term benefits. All diversion clients who receive a one-time cash payment are not required to assign child support rights, and receipt of such payment does not count toward their Federal TANF assistance time limit.
7. Two Payments of Assistance in the Same Month

A client shall not receive a diversion grant for any month in which he/she receives basic cash assistance.

B. Supportive payments and referrals

1. Counties shall provide referrals for all families and assess non-work eligible families for supportive payments at each eligibility interview, at minimum. Work eligible clients must be assessed for supportive payments according to 3.608.1, at minimum. To receive supportive payments while receiving Colorado Works grant payments, clients must have an assessed need as defined in section 3.601. Supportive payments can also be issued as incentives for gaining or maintaining employment, participation in the workforce development program, or other achievements.

2. County departments shall take action on all supportive payment requests within ten (10) calendar days from the date of request by the client. All requests for and decisions to approve or deny supportive payments must be documented in the statewide automated system. Clients shall receive notice of supportive payment decisions as defined in section 3.609.7.
3. Supportive payments may include anything but the following:
 - a. Medical services, except for family planning;
 - b. Title IV of the Social Security Act funding that supports children in foster care;
 - c. Supports to children under 18 who are not in the home;
 - d. Any juvenile justice purposes; and
 - e. Capital assets over \$5,000.

C. Family Preservation Eligibility

To receive Family Preservation Services as provided in the Social Services rule manual, 12 CCR 2509-4 Section 7.304.21 under "Title IV-A Emergency Assistance," a family's income and resources must meet all of the following guidelines:

1. The family income must be under \$75,000 yearly; and,
2. The child must meet out-of-home placement criteria; and,
3. The child lived with a specified relative within the last six months.

D. Other assistance

Counties may provide assistance to clients meeting the following broad based Colorado Works eligibility criteria:

1. At least one dependent child or pregnancy in the home;
2. Lawfully present; and
3. Household income under \$75,000 yearly.

E. County Department's Right to Decide

The county department may provide, by means of its own funds, items which are needed by a client and which are not included in the standards of assistance. Such provisions for "unmet need" shall not be deducted as income in the budgeting process.

3.607 Initial Workforce Development (WD)

3.607.1 Work Eligible

A. The following are work eligible clients, unless excluded by subsection B below:

1. An adult, minor child head-of-household, or spouse of a minor child head-of-household receiving assistance.

2. A parent who is not receiving assistance that is living with their child who is receiving assistance.
- B. The following are not mandatory to the Workforce Development program:
1. A minor parent who is not a head-of-household or who is not a spouse of a head-of household.
 2. A non-citizen who is ineligible to receive assistance due to his or her immigration status based on criteria established in 3.604.1.
 3. Anyone receiving supplemental security income.

3.607.2 Workforce Development Screening

All work eligible clients will have a Workforce Development Screening completed within thirty (30) calendar days from the date of application as defined in section 26-2-708, C.R.S. Benefits shall not be delayed or postponed for any Workforce Development requirement.

The Workforce Development Screening shall consist of an evaluation of basic skills, past employment, and employability for a client who is 18 years of age or older, or who is 16 years of age or older, but is not yet 18 years old and is not attending high school or a high school equivalency program and has not completed high school or obtained a certificate of high school equivalency.

3.607.3 Workforce Development Assessment

Once referred to Workforce Development, all work eligible clients must have the State prescribed Workforce Development Assessment completed at their initial Workforce Development appointment.

- A. The Workforce Development Assessment must be completed prior to and shall be utilized to inform the development of the first and subsequent Individualized Plans (see section 3.608.1.A).
- B. The Workforce Development Assessment shall be documented in case comments in the statewide automated system.
- C. The Workforce Development Assessment shall also be utilized to determine the issuance of supportive payments.

3.607.4 Condition Agreement

All counties shall use the State prescribed Condition Agreement that clearly outlines the expectations of the county and the client. The county worker shall review the Condition Agreement with the client within thirty (30) calendar days from the date of the Workforce Development Screening as defined in section 26-2-708, C.R.S.

The client shall sign the Condition Agreement, using a valid form of signature, one time per application.

3.607.5 Individualized Plan

The Individualized Plan shall be developed collaboratively between the county worker and the client, addressing the family's needs, goals, and supports. The Individualized Plan shall be comprehensive including matters relating to securing and maintaining training, education, or work. No abbreviations or

acronyms shall be used. The Individualized Plan shall identify goals and determine manageable action steps for satisfying the objectives.

The first Individualized Plan shall be developed at the same time the county worker and client review the Condition Agreement (within thirty (30) calendar days from the date of the Workforce Development Screening).

The county worker shall ensure the client understands the terms of the Individualized Plan. The client shall indicate by a valid form of signature as defined in 3.601 and date that they agree with the Individualized Plan. If the client does not agree with the Individualized Plan, the client may follow the steps outlined in section 3.609.7 regarding due process.

If a client does not participate in the Workforce Development program prior to signing the first Individualized Plan, this shall be considered Demonstrable Evidence, as defined in 3.601, and will result in the closure of the grant payment. Once an Individualized Plan is signed, clients that do not participate in the Workforce Development program are subject to re-engagement according to 3.608.3.

3.608 Ongoing Workforce Development

3.608.1 Ongoing Case Management

The Workforce Development worker will have contact with the client at least once every ninety (90) days. This contact may include an update to the Individualized Plan if needed and shall include an assessment for supportive payments as outlined in section 3.606.8.

- A. Ongoing Workforce Development Assessment
The State prescribed Workforce Development Assessment shall be completed at least once every six (6) months and must be documented in case comments in the Statewide Automated System. In addition, the State prescribed Workforce Development Assessment must be completed by the new county of record within thirty (30) days of a county transfer.
- B. Individualized Plan Modification
Either a client or a county department may request a modification of the Individualized Plan. Any modification made will result in a new Individualized Plan that must have a valid form of signature as defined in 3.601 and date by the client. If the client does not agree with the modification, they may request due process as defined in section 3.609.7. In addition, an updated Individualized Plan must be completed by the new county of record within thirty (30) days of a county transfer.

3.608.2 Work Activities

- A. Engaged in Work Activities

Work eligible clients are required to engage in the Workforce Development program, once determined eligible for Colorado Works. All activities in the Individualized Plan shall relate to the outcome of both initial and ongoing assessments. The statewide automated system shall accurately reflect all activities that a client is participating in, regardless if that activity is included in the Individualized Plan.
- B. Allowable Work Activities

Work activities are defined in greater detail in Colorado's federally approved Work Verification Plan (2020); no later amendments or editions are incorporated. The Work Verification Plan can be found at https://drive.google.com/open?id=0b9eaxw7_92zsvnnhexz4u3hzdue. Copies are also

available for public inspection and copying by contacting the Colorado Department of Human Services, Director of the Employment and Benefits Division, 1575 Sherman Street, Denver, Colorado, 80203 or at any State publications library during regular business hours.

The State of Colorado will seek public comment on any changes to the Work Verification Plan by posting such changes for comment on the publicly accessible Colorado Department of Human Services website, at least thirty (30) days prior to implementing the change.

County defined work activities are listed in county policy which can be reviewed at the county department or copies are also available for public inspection and copying by contacting the Colorado Department of Human Services, Director of the Employment and Benefits Division, 1575 Sherman Street, Denver, Colorado, 80203 during normal business hours.

Allowable work activities include:

1. Employment, such as full-time or part-time employment, subsidized employment, on the job training, and temporary employment.
2. Education, such as pursuing a degree, high school equivalency, job skills training, english as a second language courses, or pursuing a certificate.
3. Volunteer work, such as community service, work experience programs, and unpaid internships.
4. Search for work, such as applying for jobs, interviewing, attending job fairs, and attending hiring events.
5. Job readiness activities, such as interpreting labor market information, identifying references, building job search skills, building cultural competencies, substance abuse and mental health treatment, mitigating the effects of domestic violence, and rehabilitation activities.

C. Work Activity Outlined in the Individualized Plan

For purposes of participating in the work activities requirements of this section, a Colorado Works client shall be considered to be engaged in work program requirements if they are participating in the work activities listed in section 3.608.2.B or in the Work Verification Plan incorporated in section 3.608.2.B, or in any other work activities designed to lead to self-sufficiency as determined by the county department and as outlined in their Individualized Plan.

- D. Clients in paid work experience shall be entitled to the same wages and benefits, including but not limited to, sick leave, holiday and vacation pay, as are offered to employees who are not clients and who have similar training or experience performing the same or similar work at a specific workplace. Clients in unpaid work experience are entitled to all rules under the Fair Labor Standards Act as indicated in the Work Verification Plan.

3.608.3 Re-engagement and Good Cause

Counties should make every reasonable effort to ensure Individualized Plans are appropriate, achievable, and the most likely strategy to support a client's long-term economic well-being goals.

Good cause for not engaging in Workforce Development can be reported at any time during the current application period and verification is not required to be provided by the client. The county worker shall use the Prudent Person Principle to determine good cause which may be reported by the client in person,

virtually, telephonically, or electronically. County workers must enter good cause in the State Benefit Management System within five (5) calendar days.

A. There may be instances where a client is unable to comply, such as:

1. Missing a scheduled meeting; or
2. Not participating with the Individualized Plan.

In these instances, the county shall send a request to the client to report good cause and provide the client with eleven (11) calendar days to report good cause.

B. In general, the Prudent Person Principle is used to determine good cause. At a minimum, good cause for the client may include, but is not limited to:

1. Breakdown in child care arrangements
2. A lack of available and appropriate child care pursuant to a county department's written policy. Colorado Works clients who are caring for a child should be granted good cause if:
 - a. There is not appropriate child care within a reasonable distance from the client's home or work site.
 - b. There is no available or suitable child care.
 - c. There is not appropriate and affordable child care arrangements within the rate structure defined in the approved county child care rate plan.
3. Remotely located without transportation
4. Breakdown in transportation arrangements with no feasible alternative
5. School obligations that frequently necessitate a parent's or caretaker's attendance
6. Loss of housing or a housing crisis that might result in homelessness or eviction
7. Medical emergencies, including mental health, substance abuse, or crisis, involving anyone in the household
8. Physical or mental disability or illness of the client or an individual in the client's care
9. Legal proceedings for the client or other immediate family members
10. Employment issues when layoffs occur, wages are below applicable federal and state minimum wage standards, working conditions present a risk to health or safety, or workers' compensation protection does not exist
11. Client's incarceration
12. Jury duty
13. Death of an immediate family member or authorized representative

14. Other situations as determined by the county

- C. Good cause does not constitute an exemption from Workforce Development program requirements or time limits. However, good cause should be considered when granting an extension as defined in 3.606.6.C. If there is good cause for not participating in the Workforce Development program, a sanction or closure will not be imposed. Once good cause is determined, the re-engagement process ends. County departments must follow the state prescribed process for re-engagement to include good cause, re-engagement, sanctioning, and closing a case.
- D. At the time of the good cause request, a re-engagement appointment shall be sent through the Statewide Automated System and the client shall be provided written notice of the appointment at least four (4) calendar days, but no more than eleven (11) calendar days in advance. The client may provide a written or verbal waiver that written notice of the scheduled appointment is not necessary when the county department is able to conduct the appointment during communication with the client.

Notice shall include:

- 1. The date and time for the appointment
 - 2. The opportunity to reschedule the appointment or make other arrangements in the event of good cause
- E. If the county department makes contact with the client and good cause is provided, the re-engagement process stops. The Workforce Development worker shall enter a case comment including the date and type of contact into the Statewide Automated System.
 - F. Clients may reschedule their re-engagement appointment prior to the re-engagement appointment. The rescheduled appointment cannot exceed fifteen (15) calendar days from the original re-engagement appointment.
 - G. Timeframes for rescheduling the re-engagement appointment include:
 - 1. The Workforce Development worker shall schedule the new re-engagement appointment within four (4) calendar days of the client's request to reschedule.
 - 2. The client shall be provided written notice of the rescheduled appointment at least four (4) calendar days, but no more than fifteen (15) calendar days in advance. The client may provide a written or verbal waiver that written notice of the scheduled appointment is not necessary when the county department is able to conduct the appointment during communication with the client.
 - H. If the client attends the re-engagement appointment but does not provide good cause, a sanction will not be imposed, except as outlined below. Once the client attends the re-engagement appointment, the re-engagement process ends. The county or client may request modification of the Individualized Plan as outlined in section 3.608.1.B.

When a county determines that there has been exceptional dis-engagement by the client, as evidenced by repetitive or cumulative attendance at re-engagement appointments without reporting good cause, a sanction, as defined in section 3.608.4 may be applied to the grant payment based on state department review.

- I. If the client misses the re-engagement appointment, there are no attempts to reschedule prior to the scheduled appointment, and the client does not provide good cause, a sanction, as defined in section 3.608.4 will be applied to the grant payment. The following process shall occur:
 1. The unsuccessful outcome of the re-engagement attempts shall be documented in the statewide automated system within five (5) working days of the determination by the county worker.
 2. A notice of grant payment reduction based on the sanction will be sent according to section 3.609.7.
 3. If good cause is provided after the unsuccessful outcome of the re-engagement attempts is entered into the Statewide Automated System, the sanction shall be reversed.

3.608.4 Sanction

A. Sanctions from other counties

All sanctions shall be served when a client moves from one county to another. The new county may become aware of good cause for previous non-participation and may reverse the sanction if appropriate.

B. Sanctions issued in other states will not be recognized in the State of Colorado.

C. Effect of a sanction on the Colorado Works grant payment

The Colorado Works grant payment for the entire household shall be reduced due to a sanction imposed against a member of the assistance unit as follows:

1. First, Second, and Third level sanctions

The reduction for the first, second, and third instance of sanction shall be 25% of an assistance unit's grant payment. the sanction shall be in effect for one month for each level sanction. A first, second, or third instance of sanction shall progress to the next level of sanction if the client does not re-engage in the Workforce Development program as defined in subsection G. Below by the end of the month that the sanction is being served.

2. Fourth level sanction

The reduction for a fourth instance of sanction is 100% and shall result in case closure of the Colorado Works grant payment. The closure shall be in effect for one month. A new application for Colorado Works grant payments is required according to section 3.602.1.

D. Serving a sanction

All sanctions imposed by a county must be served by the client. If a client has had a break in grant payment for one month or more, the sanction shall be considered served. If a client reapplies for benefits anytime within the calendar month that they are serving a sanction, the client must serve the sanction by having a reduction in benefits according to the first, second, or third level sanctions, or by having a case closed for a fourth level sanction.

E. Sanctioning a client that has been sanctioned previously

Once a sanction is served, all subsequent occurrences shall be in accordance with the level following the sanction previously served as outlined in 3.608.4.C. and D.

F. Sanctioning more than one client in an assistance unit

Each Colorado Works case can experience no more than one sanction level in a month. If multiple clients in the same assistance unit have sanctions, the sanctions will be served simultaneously and at the higher sanction level when multiple levels exist.

G. Re-engagement following a sanction

When a client who is serving a sanction contacts the county worker and indicates an interest in participating in the Workforce Development program, an Individualized Plan will be developed. Once the Individualized Plan is signed, the sanction will not progress to the next sanction level unless a new instance of non-compliance occurs. The county worker will enter the re-engagement date into the Statewide Automated System and resume ongoing case management.

When a client is serving a sanction based on exceptional dis-engagement defined in section 3.601 and outlined in 3.608.3.H, the client is considered re-engaged based on their attendance at the most recent re-engagement appointment.

3.608.5 Appeal of a Sanction

A Colorado Works client has the right to appeal the county department's action to sanction. The client can utilize the local level dispute resolution process and/or a state level hearing process per section 3.609.9. The appeal period for proposed sanctions for Colorado Works begins with the mailing of a notice of sanction that lists the proposed action and the client's appeal rights.

A notice of proposed action shall not be issued by the county department for proposed Colorado Works sanctions until the re-engagement process has been completed.

3.609 Colorado Works Notice, Payments, Overpayment, Intentional Program Violations and Fraud, Dispute Resolution, Appeal and State Level Fair Hearing

3.609.1 Notice

A. Each client of Colorado Works shall receive prior written notice of any agency action affecting his or her eligibility for or receipt of grant payments.

1. The client shall be notified in writing of county department approval of:

- a. An application for Colorado Works.
- b. Any change in the amount of grant payment.
- c. The right to a county conference and/or state level fair hearing if the client is dissatisfied with the effective date of eligibility, or the amount or type of assistance authorized.

2. A client shall be given notice of any action by the county department, or any person or agency acting on its behalf, which adversely affects the client's eligibility for, or right to grant payments authorized under the Colorado Works program. Failure to give notice of an adverse action shall be grounds for setting aside the action on appeal. The notice must meet the following standards:
 - a. The notice must be in writing; and,
 - b. It must describe clearly and in plain language the action to be taken and the reason(s) for the action; and,
 - c. It must refer by number to the section(s) of the state department's rules that require or permit the action being taken, or cite the specific changes in federal or state law requiring the action; and,
 - d. It must state the effective date of the proposed action; and,
 - e. It must explain the client's right to request a county conference and/or state level fair hearing, the time period for requesting a conference or hearing, and the steps which must be taken to obtain a conference or hearing; and,
 - f. It must explain the client's right to continued grant payments and the obligation to repay if it is determined that the client was not eligible to receive them; and,
 - g. It must inform the client of his or her right to be represented or assisted by legal counsel, a relative, a friend, or a spokesperson of his or her choosing; and,
 - h. To the extent practicable, notice shall be in his or her primary language. If he or she is illiterate, the action shall also be explained verbally.
- B. The county department shall notify a client of any change from his or her prior grant payment amount, the reason for the action, and the date the action becomes effective in writing.
- C. Clients shall receive written timely notice, giving at least eleven (11) calendar days advance notice before any adverse action taken during the certification period, becomes effective, except as specified in section 3.609.7.C. The notice shall explain the reason for the proposed action and the date the action becomes effective.
 1. When acting on a change, if the eleven (11) calendar day timely notice period can be given within the month the written timely notice is sent, the change will become effective the first day of the following month.
 2. If the 11 calendar day timely notice period concludes in the following month, the change shall become effective the first day of the month after which the timely notice period concluded.

3. If the timely notice period ends on a weekend or holiday and a request for a state level fair hearing and continuation of grant payments is received the first business day after the timely notice period, the request shall be considered timely received.
4. Colorado Works grant payments must be discontinued or reduced after thirty-one (31) calendar days in the following situations:
 - a. The client's income exceeds the grant standard, after application of disregards.
 - b. All eligible dependent children in the assistance unit no longer meet the definition of living in the home.
 - c. A dependent child(ren) in the assistance unit no longer meet the definition of living in the home and Colorado Works is requested for the child(ren) by another caretaker.
 - d. An adult member of the assistance unit leaves the home and requests assistance in a new assistance unit.
 - e. All members of the assistance unit leave the state of Colorado to reside in another state or country.
 - f. An eighteen-year-old who is the only dependent child graduates from high school or stops attending school.

The thirty-one (31) day count begins on the first day of the month following the month in which the change occurred. Colorado Works benefits will be discontinued on the first day of the month following the month in which the thirty-first (31st) day falls.

An individual may be removed from the assistance unit according to D below, and prior to thirty-one (31) calendar days, when the change described in this section occurs simultaneously with a change in which adequate notice, not timely notice, is required.

- D. Adequate notice, not timely notice, is required in the following situations:
1. When facts indicate an overpayment because of probable fraud or an intentional program violation and such facts have been verified to the extent possible, prior notice shall be mailed at least five (5) calendar days before the proposed effective date.
 2. The client has died.
 3. An adult member of the assistance unit formally requests for benefits to stop for themselves in their original assistance unit, or a caretaker who remains a part of the original assistance unit requests that they stop receiving benefits for another member who has left the home.
 4. When an adult member of the assistance unit who is not the head of household requests for benefits to stop for themselves and their child(ren) when that adult makes a declaration that they have left the home due to domestic violence.
 5. The client begins receiving Title-IV of the Social Security Act funds from another source such as foster care/ Title-IV kinship/adoption subsidies.

6. The client begins receiving benefits under another public assistance program which may not be received concurrently with a Colorado Works grant, such as Supplemental Security Income or Adult Financial programs.
 7. At application or redetermination, when a certification period has not yet been set.
 8. An adult member of the assistance unit has already received sixty months of assistance and a hardship extension has not been granted.
- E. If the client's change in circumstances requires a reduction or termination of grant payments, the following action will be required:
1. Send a written timely or adequate notice, according to subsections C. and D., above.
 2. If a client requests a county conference, conduct the county conference as specified in section 3.609.6. If a client is dissatisfied with the results of the county conference and requests a state level fair hearing before an Administrative Law Judge, such a request shall be in accordance with section 3.609.7. If a client does not request a county conference and only requests a state level fair hearing any time prior to the effective date of the timely notice, and the certification period has not expired, the client's grant payments shall be continued on the basis authorized immediately prior to the timely notice. Continued grant payments shall not be issued for a period beyond the end of the current certification period. Grant payments shall be continued until a final decision has been made by the Office Of Appeals or until the certification period ends, whichever occurs first. The county department shall explain to the client that repayment will be required for the amount of any grant payments determined by the hearing officer to have been overpaid or the continued grant payments to which the client was not eligible to receive.
 3. If the certification period expires before the hearing process is completed, the client may reapply for benefits.
 4. If the client does not appeal the timely notice to decrease or terminate grant payments within the timely notice period, the changes shall be made in accordance with timeframes outlined in section 3.609.1.

3.609.2 Payments

- A. A client shall be placed on an issuance schedule so that he or she receives grant payments on or about the same date each month once a certification period is established. Due to the effective date of eligibility, the date on which a client receives his or her initial payment need not be the date that the client must receive any subsequent payments.
1. Initial payment

The initial payment to eligible clients shall include assistance beginning with the date of application. Should the assistance unit be ineligible on the date of application, but become eligible prior to the time that a determination of eligibility is made, the initial payment shall include assistance beginning with the date on which the assistance unit became eligible.

To calculate partial month payments:

 - a. Determine the grant amount based on the size and composition of the assistance unit;

- b. Deduct the total net countable income – this is the authorized grant amount for the entire month;
- c. Determine the number of days for which payment is made and based on the table in subsection E. Below, find the decimal figure corresponding to the number of days of eligibility;
- d. Multiply the authorized grant amount for the entire month by such decimal figure to determine the authorized grant amount for the partial month;
- e. Subtract from authorized grant amount for the partial month any appropriate deductions, unless the authorized grant for the partial month is less than \$10, in which case no payment is made. However, if the deductions from the authorized grant amount for the partial month results in an amount less than \$10, such lesser amount shall be paid except when the amount is less than \$1.00.

To calculate the partial month payments, the following table shall be used:

Days	Standard	Days	Standard	Days	Standard
1	.03288	11	.36164	21	.69041
2	.06575	12	.39452	22	.72329
3	.09863	13	.42739	23	.75617
4	.13151	14	.46027	24	.78904
5	.16439	15	.49315	25	.82192
6	.19726	16	.52603	26	.85480
7	.23014	17	.55890	27	.88768
8	.26302	18	.59178	28	.92054
9	.29590	19	.62466	29	.95342
10	.32876	20	.65754	30	.9863

2. Payment determination
For the certification period, eligibility and payment shall be determined prospectively.
- B. When the county department determines that a client was ineligible for all or a part of a grant payment that the client has already received, the county department shall, subject to notice as described in 3.609.1 and these recovery rules, establish a claim, and if valid, initiate recovery.
 - C. If a client dies, payments to the client shall be treated as follows:
 1. A client's eligibility shall end on the date of his or her death.
 2. If a client dies before 12:00 a.m. on the first day of a month, no eligibility for a grant payment for the following month exists.
 3. If a client dies on or after 12:00 a.m. on the first day of a month, any payment to which the person was eligible shall be maintained for release to the client's personal representative as defined in section 15-10-201(39), C.R.S., for a maximum of three (3) months. The following rules apply when a personal representative requests to receive a deceased client's last grant payment:
 - a. The individual claiming to be the personal representative of the deceased client must provide the court-issued letters described in section 15-12-103, C.R.S. to the county department in order to receive the deceased client's last grant payment; or

- b. If the personal representative with court-issued letters presents a court order ordering the county department to pay the deceased client's last grant payment to a specific person or entity, the county department shall make the last grant payment payable to the person named in the order.
- D. All payments, including partial payments, shall have any cents dropped to the nearest dollar.
- E. The client has the right to decide how to use his or her grant payment. The county department shall not:
 - 1. Impose any restriction, either direct or implied, on a client's use of his or her grant payment including, but not limited to, requesting a client to provide receipts or proof of how the money has been spent; or
 - 2. Require the client to account for the use of the grant payment, except for the Electronic Benefits Transfer (EBT) card point of sale limitations listed in 26-2-104(2), C.R.S.; or,
 - 3. Give assistance to creditors in the collection of the client's debts.
- F. County departments shall not hold or delay the client's grant payment beyond the regular issuance date except when:
 - 1. A final agency decision has been made authorizing the action;
 - 2. In cases where a corrected payment is to be issued, the corrected payment shall be issued by the effective date of the original warrant and the incorrect payment shall be cancelled.
 - 3. When the county department receives reliable information that the client no longer resides at the last known address and attempts to locate the person through the post office, relatives, friends, etc., have been unsuccessful, the client's grant payment shall be discontinued. Discontinuing the grant payment is an adverse action and notice shall be given following the policies outlined in section 3.609.1.C. If the client contacts the county department before grant payments are discontinued and provides the client's current address and all other eligibility criterion have been met, the client shall receive the grant payments they are eligible for;
 - 4. Any grant payments issued to an Electronic Benefits Transfer (EBT) card and not accessed within two hundred seventy-four (274) days of issuance shall be expunged. The county shall reissue grant payments within 90 days of the expungement if requested by the client verbally, electronically, in person, or in writing. The county may reissue up to twelve (12) months of expunged grant payments.
- G. The county department shall take prompt action to correct underpayments to clients of Colorado Works grant payments. There are two types of underpayments: 1) grant payment(s) received by or for a client that is less than the amount which the client should have received but not a denial or termination, or 2) the failure of the county department to issue a grant payment to an eligible client when such payment should have been issued (i.e., denials or termination of Colorado Works grant payments).
 - 1. When a county department becomes aware of a potential underpayment, the county department shall:
 - a. Determine if an underpayment occurred; and,
 - b. Record the facts and basis of its determination in the case record.

2. A county shall correct any underpayments by the month following the discovery of such underpayments.
3. Underpayments shall be used to pay any validated claims against the client unless the county department has determined this action will cause an undue hardship to the client as determined on a case-by-case basis. Underpayments will be applied to claims using the following hierarchy:
 - a. Fraud or intentional program violation (IPV) claims first (undue hardship cannot be granted);
 - b. Client error claims second; and
 - c. Administrative error claims last. Instances that may result in an administrative error claim include, but are not limited to, the following:
 - 1) The county failed to take timely action on a change reported by the client.
 - 2) The county incorrectly computed the client's income or other information, or otherwise gave an incorrect grant payment.
 - 3) Any other situation not caused by willful withholding of information on the part of the client and/or their authorized representative.
 - 4) If an underpayment is discovered by the county department, the county department shall inform the client in writing of its determination of the underpayment.
 - 5) Prompt action shall be taken to correct underpayments that occurred within the past twelve (12) months from the discovery date by issuing a retroactive payment. Retroactive payments shall not be made unless the amount is one dollar (\$1.00) or more.

- H. The county department shall reissue a lost or stolen payment if the loss or theft is not questionable and the county determines that such loss was beyond the client's control.

A loss will be considered within the client's control when:

1. The client has shared the EBT pin number or written the pin number on the EBT card itself, or
2. The client has given his or her card to another person for that person's use.

- J. A client is prohibited from using or allowing the use of his or her EBT card at automated teller machines (ATMs) and point of sale (POS) devices located in establishments as described in section 3.602.1.E.2.k.

A client's transactions shall be monitored quarterly. Clients who use prohibited ATMs or POS devices (misuse) shall be contacted by the county department. Misuse shall result in:

1. A written warning that the use of the EBT card in prohibited establishments will result in the card being disabled. The county department shall provide education about appropriate use, access, and alternatives;

2. If continued misuse occurs (identified on the usage report after a warning has occurred), the cash portion of his or her EBT card shall be disabled for one month, requiring the county to inform the client of additional options for receipt of payment (direct deposit or county warrant) as well as notification of the dispute resolution process in accordance with state rules pursuant to section 3.609.6;
3. If misuse continues, the county department shall deny or discontinue the cash benefit for one month. The county shall require the client to complete a new application after the one-month time period if the client requests assistance. The county department shall not accept a new application from the client until the one-month denial or discontinuance expires. The county department shall follow the dispute resolution process pursuant to section 3.609.6; and,
4. After the one-month case closure for continued misuse, if/when the client reapplies, any future EBT card usage at prohibited establishments shall be considered continued misuse. Such subsequent violations will result in the one-month denial/discontinuance and reapplication process referred to in subsection 3, above.

3.609.3 Overpayments

The county department shall establish a claim on an overpayment before the last day of the quarter following the quarter in which the overpayment was discovered.

- A. An overpayment claim shall be adjusted if there is a record of any underpayment(s) for a prior period. Any underpayment must be applied to the overpayments in the following hierarchy:
 1. Fraud or IPV claims first,
 2. Client error claims second; and,
 3. Administrative error claims last.
- B. Liability for an overpayment must be legally established. Methods for legally establishing an overpayment include but are not limited to:
 1. An executed promissory note;
 2. A court judgment;
 3. A final agency action; or
 4. A signed public assistance repayment agreement form.

The state department's public assistance repayment agreement form shall be provided to the client once an overpayment claim is established.

- C. Failure to sign the public assistance repayment agreement form shall be handled as follows:

1. If the client against whom a recovery has been initiated is currently participating in the Colorado Works program and does not respond to the public assistance repayment agreement form within eleven (11) calendar days of the date the notice containing the public assistance repayment form is mailed, grant payment reduction shall begin with the first month following the timely noticing period without further notice.
 2. If the client against whom a recovery has been initiated is not participating in the program when a recovery for a claim is initiated or if a recovery has been initiated for repayment of a claim and no response is made to the public assistance repayment agreement form within eleven (11) calendar days of the date the notice is mailed, the county department shall pursue all legal recovery methods in order to recover the overpayment. Legal remedies include, but are not limited to, judgments, garnishments, claims on estates and the state income tax refund intercept process.
- D. The amount of the overpayments involving income shall be calculated to allow for income disregards described in section 3.606.2.
- E. All earned and unearned income received by the client are taken into consideration in the computation.
- In the instances where the overpayment is the direct result of actions tied to the determination of IPV and/or fraud, which resulted in receipt of grant payments in error, or grant payments received that the client was not eligible to receive, the overpaid grant payments shall be recovered from the client and/or a liable individual.
- F. The calculation of overpayment shall begin in the month that the overpayment occurred.
1. Start with the amount issued to the client;
 2. Determine the correct payment;
 3. Compare the amount issued to the client to the correct payment amount.
 - a. If the amount issued to the client is greater than the correct payment amount, the difference is the overpayment amount.
 - b. If the amount issued to the client is less than the correct payment amount, the difference is the underpayment amount; follow the procedures for underpayment in section 3.609.2.G.
 4. If a client does not meet the non-financial eligibility requirements in any month, the client is totally ineligible for the month. Any payment received in such month(s) is an overpayment.

G. When the county department has determined that a client has received an overpayment, the department shall:

1. Take action to research the overpayment and determine the amount of the overpayment.
2. Determine if the overpayment is to be recovered.
3. Document the facts and situation that produced the overpayment. Document whether the overpayment is to be recovered. Retain all associated documentation and notices until the overpayment is repaid in full.
4. Determine whether there was willful withholding of information, fraud, or IPV.
5. Provide the client with timely or adequate notice as required by section 3.609.1 of the amount due and the reason for the recovery including:
 - a. The liable individual(s) responsible for the repayment;
 - b. The amount of the claim;
 - c. The period the claim is for;
 - d. The reason for the overpayment including whether the overpayment is a result of fraud/IPV, client error, or administrative error;
 - e. The client's rights and responsibilities;
 - f. The method of repayment;
 - g. How to obtain free legal assistance;
 - h. The applicable rules concerning the overpayment; and
 - i. Provide the public assistance repayment form.
6. Send quarterly statements with the balance due.

3.609.4 Recovery

- A. The recovery of valid overpayments is required regardless of when the overpayment occurred. Overpayments may be recovered from the client who was overpaid or who fraudulently received the assistance payment or another liable individual.

If a client is deceased, overpayments shall be recovered from the deceased client's estate.

B. The following rules for recovery do not apply in instances where the state or county department seeks recovery in a case that was transferred to the district attorney and prosecuted through the courts:

1. The client shall be notified of the recovery action to be taken, using the notice rules found at section 3.609.1.
2. When the overpayment is caused by an unintentional error, the client's willful withholding or an administrative error, such overpayment shall be deducted, after notice has been given, from subsequent grant payments while the client is actively receiving Colorado Works grant payments.
 - a. The client may choose to repay the county department the entire amount of the overpayment at one time. The client shall work with the county department to determine how a lump sum repayment can be made.
 - b. When the recovery amount is not to be repaid in a single payment per subsection a above, and the case remains active, the county department shall establish a monthly recovery deduction from subsequent grant payments. The monthly rate of recovery shall be ten dollars or ten percent of the assistance payment, whichever is higher.

The following procedure shall be used to arrive at the monthly recovery deduction amount:

- 1) If the error is a result of an agency error and the client does not meet criteria set forth in section 3.609.4.L, compute ten percent (10%) of the Colorado Works grant payment amount. If the resulting percentage amount is less than ten dollars (\$10), the deduction from the grant payment amount shall be ten dollars (\$10).
 - 2) Deduct the percentage amount or ten dollars (\$10), whichever is higher, from the grant payment. The result shall be rounded to the next lower whole dollar amount, if not already a whole dollar amount. This rounded amount is the final payment amount.
 - 3) When the authorized payment amount is less than ten dollars (\$10), the case is considered a "no payment" case and no deduction shall be made.
 - 4) When the recovery is due to a fraudulent action on the part of the client and interest may be added thereto, the interest amount shall not be included in the grant payment deduction unless the client agrees to such inclusion. If the client does not so agree, the interest amount shall be collected separately.
 - 5) The amount of the grant payment deduction for recovery shall be recorded in the client's case file and collected via the statewide automated system.
- c. The county department shall not establish a claim unless the amount of the claim is greater than \$200, except in the following circumstances:

- 1) The overpayment is identified through a federal or state level quality control review; or,
 - 2) The claim is being pursued as and results in an IPV.
3. When the overpayment is caused by an unintentional error, the client's willful withholding of information or an administrative error, and the Colorado Works case is no longer active, recovery of such overpayment shall be based upon the public assistance repayment agreement form or other methods of recovery.
 - a. The county shall establish a monthly repayment agreement with a former client. The repayment agreement shall not exceed twenty-five percent (25%) of available monthly income. Determination of the repayment amount must be clearly documented in the electronic case file.
 - b. The client may choose to repay the county department the entire amount of the overpayment at one time. The client shall work with the county department to determine how a lump sum repayment can be made.
 - c. The county department may write-off unpaid valid claims as follows:
 - 1) Valid administrative error claims less than one hundred twenty-five dollars (\$125.00) can be written off ninety (90) days after the termination of all public assistance.
 - 2) Valid claims for client error, fraud, and IPV less than three hundred dollars (\$300.00).
 - 3) Any unpaid valid claim of \$125 or more for an individual who was not convicted of an IPV or fraud specific to the overpayment, is no longer receiving public assistance, and the overpayment was established six (6) or more years ago, and the county department has determined that it is no longer cost effective to pursue collection.
 - 4) Once written off, a claim is not subject to recovery.
 - d. If the client begins to receive Colorado Works grant payments again after the overpayment has been established and still has a claim balance, the deduction of grant payments shall occur as described in section 3.609.5.
- C. The client may issue the state a refund of any overpaid grant payments from his or her existing balance of Colorado Works grant payments on his or her electronic benefits transfer (EBT) card by contacting the county department. This requires a written statement from the client.
- D. Clients are not entitled to grant payments that were paid in error or mistakenly provided to the client based on a data entry error into the statewide automated system or an error resulting from the statewide automated system. The county shall create a claim and may retrieve the grant payments from the client's EBT card within twenty-four (24) hours of the issuance without prior written authorization by the client. The client shall have no appeal rights in relation to this grant payment because he or she was not eligible for the initial receipt of the grant payment(s) in the first instance.

When grant payments issued in error are not retrieved from the client's EBT card within twenty-four (24) hours, funds shall not be taken from the card using this method unless permission is granted from the client in writing using the state prescribed form. If permission is not granted, the county department shall pursue other methods of recovery.

- E. The client may request voluntary deductions be applied to the overpayment. These are considered to be an amount in addition to the deduction from the grant payment as established through the recovery calculations. The client shall be provided written confirmation of the amount to be deducted and that he or she has the right to stop the voluntary deduction at any time by written request.
- F. A claim may be filed against the estate of a client for overpayment. This includes cases where overpayments were made and not recovered. The county department's legal advisor must be consulted in determining the amount of assistance payments for which a claim is to be filed.
- G. In accordance with sections 26-2-133 and 39-21-108, C.R.S., the State and county departments may recover overpayments of public or medical assistance benefits through the offset (intercept) of a taxpayer's state income tax refund. Tax refunds shall not be offset in instances where the taxpayer is making regular, ongoing payments as agreed to in the public assistance repayment agreement and/or based on arrangements between the taxpayer and the county(ies). Unless agreed to by the client, the county shall not offset tax refunds during the same month the client makes a payment on a claim if the payment agreement was established prior to the offset. Rent rebates are subject to the offset procedure.

The offset of the taxpayer state income tax refund and/or rent rebate may be used to recover overpayments that have been:

1. Determined by final agency action; or,
 2. Ordered by a court as restitution; or,
 3. Reduced to judgment.
-
- H. Prior to certifying the taxpayer's name and other information to the Colorado Department of Revenue, the Colorado Department of Human Services shall notify the taxpayer, in writing at his or her last-known address, that the State intends to use the tax refund offset to recover the overpayment. In addition to the requirements of section 26-2-133(2), C.R.S., the pre-offset notice shall include the name of the county department claiming the overpayment, the program that made the overpayment, and the current balance owed.
 - I. Effective August 1, 1991, the taxpayer is entitled to object to the offset by filing a request for a county conference or state level fair hearing within thirty (30) calendar days from the date that the state department mails its pre-offset notice to the taxpayer. In all other respects, the procedures applicable to such hearings shall be those that are stated in section 3.609.7. At the hearing on the offset, the county department or ALJ shall not consider whether an overpayment has occurred because overpayment has already been otherwise legally established, but may consider the following issues if raised by the taxpayer in his or her request for a hearing:

1. Whether the taxpayer was properly notified of the overpayment;
 2. Whether the taxpayer is the person who owes the overpayment;
 3. Whether the amount of the overpayment has been paid or is incorrect;
 4. Whether the debt created by the overpayment has been discharged through bankruptcy; or,
 5. Whether other special circumstances exist, (i.e., facts that show that the taxpayer was without fault in creating the overpayment and will incur financial hardship if the income tax refund is offset).
- J. If a tax refund offset is established, an overpayment shall not be recovered using another method in the month the offset occurs unless prior authorization is received from the individual making the recovery payments.
- K. The county department is required to pursue collection of the overpayment from the client/responsible payee who managed and administered the Colorado Works funds. The county department shall pursue all available overpayment recovery options to collect the overpayment from the client/responsible payee first and then any other liable individuals legally responsible for overpayments, unless otherwise specified.
1. In instances where a trustee has used a client's trust income or property in a manner contrary to the terms of the trust, the county department shall:
 - a. Determine whether an overpayment of Colorado Works grant payments has occurred as a result of the client's loss of income based on the trustee's improper actions;
 - b. Consult with the county attorney or other legal resource to determine how to pursue action against a trust/trustee;

- c. Advise the trustee of the overpayment circumstances; and
 - d. If the trustee disagrees with such circumstances and overpayment, pursue the recovery establishment and collection through appropriate legal means; or
 - e. Take appropriate steps to secure repayment with the cooperation of the trustee; or,
 - f. Report such behavior or action by the trustee to the county protective services to ensure the protection of the client's rights in the trust.
- 2. In instances where a power of attorney has used his or her legal authority for purposes other than for the benefit of the client, the county department shall:
 - a. Determine whether an overpayment of Colorado Works grant payments has occurred as a result of the power of attorney's improper actions;
 - b. Consult with the county attorney or other legal resource to determine how to pursue action against a power of attorney;
 - c. Advise the holder of the power of attorney of the overpayment circumstances; and,
 - d. If the holder of the power of attorney disagrees with such circumstances and overpayment, pursue the recovery establishment and collection through appropriate legal means; or
 - e. Take appropriate steps to secure repayment with the cooperation of the holder of the power of attorney; or
 - f. Report such behavior or action by the trustee to the county protective services to ensure the protection of the client's rights and benefits.
- L. In any case in which an overpayment has been made, there shall be no recovery from any person:
 - 1. Who is without fault in the creation of the overpayment; and,
 - 2. Who has reported any increase in income or other circumstances affecting the client's eligibility within the timely reporting requirements for the program; and,
 - 3. Who would be deprived of income required for ordinary and necessary living expenses such that it would be against equity and good conscience to seek recovery. The fact that the client is receiving public assistance shall not be the only factor in making a determination that the person would be deprived of income required for ordinary and necessary living expenses and that equity and good conscience exist.

- a. If a client has ten (10) percent or more of income remaining after necessary living expenses, he or she shall not be considered deprived of income.
 - b. If a client's expenses exceed his or her income, additional questions must be asked to determine how he or she is meeting expenses to ascertain if other income (i.e. gift, in-kind) needs to be included in the income calculation.
- M. When the overpayment recovery is not pursued, such fact, together with the reason, shall be documented in the statewide automated system. All information pertaining to the reason, establishment, and collection of claims shall be retained in the case record until the claim is written off or paid in full.

3.609.5 Intentional Program Violation (IPV) and Fraud

- A. All clients must be provided with their rights in relation to IPV as follows:
 - 1. The client has the right to an administrative disqualification hearing (ADH) before an administrative law judge (ALJ).
 - 2. The county department may offer an ADH at the county. This does not preclude the client from requesting the initial ADH or a second ADH be held before an ALJ under subsections M and O.
 - 3. A client may waive the right to an ADH, either before an ALJ or with the county department, by signing a waiver of ADH form. Clients have a right to look at all the evidence that would be used at an ADH before deciding whether to waive the right to an ADH.
 - 4. If a client chooses to appear at the ADH he or she has the right to represent him or herself or to be represented by an attorney at his or her expense.
 - 5. The client may choose to be represented by any other person he or she chooses pursuant to section 26-2-127(1)(a)(IV), C.R.S.
 - 6. A client and/or his or her representative, upon providing a signed release, may look at his or her case file, including all the evidence that will be used at the ADH. The client and/or his or her representative has the right to look at his or her case file before and during the ADH.
 - 7. The county department shall provide a free copy of the evidence to be utilized during the ADH to the client at least fifteen (15) days prior to an ADH heard by the county. Upon request, the county department will provide a free copy of any other parts of the case file that the client determines is needed at the ADH.

8. A client may bring witnesses to speak on his or her behalf at the ADH.
 9. The client and or his or her representative has the right to question or deny any evidence or statements made against him or her at the ADH. This includes the right to ask questions of persons testifying against him or her.
 10. The client has the right to present any evidence that he or she feels is important to prove his or her case.
- B. All Colorado Works clients must be provided with a written notice of the penalties for an IPV on the application form. All Colorado Works clients shall be notified of the penalties for an IPV when reporting changes on the redetermination form.
- C. A county department is required to refer the investigation to the appropriate investigatory agency for any client or representative payee whenever there is an allegation or reason to believe that individual has committed an IPV as described below.

When conducting an interview for IPV and/or fraud, the county department investigator or representative has the responsibility to ensure the following:

1. That an explanation was given to the individual regarding the reason the interview is taking place; and,
 2. That the individual's rights have been provided to him or her (section 3.609.6.A); and,
 3. That the individual's rights and responsibilities including confidentiality of records and information, the right to non-discrimination provisions, the right to a county conference, and the right to a state level fair hearing have been provided to him or her; and,
 4. That the rights and responsibilities presented in the "what I should know" section of the application that the client acknowledged when he or she signed the application form have not been violated; and,
 5. That the county and/or representative of the county shall not threaten the individual or engage in any other intimidation tactics toward the client.
- D. If the county receives questionable information that is necessary for determining a client's eligibility and the verification requested by the county department is not supplied by the client as required by the county department's verification request timeframes (section 3.604.3), grant payments may be reduced and/or the case closed and grant payments terminated for a client's failure to prove eligibility following the notice policies outlined in section 3.609.1. These actions and notification shall not be used as an intimidation tactic or threat.
- E. Following an investigation, the county must take action on cases where documented evidence exists to show a client has committed one or more acts of IPV. The county must take action through:
1. Obtaining a "waiver of administrative disqualification hearing"; or,
 2. Proceeding with an ADH, either at the county department or in front of an ALJ, or both as described in subsections M. and O. below; or,
 3. Referring the case for civil or criminal action in a county or district court; or,
 4. Documenting in the case file the county department's decision to take no action to pursue IPV using documented evidence to support the decision.

5. Establishing a claim based on the IPV, if appropriate.
- F. In proceeding against a client who is alleged to have committed an IPV, the county department must coordinate any action with actions taken under the food assistance program where the factual issues are the same or related.
 - G. Overpayment actions shall be initiated in the statewide automated system within ten (10) calendar days of the investigation's conclusion, unless otherwise specified in the case file. This is required in all cases even if ADH procedures or referral for prosecution is not initiated, except in instances where notification of overpayments may prejudice the ongoing criminal case or investigation. In these instances, the county department may make the determination to postpone notification of claims to the client if the overpayment is being referred to a court of appropriate jurisdiction. The determination to postpone notification must be clearly documented in the case file.
 - H. The state department will not condone any actions of the county department that could be determined to be a violation of state or federal law. Any actions taken by a county department that is determined to be in violation of state or federal law may be subject to corrective action per 9 C.C.R. 2501-1 section 1.150.
 - I. These rules apply to all clients who commit an IPV who are recipients or representative payees of grant payments and/or services. The determination of IPV shall be based on clear and convincing evidence that demonstrates intent to commit IPV.
 - J. Supporting evidence warranting the pursuit of an IPV disqualification must be documented and reviewed by a supervisor. If the county department determines there is evidence to substantiate that a person has committed an IPV, the person has a right to an ADH. However, the county department shall allow that person the opportunity to waive the right to an ADH.
 1. The State approved IPV forms shall be provided to the individual suspected of an IPV. These may be offered to the individual during the investigation or mailed once it has been suspected an IPV has occurred, but there is no plan to pursue criminal charges.
 2. One of the state approved forms affords the individual the right to waive the ADH. If the individual chooses to waive his or her right to an ADH, the individual shall have fifteen (15) calendar days from the date the IPV forms are hand-delivered or mailed by the county to return the waiver. If the form is not returned, the county department shall pursue an ADH.
 3. The completion of the waiver is voluntary and the county department may not require, nor by its actions appear to require, the completion of the waiver.
 - K. An IPV ADH must be requested whenever:
 1. The facts of the case do not warrant civil or criminal prosecution;
 2. Documentary evidence exists to show an individual has committed one or more acts of IPV; and
 3. The individual has failed to sign and return the waiver of ADH form.
 - L. An ADH may be requested against an accused individual whose case is currently being referred for prosecution on a civil or criminal action in county or district court.

M. A county department may conduct an ADH or may use the Office of Administrative Courts (OAC) to conduct the ADH.

1. The individual may request verbally, in writing, electronically, or in person that the OAC conduct the ADH in lieu of a county ADH. Such an ADH must be requested ten (10) calendar days before the scheduled date of the county ADH.
2. The OAC or the county department must mail by certified mail, return receipt requested, a notice of the date of the ADH on the form prescribed by the state department, to the individual alleged to have committed an IPV. The notice must be mailed at least thirty (30) calendar days prior to the ADH date, to the individual's last known address. The notice form shall include a statement that the individual may waive the right to appear at an ADH.
3. The ALJ or ADH officer shall not enter a default judgment against the individual for failure to file a written answer to the notice of hearing or failure to appear at the ADH, but shall base the initial decision upon the evidence introduced at the ADH.
4. The ADH must be continued at the accused individual's request if good cause is shown. The request for continuance must be received by the presiding ALJ or ADH officer at least ten (10) calendar days prior to the ADH.

The ADH shall not be continued for more than a total of thirty (30) calendar days from the original ADH date. One additional continuance is permitted at the ADH officer or ALJ's discretion. If the ADH officer or ALJ considers it necessary, a medical assessment may be ordered to substantiate or disprove a good cause statement of an accused individual. Such assessment shall be obtained at the agency's expense and made part of the record.

5. In the event that the ADH was heard by the county, the client may request an ADH to be heard by the OAC within fifteen (15) calendar days of the date the county department mails the local ADH decision to the client.

N. Disqualification for IPV shall be as follows:

1. If the individual signs and returns the request for waiver of ADH within fifteen (15) calendar days from the date the waiver is sent, that person shall be provided with a notice of the period of disqualification.
2. The disqualification period shall begin no later than the first day of the following month from the date determined through the ADH process or, if the individual signed an ADH waiver, the date he or she signed the waiver.
 - a. Once the disqualification is imposed it shall continue without interruption. To consider a disqualification period served, the client shall have a break in grant payments totaling the time period of the disqualification. The disqualification period shall remain in effect unless and until the finding is reversed by the Office of Appeals or a court of appropriate jurisdiction or until the period of disqualification is served per section c below.
 - b. The disqualification may be in addition to any other penalties which may be imposed by a court of law for the same offenses (i.e. criminal or civil sanctions).
 - c. The disqualification shall be in effect for twelve (12) months upon the first occasion of any such offense; twenty-four (24) months upon the second occasion of any such offense and permanently upon the third such offense, pursuant to

section 26-2-128(1), C.R.S. all disqualifications imposed shall run and be served consecutively.

3. The disqualification penalizes only the individual(s) found to have committed an IPV. If a client's spouse and/or sponsor(s) have received an IPV on his or her own case(s), the spouse's and/or sponsor(s)' income and resources, when applicable, will be considered available to the client and used for determining eligibility.
 4. An IPV disqualification in one county is valid and effective in all other Colorado counties. A county department shall consider a disqualification imposed by another county department when determining the appropriate disqualification penalty for the disqualified individual without an additional ADH or further right to appeal.
- O. If, as a result of the ADH, the county ADH officer or ALJ finds the individual has committed an IPV, a written notice shall be provided to notify the individual of the decision. The county hearing decision notice shall be a state prescribed form, which includes a statement that a state ADH at the OAC may be requested.
1. In the event that the ADH was heard by the county, the client may appeal the decision of the county ADH to the OAC. An appeal must be received by the county department or by the OAC within fifteen (15) calendar days of the date the county department mails the local ADH decision to the client. See section 3.609.7 for rules regulating the appeal process.
 2. A copy of the county ADH decision shall be forwarded to the state department's employment and benefits division for review at the same time the decision is mailed to the client. If the client does not appeal the county ADH decision to the OAC, it becomes an initial decision and if no response is sent by the employment and benefits division to the county department, the county's decision becomes a final decision. If the employment and benefits division disagrees with the county department decision, they may: remand the decision to the county department or require the county to send the ADH request to OAC for determination of IPV, as described in M.5 above.
 3. In an ADH before an ALJ, the determination of IPV shall be an initial decision, which shall not be implemented while pending state department review and a final agency decision. The initial decision shall advise the client that failure to file exceptions to findings of the initial decision will waive the right to seek judicial review of a final agency decision under section 24-4-106, C.R.S. affirming the initial decision.

4. When an individual waives his or her right to an ADH, a written notice of the disqualification penalty shall be mailed to the individual. This notice shall be on a state prescribed notice form.
-
- P. When the county department determines that it has paid a client a grant payment as a result of fraud, the facts used in the determination shall be reviewed with the department's legal counsel within the attorney general's office and/or a representative from the district attorney's office. If suspected fraud is substantiated by the available evidence, the case shall be referred to the district attorney. All referrals to the district attorney shall be made in writing and shall include the amount of assistance fraudulently received by the client.
 - Q. If any deduction is being made from the client's assistance payment it must be consistent with any court order resulting from a prosecution by the district attorney. If the individual being prosecuted is not a Colorado Works program client, another method of recovery shall be used to collect amounts due to the department.
 1. Interest shall be charged from the month in which the overpayment was received until the date the overpayment is recovered. Interest shall be calculated at the legal rate.
 2. The client may choose to repay the county department the entire amount of the overpayment at one time or establish a repayment plan. In either instance, the fraud charge should be discussed with the district attorney or appropriate investigative authority.
 - R. If the district attorney declines to prosecute, the amount of overpayment due, as established by the department, will continue to be recovered by deduction from subsequent grant payments or other method of recovery if the individual is not a current client of Colorado Works grant payments.

3.609.6 Dispute Resolution

The dispute resolution process is available for disputes concerning county department actions related to eligibility, reduction of grant payment amounts, redetermination procedures, and other county actions that do not involve allegations of fraud or IPV on the part of the client. If there is a dispute regarding fraud or IPV, that dispute must be handled according to sections 3.609.1 and 3.609.5 regarding IPV and fraud.

In order to resolve disputes between county departments and clients, county departments shall adopt procedures for the resolution of disputes consistent with this section. The procedures shall be designed to establish a simple, non-adversarial format for the informal resolution of disputes.

- A. The county department, prior to taking action to deny, terminate, recover, initiate vendor payments, or modify financial assistance provided under the Colorado Works program to a client, shall, at a minimum, provide the client an opportunity for a county conference.

1. The right of a client to a county conference is primarily to ensure that the proposed action is valid, to protect the client against an erroneous action concerning grant payments, and to ensure reasonable promptness of county action. The client may choose, however, to bypass the county conference and appeal directly to the state office of administrative courts, pursuant to section 3.609.7.
 2. The client is entitled to:
 - a. Representation by an authorized representative retained at his or her own expense, such as legal counsel, relative, friend, or another spokesperson, or he or she may represent himself or herself;
 - b. Examine the contents of the case file and all documents and records used by the county department or agency in making its decision. Examination of the file is available at a reasonable time before the conference and during the conference. However, the file shall not include names of confidential informants, privileged communications between the county department and its attorney, or the nature and status of pending criminal prosecutions and any other information that is confidential or privileged under state or federal law; and
 - c. Present new information or documentation to support reversal or modification of the proposed adverse action.
 3. Failure of the client to request a county conference within ninety (90) calendar days from the date timely notice of the proposed action was mailed, absent the client requesting a postponement within that same ninety (90) days, shall constitute abandonment of the right to a conference. The client does not lose the right to appeal directly to the OAC pursuant to section 3.609.7.
 4. Failure of the client to appear at the scheduled county conference without making a request for postponement prior to the scheduled date of the conference shall constitute abandonment of the right to a conference unless the client can show good cause for his or her failure to appear. The client does not lose the right to appeal directly to the OAC pursuant to section 3.609.7.
- B. The county conference shall be held before a person in the county department or agency where the proposed decision is pending who was not directly involved in the initial determination of the action in question. The county worker or contractor who initiated the action in dispute shall not conduct the county conference.
1. The person designated to conduct the conference shall be in a position which, based on knowledge, experience, and training, would enable him or her to determine if the

proposed action is valid. This could include, but is not limited to, a supervisor, quality assurance personnel, or a manager with no previous knowledge of the case.

2. Two or more county departments may schedule a joint county conference related to the same client. If two or more counties schedule a joint county conference, the location of the conference need not be held in the county taking the action, and the conference location shall be convenient to the client.
 3. The county conference may be conducted either in person, by telephone, or by video conference. A telephonic or video conference must be agreed to by the client.
 4. The county/agency worker or other county or department employee or contractor shall attend the county conference and present the factual basis for the disputed action.
 5. The county conference shall be conducted on an informal basis. The county department/agency must provide specific reasons for the proposed action, and the applicable state department's rules or county policy. In the event the client does not speak English or other language services are needed, an interpreter shall be provided by the county department/agency.
 6. The county/agency shall have available at the conference all pertinent documents and records in the case file relevant to the specific action in dispute.
 7. To the extent possible, the county conference shall be scheduled and conducted prior to grant payments being reduced or terminated.
 8. The county department shall provide notice to the client at least four (4) days prior to the scheduled time and location for the conference, or the time of the scheduled telephone or video conference. Notice should be in writing. The client may provide a written or verbal waiver that written notice of the scheduled conference is not necessary when the county department is able to conduct the conference within four (4) days.
 9. The county department may consolidate a client's disputes regarding the Colorado Works program, the food assistance program, or any other public assistance program if the facts are similar and consolidation would facilitate resolution of all disputes.
 10. The goal of the county conference is to reach an agreement between the client and the county department.
- C. At the conclusion of the conference, the person presiding shall summarize the discussion in writing. The summary shall include whether the issue was resolved and include the client's appeal rights as described in section 3.609.7. A copy of the written summary shall be provided to the client and/or his or her representative within eleven (11) calendar days. A copy of the summary will also be maintained in the client's case file.

3.609.7 Appeal and State Level Fair Hearing

- A. These rules apply to all state-level fair hearings of county department actions concerning assistance payments and actions taken pursuant to state rules or official county policies governing the Colorado Works program. An affected client who is dissatisfied with a county

department action or the result of a county conference or failure to act concerning grant payments may appeal to the Office of Administrative Courts (OAC) for a fair hearing before an independent Administrative Law Judge (ALJ). This will be a full evidentiary hearing of all relevant and pertinent facts to review the decision of the county department. The time limitations for submitting a request for an appeal are:

1. When the client elects to avail himself of a county conference, but is dissatisfied with that decision, the request must be submitted in writing and mailed or hand-delivered as described in subsection 3 below, within the ninety (90) day period specified in 2, below;
2. When the client elects not to avail himself of a county dispute resolution conference but wishes to appeal directly to the state, a written request for an appeal must be mailed or hand-delivered as described in 3 below no later than ninety (90) calendar days from the date the notice of the proposed action was mailed to the client;
3. A request for an appeal must be mailed or hand-delivered to the office of administrative courts. If the request is sent to or mailed to the county department, the county shall forward such request to the OAC.

B. Requests for state hearings may result from such reasons as:

1. The opportunity to make application or reapplication has been denied;
2. An application for assistance or services has not been acted upon within the maximum time period for the category of assistance;
3. The application for assistance has been denied, the grant payment has been modified or discontinued, vendor payments have been initiated, requested reconsideration or a grant payment amount deemed incorrect has been refused or delayed, payment has been delayed through the holding of payments, the county department is demanding repayment for any part of a grant payment which the client does not believe is justified, or the client disagrees with the type or level of benefits or services provided.

C. The basic objectives and purposes of the appeal and state hearing process are:

1. To safeguard the interests of the client;
2. To provide a practical means by which the client is afforded a protection against incorrect action on the part of the county department;
3. To bring to the attention of the state department and county department information that may indicate need for clarification or revision of state and county policies and procedures;
4. To assure equitable treatment through the administrative process without resort to legal action in the courts.

D. Any clear expression verbally or in writing by the client or his or her representative, that the client wants an opportunity to have a specific action of a county department reviewed by the state department is considered a request for a state level fair hearing. The county department shall, when asked, aid the person in preparation of a request for a hearing. If the request for a hearing is made verbally, the county department shall prepare a written request within ten (10) calendar days for the client or his or her representative's signature or have the client prepare such request, specifying the action he or she would like to appeal and the reason for appealing that action.

1. The client is entitled to:

- a. Representation by any person he or she chooses pursuant to section 26-2-127(1)(a)(iv), C.R.S., legal counsel retained at the client's own expense, or he or she may represent him or herself;
 - b. Examine the complete case file and any other documents, records, or pertinent material to be used by the county at the state level fair hearing, including the hearing packet as described in section 3.609.711.D.3, before the date of hearing as well as during the hearing. However, the file shall not include the names of confidential informants, privileged communications between the county departments and its attorney, the nature and status of pending criminal prosecutions, and any other information that is confidential or privileged under state or federal law.
2. The client and staff of the county department are entitled to:
 - a. Present witnesses;
 - b. Establish all facts and circumstances pertinent to the decision being appealed;
 - c. Advance any arguments without undue interference;
 - d. Question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

3.609.71 Hearing Procedures

3.609.711 State Level Fair Hearing Procedures

The procedures in this section apply to all hearings in front of the OAC. One or more persons from the Colorado Department of Personnel and Administration, Office of Administrative Courts (OAC), are appointed to serve as ALJs for the state department.

All hearings described in this section shall be conducted in accordance with section 24-4-105, C.R.S.

- A. The State Administrative Law Judge shall, in preparation for the hearing, review the reasons for the decision under appeal and be prepared to interpret applicable Departmental rules and/or official written county policies governing the Colorado Works program and pertaining to the issue under appeal.
- B. The county department shall forward copies of its applicable Colorado Works policies and any subsequent amendments, including effective dates, to the OAC. Clients appealing a county action shall be provided reasonable opportunity to examine the county's policies.
- C. When legal counsel does not represent the client and/or the department, the ALJ shall assist in bringing forth all relevant evidence and issues relating to the appeal.
- D. Upon receipt by the OAC of an appeal request, OAC assigns a case number. The OAC sets a hearing date at least ten (10) days from the date the appeal was requested, and sends a letter by first class or certified mail, or by email through the electronic filing system to the appellant and the county department notifying them of the date, time, and place of the hearing.
 1. The appellant is told that if these arrangements are not satisfactory, he or she must notify the OAC. An ALJ will decide if good cause exists, and whether the date, time, and/or place of the hearing will be changed.

2. An information sheet shall be enclosed to explain the hearing procedures to the appellant. The information sheet informs the appellant that: he or she has the right to representation retained at his or her own expense, such as legal counsel, a relative, a friend, or another spokesperson, or he or she may represent himself or herself under section 26-2-127(1)(a)(iv), C.R.S.; the appellant or his or her representative has the right to examine all materials to be used at the hearing, before and during the hearing.
 3. For all hearings except IPV ADH hearings, the information sheet shall also include a notice that failure to appear at the hearing as scheduled, without having secured a proper extension in advance, or without having shown good cause for failure to appear, shall constitute abandonment of the appeal and cause a dismissal thereof. Pursuant to section 3.609.5.M.2-3., failure to appear does not result in a dismissal of an ADH hearing.
 4. If OAC sets the hearing forty-five (45) days or more from the date of the notice of hearing, the county department/agency shall, within fifteen (15) days but no later than thirty (30) days prior to the hearing, prepare and mail a hearing packet to the appellant with a copy to OAC. If the hearing is set less than 45 days from the date of the notice of hearing, the county department/agency shall, within five (5) days but no later than ten (10) days prior to the hearing, prepare and mail the hearing packet. The hearing packet shall contain the following information:
 - a. The reasons for the decision of the county department and a specific explanation of each factor involved, such as the amount of excess income or residence factors;
 - b. The specific state rules governing the Colorado Works program or county policy on which the decision is based with a numeric reference to each such rule, including the appropriate Code of Colorado Regulations (C.C.R.) cites;
 - c. Notice that the county department will assist him or her by providing relevant documents from the case file for his or her claim, if he or she so desires, and that he or she has the opportunity to examine rules and other materials to be used at the hearing concerning the basis of the county decision.
 5. Information that the appellant or his or her representative does not have an opportunity to see shall not be made available as a part of the hearing record or used in a decision on an appeal. No material made available for review by the ALJ may be withheld from review by the appellant or his or her representative.
 6. In Colorado Works program appeals, the ALJ has twenty (20) calendar days from the hearing date to arrive at an initial decision. Once an initial decision is rendered, the OAC immediately sends the case and the initial decision to the State Department, Office of Appeals. The Office of Appeals serves the initial decision on the parties via first class mail and provides for an opportunity for the parties to file exceptions to the initial decision prior to the Office of Appeals issuing a final agency decision.
 7. The initial decision shall not be implemented pending review by the Office of Appeals and entry of a final agency decision. All final agency decisions on these appeals shall be made within ninety (90) calendar days from the date the request for hearing is received.
- E. When the client has had a county conference and wishes to appeal the county department's action to the OAC, the following procedures shall be followed:
1. As part of the local conference the client is informed that if he or she wishes to appeal to the OAC for a hearing, the county department shall provide relevant documents from the

case file for the client's claim, if he or she so desires, and that he or she may have the opportunity to examine materials as described in the section 3.609.

2. The county department shall forward a copy of the decision being appealed and a copy of the written notification given to the client to the OAC.
 3. A copy of the OAC's notice to the client setting a date for the hearing is forwarded to the county department. The county department shall provide the client with a hearing packet in accordance with section 3.609.711.D.3.
 4. If the client indicates to the county department that he or she desires to withdraw the appeal, the county shall attempt to obtain a statement to that effect in writing and forward it to the OAC.
 5. If a client has legal counsel or another authorized representative for the appeal, the county department will not discuss the merits of the appeal or the question of whether or not to proceed with it with the client unless the discussion is in the presence of, or with the permission of, such counsel or such other authorized representative.
 6. If the county department learns that legal counsel will represent the client, the county department shall make every effort to ensure that it, too, is represented by an attorney at the hearing. The county department may be represented by an attorney in any appeal that it considers such representation desirable.
 7. If the appellant needs interpretation services, the county department shall arrange to have present at the hearing a certified interpreter who will be sworn to translate correctly.
 8. The fact that an appellant and the county department have been notified that a hearing will be held does not prevent the county department from reviewing the case and considering any new factors which might change the status of the case, or taking such action as may be indicated to reverse its decision or otherwise settle the issue. Any change, which results in a voiding of the cause of appeal, shall be immediately reported to the OAC.
 9. Upon receipt of notice of a state hearing on an appeal, the county department shall arrange for a suitable hearing room appropriate to accommodate the number of persons, including witnesses, who are expected to be in attendance, taking into consideration such factors as privacy; absence of distracting noise; and the need for table, chairs, electrical outlets, adequate lighting and ventilation, and conference telephone facilities.
- F. Telephonic hearings may be conducted as an alternative to in-person hearings unless otherwise requested by any of the parties. All applicable provisions of the in-person hearing procedures will apply, such as the right to be represented by counsel, the right to examine and cross-examine witnesses, the right to examine the contents of the case file, and the right to have the hearing conducted at a reasonable time and date.
- G. The county department shall have the burden of proof, by a preponderance of the evidence, to establish the basis of the ruling being appealed. Every party to the proceeding shall have the right to present his or her case or defense by verbal and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Subject to these rights and requirements, where a hearing is expedited and the interests of the parties will not be subsequently prejudiced thereby, the ALJ may receive all or part of the evidence in written form or by verbal stipulations.
- H. The following provisions govern the procedure at state hearings before the ALJ:

1. The hearing is closed to the public however, any person or persons whom the appellant wishes to appear for or with him or her may be present, and, if requested by the appellant and in the record, such hearing may be public;
2. The purpose of the hearing is to determine the pertinent facts in order to arrive at a fair and equitable decision in accordance with the rules of the state department. In arriving at a decision, only the evidence and testimony introduced at the hearing is considered by the ALJ. However, in circumstances when it is shown at the hearing that medical or other evidence could not, for good cause, be obtained in time for the hearing, the ALJ may permit the introduction of such evidence after the hearing. The opposing party must also be furnished with a copy of this new evidence and must have the opportunity to controvert or otherwise respond to it. Delays in rendering the initial decision will be attributed to the party requesting that the ALJ hear additional evidence after the hearing;
3. Although the hearing is conducted on an informal basis and an effort is made to place all the parties at ease, it is essential that the evidence be presented in an orderly manner so as to result in an adequate record;
4. When an ALJ makes a decision regarding the merits of the case, or the dismissal of the appeal, that decision is called an initial decision.
5. A complete and exact record of the proceedings shall be made by electronic or other means. When requested by the party, the OAC shall cause the proceedings to be transcribed.
6. When the ALJ dismisses an appeal for reasons other than failure to appear, the decision of the ALJ shall be an initial decision, which shall not be implemented until the Office of Appeals completes its review and enters a final decision.
7. The ALJ shall not enter a default against any party for failure to file a written answer in response to the notice of hearing, but shall base the initial decision upon the evidence introduced at the hearing. However, an appellant may be granted a postponement of the hearing if the county department has failed to provide the hearing packet required by section 3.609.711, and the appellant has therefore been unable to prepare for the hearing.
8. When OAC has notified the appellant of the time, date, and place of the OAC hearing and the appellant fails to appear at the hearing, without giving notice to the ALJ of acceptable good cause for his or her inability to appear at the hearing, then the appeal shall be considered abandoned. The ALJ shall enter an order of dismissal and the OAC shall serve it upon the parties. The dismissal order shall not be implemented pending review by the Office of Appeals and entry of an agency decision.

However, the appellant shall have ten (10) calendar days from the date the order of dismissal was mailed to draft and send a letter to the ALJ explaining the reason for his or her failure to appear. If the ALJ then finds that there was good cause for the appellant not appearing, the ALJ shall vacate the order dismissing the appeal and reschedule the hearing date.

If the appellant does not submit a letter seeking to show good cause within the ten (10) day period, the order of dismissal shall be filed with the Office of Appeals of the state department. The Office of Appeals shall review the dismissal of the appeal and give the appellant time to file exceptions before issuing a final agency decision in accordance with the procedures in section 3.609.72.

After the final agency decision is served on the parties, the county department shall carry out the necessary actions within ten (10) calendar days of the final agency decision becoming effective. The actions may be: to provide assistance or services in the correct amount, to terminate assistance or services, to recover assistance incorrectly paid, and/or other appropriate actions in accordance with the rules. Pursuant to section 24-4-106(5), C.R.S., the effective date of the final agency decision may be postponed if the appellant makes a request for postponement due to irreparable injury to the state department or the court reviewing the final agency action on judicial review.

3.609.72 Decision and Notification

- A. Following the conclusion of the state level fair hearing, the ALJ shall promptly prepare and issue an initial decision and file it with the State Department, Office of Appeals.

The Office of Appeals of The State Department is the designee of the State Department's executive director for reviewing the initial decision of the ALJ. The Office of Appeals enters a final agency decision on behalf of the executive director affirming, modifying, or reversing the initial decision.

1. The initial decision shall make an initial determination whether the county or state department or its agent acted in accordance with, and/or properly interpreted, the rules of the state department and/or the county policies governing the Colorado Works program.
2. The ALJ has no jurisdiction or authority to determine issues of constitutionality or legality of Colorado Statute, departmental rules, or county policy(ies) governing the Colorado Works program.
3. The initial decision shall advise the client who brought the appeal that failure to file exceptions to the initial decision will waive the right to seek judicial review under section 24-4-106, C.R.S. of a final agency decision that affirms the initial decision.
4. The Office of Appeals shall promptly serve the initial decision upon each party by first class mail, and shall transmit a copy of the decision either electronically or by mail to the division of the state department that administers the program(s) pertinent to the appeal.
5. The initial decision shall not be implemented pending review by the Office of Appeals and entry of an agency decision.

- B. Upon receiving the initial decision, the Office of Appeals may issue an order of remand based on an issue that warrants an immediate remand before the initial decision is even mailed to the parties.

Additionally, the Office of Appeals may issue an order of remand after its substantive review of an initial decision, and prior to issuing a final agency decision, based on the need for further clarification, findings, conclusions of law, and/or further proceedings. An order of remand is not a final agency decision that is subject to judicial review under section 24-4-106, C.R.S.

- C. Any party seeking final agency decision which reverses, modifies, or remands the initial decision of the ALJ shall file exceptions to the decision with the Office of Appeals, within fifteen (15) days (plus three days for mailing) from the date the initial decision is mailed to the parties. If that date falls on a weekend or State holiday, the due date shall be moved to the next business day. Exceptions must state specific grounds for reversal, modification or remand of the initial decision.

1. If the party asserts that the ALJ's findings of fact are not supported by the weight of the evidence, the party shall, simultaneously with, or prior to, the filing of exceptions request the OAC create a transcript of all or a portion of the hearing and file it with the Office of

Appeals. No transcript is required if the review is limited to a pure question of law. Similarly, if the exceptions assert only that the ALJ improperly interpreted or applied State rules or statutes, the party filing exceptions is not required to provide a transcript or recording to the Office of Appeals.

If applicable, the exceptions shall state that a transcript has been requested. Within five (5) days of the request for transcript, the party requesting it shall advance the cost therefore to the transcriber designated by the OAC unless the transcriber waives prior payment.

2. A party who is indigent and unable to pay the cost of a transcript may file a written request, which need not be sworn, with the Office of Appeals for permission to submit a copy of the hearing recording instead of the transcript. If submission of a recording is permitted, the party filing exceptions must promptly request a copy of the recording from the OAC and deliver it to the Office of Appeals. Payment in advance shall be required for the preparation of a copy of the recording.
3. The Office of Appeals shall serve a copy of the exceptions on each party by first class mail. Each party shall be limited to ten (10) calendar days from the date exceptions are mailed to the parties in which to file a written response to such exceptions. The Office of Appeals shall not permit oral argument.
4. The Office of Appeals shall not consider evidence that was not part of the record before the ALJ. However, the case may be remanded to the ALJ for rehearing if a party establishes in its exceptions that material evidence has been discovered which the party could not with reasonable diligence have produced at the hearing.
5. While review of the initial decision is pending before the Office of Appeals, the record on review, including any transcript or recording of testimony filed with the Office of Appeals, shall be available for examination by any party at the Office of Appeals during regular business hours.
6. The state department's division(s) responsible for administering the program(s) relevant to the appeal may file exceptions to the initial decision, or respond to exceptions filed by a party, even though the division has not previously appeared as a party to the appeal. The division's exceptions or responses must be filed in compliance with the requirements of this section exceptions filed by a division that did not appear as a party at the hearing shall be treated as requesting review of the initial decision upon the state department's own motion.
7. In the absence of exceptions filed by any party or by a division of the state department, the Office of Appeals shall review the initial decision, and may review the hearing file of the ALJ and/or the recorded testimony of witnesses, before entering a final agency decision. Review by the Office of Appeals shall determine whether the decision properly interprets and applies the rules of the state department and/or relevant statutes, and whether the findings of fact and conclusions of law support the decision. If a party or division of the state department objects to the final agency decision entered upon review by the Office of Appeals, the party or division may seek reconsideration of the final agency decision pursuant to subsection c, below.
8. The Office of Appeals shall mail copies of the final agency decision to all parties by first class mail.
9. For purposes of requesting judicial review under section 24-4-106, C.R.S., the effective date of the final agency decision shall be the third day after the date the decision is

mailed to the parties, even if the third day falls on Saturday, Sunday, or a legal holiday. The parties shall be advised of this in the final agency decision.

10. The State or county department shall initiate action to comply with the final agency decision within three (3) business days after the effective date. The department shall comply with the decision even if reconsideration is requested, unless the effective date of the agency decision is postponed by order of the Office of Appeals or a reviewing court pursuant to section 24-4-106(5), C.R.S.
- D. No motion for reconsideration shall be granted unless it is filed in writing with the Office of Appeals within fifteen (15) days of the date that the final agency decision is mailed to the parties. The motion must state specific grounds for reconsideration of the final agency decision.
- The Office of Appeals shall mail a copy of the motion for reconsideration to each party of record and transmit electronically or in writing to the appropriate division of the state department. A motion for reconsideration of a final agency decision may be granted by the Office of Appeals for the following reasons:
1. A showing of good cause for failure to file exceptions to the initial decision within the fifteen (15) day period allowed by section 3.609.7; or,
 2. A showing that the agency decision is based upon a clear or plain error of fact or law. An error of law means failure by the Office of Appeals to follow a rule, statute, or court decision, which controls the outcome of the appeal.
- E. When a final agency decision concludes that an action of the county or state department was not in accordance with rules of the department, or when the county or state department determines that its action was not supported by the state department's rules after the client makes a request for a hearing, the adjustment or corrective payment is made retroactively to the date of the incorrect action.
- F. The client is to be fully informed by the final agency decision of his or her further right to apply for judicial review of the agency decision. Judicial review can be started by filing an action for review in the appropriate state district court. Any such action must be filed in accordance with section 24-4-106, C.R.S. and with the Colorado Rules of Civil Procedure within thirty-five (35) days after the final agency decision becomes effective.
- G. The state department will establish and maintain a method for informing, in summary and depersonalized form, all county departments and other interested persons concerning the issues raised and decisions made on appeals.

3.609.73 Protections to the Individual

A. Confidentiality

All information obtained by the county department concerning a client of Colorado Works is confidential information.

1. The county department shall inform county officials and other persons who have dealings with the department as to the confidential nature of information, which may come into their possession through transaction of department business.

When a county worker consults a bank, current/former employer of a client, another social agency, etc., to obtain information or eligibility verification information, the identification of the county worker as an employee of the county department will, in itself, disclose that an application for assistance has been made by a client. In this type of

contact, as well as other community contacts, the department shall strive to maintain confidentiality whenever possible.

2. Ensuring privacy while interviewing and the continuous confidentiality of information are essential. This involves both office facilities and county worker discretion. Office procedures and facilities should be such that information is not inadvertently revealed to persons not concerned with the affairs of a particular client. The county worker must also use discretion in mentioning department business outside the office.
3. The county or state department may share information across systems so that a client is efficiently served by programs using other systems to determine eligibility/maintain information to the extent allowable under section 26-1-114, C.R.S.

B. Confidentiality must be treated as follows:

1. Aggregated information not identified with any client, such as caseload statistics and analysis, is not confidential and may be released for any purpose.
2. Information secured by the county department for the purpose of determining eligibility and need is confidential.
3. Unless disclosure is specifically permitted by the state department, the following types of information are the exclusive property of, and are restricted to use by, the state and county departments:
 - a. Names and addresses of Colorado Works clients, and/or the grant payment amount;
 - b. Information contained in applications, reports of medical examinations, correspondence, and other information concerning any person from whom, or about whom, information is obtained by the county department;
 - c. Records of state or county departmental evaluations of the above information.
 - d. All information obtained through the Income and Eligibility Verification System (IEVS).
4. No one outside the state or county department shall have access to records of the department except for the following individuals: those executing the Income and Eligibility Verification System (IEVS); child support services officials; the SSA; and federal and State auditors and private auditors for the county these individuals shall have access only for purposes necessary for the administration of the program.
 - a. Client records may be used as exhibits for administrative, civil and/or criminal proceedings when the proceedings relate directly to the receipt of Colorado Works Programs.
 - b. Additional individuals shall have access to the client's records as long as the client is notified and his or her prior permission for release of information is obtained, unless the information is to be used to verify income or eligibility under administration of the IEVS.
 - c. If the information is needed to provide benefits to a client in an emergency situation, and the client is physically or mentally incapacitated to the extent that he or she cannot sign the release form, and time does not permit obtaining the client's consent prior to release of information, the county department must notify

the client within eleven (11) calendar days after supplying the information. If the applicant or client does not have a telephone or cannot be personally contacted within eleven (11) days, the county department must send written notification containing the required information. The verbal or written notification shall include the name and address of the agency that requested the information, the reason the information was requested and a summary of the information released.

- d. The release of records is strictly conditioned upon the information being used solely for the purpose authorized and the person requesting the information must certify the use to be made of the information and that it will not be disclosed or used for any other purpose.
5. The district attorney or county human services board member, shall have access to the records of the department, excluding IEVS information, if the following identified consent or notice conditions are met.
- a. A district attorney upon presentation of a written request accompanied by evidence that fraud is the reason for the request
 - b. A county human services board member, as described in section 26-1-116, C.R.S. if the board member has an obligation to perform Colorado Works duties per county business processes or county policies approved by the state department as described in section 3.600.2.

When a county board member or a district attorney who has met the above conditions needs information about a client that is not in the possession of the county department, the requestor, with the aid of the county department, may contact the state department to inquire as to the appropriate methods of securing it.

6. County departments shall not release information regarding clients to law enforcement agencies unless a valid search warrant is received by the county or state department, except as provided in section 3.609.73.B.4.
7. Upon request to the state department by the Colorado Bureau of Investigation, with the responsibility for location and apprehension of a person with an outstanding felony arrest warrant, the addresses of a fleeing felon who is a client of Colorado Works programs shall be released pursuant to section 26-1-114(3)(a)(iii) C.R.S.
8. The client shall have an opportunity to examine such pertinent records concerning him or her as constitutes a basis for adverse action and in the case of a county conference or a state level fair hearing. Other requests for information by the client shall be honored only when the client makes the request in person and his or her identity is verified or the request is in the form of a written and signed statement.

The client may designate an individual, firm, or agency to represent him or her at conferences and hearings. The client must put the designation of such representative in writing. The representative shall have access to all pertinent records.

9. The client may give a formal written release for disclosure of information to other agencies, such as hospitals or advocate agencies. If the client is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the client's incapacity or an emergency circumstance, the department may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the client and, if so, disclose only the minimum confidential information necessary that is directly relevant to the client's care.

10. Information provided to agencies and/ or individuals must be limited to the specific information required to determine eligibility, conduct ongoing case management, or otherwise necessary for the administration of the Colorado Works program. Information obtained through IEVS will be stored and processed so that no unauthorized personnel can acquire or retrieve the information. County departments are responsible for limiting IEVS data to only those individuals requiring access to determine eligibility or otherwise administer the programs.

All persons with access to information obtained pursuant to the income and eligibility verification requirements will be advised of the circumstances under which access is permitted, how data will be utilized, confidentiality of data, and the sanctions imposed for illegal use or disclosure of the information.

3.609.74 Protection Against Discrimination

County departments are to administer Colorado Works in such a manner that no client will, on the basis of race, color, religion, creed, national origin, ancestry, sex/gender (including transgender status), pregnancy, age, sexual orientation, gender identity, political affiliation, or physical or mental disability, or any other protected groups as described in the state department's anti-discrimination policy, be excluded from participation, be denied any aid, care, or services, or other benefits of, or be otherwise subjected to discrimination in his or her interactions with the Colorado Works program.

- A. The references to "aid" includes all forms of assistance, including direct and vendor payments, work programs and information and referral services.
- B. The county department shall not, directly or through contractual or other arrangements, on the grounds of race, color, religion, creed, national origin, ancestry, sex/gender (including transgender status), pregnancy, age, sexual orientation, gender identity, political affiliation, or physical or mental disability, or any other protected status: :
 1. Provide any aid to an individual which is different, or is provided in a different manner, from that provided to others;
 2. Subject a client to segregation barriers or separate treatment in any manner related to access to or receipt of assistance, care services, or other benefits;
 3. Restrict a client in any way in the enjoyment or any advantage or privilege enjoyed by others receiving aid, care, services, or other benefits provided under assistance programs;
 4. Treat a client differently from others in determining whether he or she satisfies any eligibility or other requirements or conditions which must be met in order to receive aid, care, services, or other benefits provided under the Colorado Works program;
 5. Deny a client an opportunity to participate in assistance programs through the provision of services or otherwise, or afford him or her an opportunity to do so which is different from that afforded others under programs of assistance.
 6. Deny a client the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.
- C. No distinction is permitted in relation to the use of physical facilities, intake and application procedures, caseload assignments, determination of eligibility, and the amount and type of benefits extended by the county department to clients.

- D. The county department shall ensure that other non-federal agencies, persons, contractors and other entities with which it contracts business are in compliance with the above prohibition of discrimination requirements on a continuing basis. The county department staff is responsible for being alert to any discriminatory activity of other agencies and for notifying the state department concerning the situation.
- E. The State department, through its various contacts with agencies, persons, and referral sources, will be continuously alert to discriminatory activity and will take appropriate action to assure compliance with these prohibitions against discrimination the county department, on notification by the state department, will also terminate payments to the offender or association with any agency, person, or resource being used which has been found by the state department or the Colorado Civil Rights Division to continue discriminatory activity against clients.
- F. A client who believes he or she is being discriminated against may file a complaint with the county department, the state department, the Colorado Civil Rights Division or directly with the federal government. When a complaint is filed with the county department, the county director is responsible for an immediate investigation of the matter and taking necessary corrective action to eliminate any discriminatory activities found. If such activities are not found, the client is given a written explanation of the outcome. If the client is not satisfied, he or she is requested to direct his or her complaint, in writing, to the state department, client services section, which will be responsible for further investigation and other necessary action. The client services section can be reached by email at cdhs_clientservices@state.co.us.]

3.609.75 Additional Programs and Services

3.609.751 Optional Noncustodial Parent Programs

A county may provide services under the Colorado Works program to a noncustodial parent (as defined in section 3.601), in accordance with the county's policy. A noncustodial parent shall not be eligible to receive basic cash assistance under the program.

- A. Such services provided to a noncustodial parent shall be intended to promote the sustainable employment of the noncustodial parent and enable such parent to pay child support.
- B. Provision of such services shall not negatively impact the custodial parent's eligibility for benefits or services.
- C. Any services offered to a noncustodial parent shall be based on the county's review of:
 - 1. The noncustodial parent's request for services; and,
 - 2. The county's assessment of the noncustodial parent's needs.
- D. All services offered to a noncustodial parent shall be outlined in an Individualized Plan entered into by the county and the noncustodial parent.
- E. Services may include, but are not limited to, parenting skills, mediation, workforce development, job training activities, and job search.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00478

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

Income Maintenance (Volume 3)

on 10/08/2021

9 CCR 2503-6

COLORADO WORKS PROGRAM

The above-referenced rules were submitted to this office on 10/11/2021 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 20, 2021 16:59:24

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Income Maintenance (Volume 3)

CCR number

9 CCR 2503-9

Rule title

9 CCR 2503-9 COLORADO CHILD CARE ASSISTANCE PROGRAM 1 - eff
11/30/2021

Effective date

11/30/2021

DEPARTMENT OF HUMAN SERVICES

Income Maintenance (Volume 3)

COLORADO CHILD CARE ASSISTANCE PROGRAM

9 CCR 2503-9

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

3.905.1 LOW-INCOME CHILD CARE ELIGIBILITY

H. Low-Income Eligibility Guidelines

1. Adult caretaker(s) or teen parent(s) gross income must not exceed eighty-five percent (85%) of the state median income.
 - a. Entry eligibility shall be set by the state department at a level based on the self-sufficiency standard, not to be set below one hundred eighty-five percent (185%) of federal poverty level.
 - b. Exit income eligibility must be eighty-five percent (85%) of the state median income.
2. Effective October 1, 2021, monthly gross income levels, for one-hundred percent (100%) of the Federal Poverty Guideline (FPG), as well as eighty-five percent (85%) of State Median Income (SMI) for the corresponding household size are as follows:

Family Size	100% Federal Poverty Guideline (FPG)	85% State Median Income (SMI) (State and Federal Maximum Income Limit)
1	\$1,073.33	\$3,908.75
2	\$1,451.67	\$5,111.45
3	\$1,830.00	\$6,314.14
4	\$2,208.33	\$7,516.83
5	\$2,586.67	\$8,719.53
6	\$2,965.00	\$9,922.22
7	\$3,343.33	\$10,147.73
8	\$3,721.67	\$10,373.23
Each Additional person	\$378.33	\$225.51

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00560

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

11/30/2021

on 10/08/2021

9 CCR 2503-9

COLORADO CHILD CARE ASSISTANCE PROGRAM

The above-referenced rules were submitted to this office on 10/13/2021 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 20, 2021 17:06:18

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Health Care Policy and Financing

Agency

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

CCR number

10 CCR 2505-10

Rule title

10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND
PURPOSE AND RULE HISTORY 1 - eff 12/10/2021

Effective date

12/10/2021

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to Medical Assistance Special Financing rule concerning the Colorado Dental Health Care Program for Low-Income Seniors, Section 8.960

Rule Number: MSB 21-08-26-A

Division / Contact / Phone: Special Financing / Chandra Vital / 303-866-5506

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 21-08-26-A, Revision to Medical Assistance Special Financing rule concerning the Colorado Dental Health Care Program for Low-Income Seniors, 10 CCR 2505-10, Section 8.960.
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)?
If yes, state effective date:
Is rule to be made permanent? (If yes, please attach notice of Yes hearing).

PUBLICATION INSTRUCTIONS*

Replace the current text at Appendix A with the proposed text beginning at Appendix A through the end of Appendix A. This rule is effective December 30, 2021.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to Medical Assistance Special Financing rule concerning the Colorado Dental Health Care Program for Low-Income Seniors, Section 8.960

Rule Number: MSB 21-08-26-A

Division / Contact / Phone: Special Financing / Chandra Vital / 303-866-5506

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

Current rule states that no procedures under the Dental Health Care Program for Low-Income Seniors may be below the Health First Colorado dental payment. Health First Colorado increased the dental rates effective July 1, 2021, and 43 procedures of the Dental Health Care Program for Low-Income Seniors fell below the Health First Colorado dental payment. This rule change will increase the 43 procedures in Appendix A to match the current rate being paid by Health First Colorado.

2. An emergency rule-making is imperatively necessary

☒ to comply with state or federal law or federal regulation and/or
☐ for the preservation of public health, safety and welfare.

Explain:

The program's statute requires that rates for dental procedures for the Dental Health Care Program for Low-Income Seniors are at least as much as Medicaid's dental rates. Rule changes are necessary to revise rates to meet the statutory requirement.

3. Federal authority for the Rule, if any:

45 C.F.R. 162-1002(a)(4)

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021);
Sections 25.5-3-404(4), C.R.S. (2021)

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to Medical Assistance Special Financing rule
concerning the Colorado Dental Health Care Program for Low-
Income Seniors, Section 8.960

Rule Number: MSB 21-08-26-A

Division / Contact / Phone: Special Financing / Chandra Vital / 303-866-5506

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Revising rates for the 43 dental procedures in Appendix A will have no negative impacts on eligible seniors and the grantees of the Dental Health Care Program for Low-Income Seniors will receive the accurate payment according to rule.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

There is no change in the cost or economic impact on eligible seniors.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The Dental Health Care Program for Low-Income Seniors has a fixed appropriation and the changing of the program rates for the 43 procedures in Appendix A will not increase the Department's administrative costs for the program.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Revising the rates for the 43 procedures in Appendix A will ensure the Department is following the statutory requirements and the grantees of the program will receive the correct payment amount.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

This rule change is necessary to ensure that the Department is following state statute which requires the program's rates are at least as much as Medicaid's dental rates.

DO NOT PUBLISH THIS PAGE

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

This rule change is necessary to follow statute and no alternatives are available.

DO NOT PUBLISH THIS PAGE

8.960 COLORADO DENTAL HEALTH CARE PROGRAM FOR LOW-INCOME SENIORS

8.960.1 Definitions

Arrange For or Arranging For means demonstrating established relations with Qualified Providers for any of the Covered Dental Care Services not directly provided by the applicant.

Covered Dental Care Services include Diagnostic Imaging, Emergency Services, Endodontic Services, Evaluation, Oral and Maxillofacial Surgery, Palliative Treatment, Periodontal Treatment, Preventive Services, Prophylaxis, Removable Prosthesis, and Restorative Services as listed by alphanumeric procedure code in Appendix A.

C.R.S. means the Colorado Revised Statutes.

Dental Health Professional Shortage Area or Dental HPSA means a geographic area, population group, or facility so designated by the Health Resources and Services Administration of the U.S. Department of Health and Human Services.

Dental Prosthesis means any device or appliance replacing one or more missing teeth and associated structures if required.

Department means the Colorado Department of Health Care Policy and Financing established pursuant to title 25.5, C.R.S. (2020).

Diagnostic Imaging means a visual display of structural or functional patterns for the purpose of diagnostic evaluation.

Economically Disadvantaged means a person whose Income is at or below 250% of the most recently published federal poverty level for a household of that size.

Eligible Senior or Client means an adult who is 60 years of age or older, who is Economically Disadvantaged, who is able to demonstrate lawful presence in the country, who is not eligible for dental services under Medicaid or the Old Age Pension Health and Medical Care Program, and who does not have private dental insurance. An Eligible Senior or client is not ineligible solely because he/she is receiving dental benefits under Medicare or Medicare Advantage Plans. An Eligible Senior shall be considered lawfully present in the country if they produce a document or waiver in accordance with 1 CCR 204-30 Rule 5 (effective August 30, 2016), which is hereby incorporated by reference. This incorporation of 1 CCR 204-30 Rule 5 excludes later amendments to, or editions of, the referenced material. Pursuant to § 24-4-103 (12.5), C.R.S., the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at: Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203. Certified copies of incorporated materials are provided at cost upon request.

Emergency Services means the need for immediate intervention by a Qualified Provider to stabilize an oral cavity condition.

Endodontic Services means services which are concerned with the morphology, physiology and pathology of the human dental pulp and periradicular tissues, including pulpectomy.

Evaluation means an assessment that may include gathering of information through interview, observation, examination, and use of specific tests that allows a dentist to diagnose existing conditions.

Federally Qualified Health Center means a federally funded nonprofit health center or clinic that serves medically underserved areas and populations as defined in 42 U.S.C. section 1395x (aa)(4).

DO NOT PUBLISH THIS PAGE

Income means any cash, payments, wages, in-kind receipt, inheritance, gift, prize, rents, dividends, or interest that are received by an individual or family. Income may be self-declared. Resources are not included in Income.

Max Allowable Fee means the total reimbursement listed by procedure for Covered Dental Care Services under the Colorado Dental Health Care Program for Low-Income Seniors in Appendix A. The Max Allowable Fee is the sum of the Program Payment and the Max Client Co-Pay.

Max Client Co-Pay means the maximum amount that a Qualified Provider may collect from an Eligible Senior listed by procedure in Appendix A for Covered Dental Services under the Colorado Dental Health Care Program for Low-Income Seniors.

Medicaid means the Colorado medical assistance program as defined in article 4 of title 25.5, C.R.S. (2020).

Medicare means the federal health insurance program for people who are 65 or older; certain younger people with disabilities; or people with End-Stage Renal Disease.

Medicare Advantage Plans mean the plans offered by Medicare-approved private companies that must follow rules set by Medicare and may provide benefits for services Medicare does not, such as vision, hearing, and dental care.

Old Age Pension Health and Medical Care Program means the program described at 10 CCR 2505-10, section 8.940 et. seq. and as defined in sections 25.5-2-101 and 26-2-111(2), C.R.S. (2020).

Oral and Maxillofacial Surgery means the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

Palliative Treatment for dental pain means emergency treatment to relieve the client of pain; it is not a mechanism for addressing chronic pain.

Periodontal Treatment means the therapeutic plan intended to stop or slow periodontal disease progression.

Preventive Services means services concerned with promoting good oral health and function by preventing or reducing the onset and/or development of oral diseases or deformities and the occurrence of oro-facial injuries.

Program Payment means the maximum amount by procedure listed in Appendix A for Covered Dental Care Services for which a Qualified Grantee may invoice the Department under the Colorado Dental Health Care Program for Low-Income Seniors. Program Payment must not be less than the reimbursement schedule for fee-for-service dental fees under the medical assistance program established in Articles 4, 5, and 6 of 10 CCR 2505-10.

Prophylaxis means the removal of dental plaque and calculus from teeth, in order to prevent dental caries, gingivitis and periodontitis.

Qualified Grantee means an entity that can demonstrate that it can provide or Arrange For the provision of Covered Dental Care Services and may include but is not limited to:

1. An Area Agency on Aging, as defined in section 26-11-201, C.R.S. (2020);
2. A community-based organization or foundation;

DO NOT PUBLISH THIS PAGE

3. A Federally Qualified Health Center, safety-net clinic, or health district;
4. A local public health agency; or
5. A private dental practice.

Qualified Provider means a licensed dentist or dental hygienist in good standing in Colorado or a person who employs a licensed dentist or dental hygienist in good standing in Colorado and who is willing to accept reimbursement for Covered Dental Services. A Qualified Provider may also be a Qualified Grantee if the person meets the qualifications of a Qualified Grantee.

Removable Prosthesis means complete or partial Dental Prosthesis, which after an initial fitting by a dentist, can be removed and reinserted by the eligible senior.

Restorative Services means services rendered for the purpose of rehabilitation of dentition to functional or aesthetic needs of the client.

Senior Dental Advisory Committee means the advisory committee established pursuant to section 25.5-3-406, C.R.S. (2020).

8.960.2 Legal Basis

The Colorado Dental Health Care Program for Low-Income Seniors is authorized by state law at part 4 of article 3 of title 25.5, C.R.S. (2020).

8.960.3 Request of Grant Proposals and Grant Award Procedures

8.960.3.A Request for Grant Proposals

Grant awards shall be made through an application process. The request for grant proposals form shall be issued by the Department and posted for public access on the Department's website at <https://www.colorado.gov/hcpf/research-data-and-grants> at least 30 days prior to the due date.

8.960.3.B Evaluation of Grant Proposals

Proposals submitted for the Colorado Dental Health Care Program for Low-Income Seniors will be evaluated by a review panel in accordance with the following criteria developed under the advice of the Senior Dental Advisory Committee.

1. The review panel will be comprised of individuals who are deemed qualified by reason of training and/or experience and who have no personal or financial interest in the selection of any particular applicant.
2. The sole objective of the review panel is to recommend to the Department's executive director those proposals which most accurately and effectively meet the goals of the program within the available funding.
3. Preference will be given to grant proposals that clearly demonstrate the applicant's ability to:
 - a. Outreach to and identify Eligible Seniors;
 - b. Collaborate with community-based organizations; and

DO NOT PUBLISH THIS PAGE

- c. Serve a greater number of Eligible Seniors or serve Eligible Seniors who reside in a geographic area designated as a Dental HPSA.
4. The review panel shall consider the distribution of funds across the state in recommending grant proposals for awards. The distribution of funds should be based on the estimated percentage of Eligible Seniors in the state by Area Agency on Aging region as provided by the Department.

8.960.3.C Grant Awards

The Department's executive director, or his or her designee, shall make the final grant awards to selected Qualified Grantees for the Colorado Dental Health Care Program for Low-Income Seniors.

8.960.3.D Qualified Grantee Responsibilities

A Qualified Grantee that is awarded a grant under the Colorado Dental Health Care Program for Low-Income Seniors is required to:

1. Identify and outreach to Eligible Seniors and Qualified Providers;
2. Demonstrate collaboration with community-based organizations;
3. Ensure that Eligible Seniors receive Covered Dental Care Services efficiently without duplication of services;
4. Maintain records of Eligible Seniors serviced, Covered Dental Care Services provided, and moneys spent for a minimum of six (6) years;
5. For Eligible Seniors with dental coverage through a Medicare Advantage Plan, bill the Medicare Advantage Plan for dental procedures covered by the Medicare Advantage Plan prior to seeking payment from the Department. The Colorado Dental Health Care Program is secondary to the Medicare Advantage Plan dental coverage;
6. Distribute grant funds to Qualified Providers in its service area or directly provide Covered Dental Care Services to Eligible Seniors;
7. Expend no more than seven (7) percent of the amount of its grant award for administrative purposes; and
8. Submit an annual report as specified under section 8.960.3.F.

8.960.3.E Invoicing

A Qualified Grantee that is awarded a grant under the Colorado Dental Health Care Program for Low-Income Seniors shall submit invoices on a form and schedule specified by the Department. Covered Dental Care Services shall be provided before a Qualified Grantee may submit an invoice to the Department.

1. Invoices shall include the number of Eligible Seniors served, the alphanumeric code and procedure description as listed in Appendix A, and any other information required by the Department.
2. The Department will pay no more than the established Program Payment per procedure rendered, as listed in Appendix A.

DO NOT PUBLISH THIS PAGE

3. Eligible Seniors shall not be charged more than the Max Client Co-Pay as listed in Appendix A.
4. Qualified Grantees shall not bill the Department for any procedures covered by Medicare Advantage Plans that have been billed and paid by the Medicare Advantage Plans;
5. Qualified Grantees shall indicate on the invoice if the Eligible Senior has dental coverage through a Medicare Advantage Plan and any claim to the Medicare Advantage Plan was adjudicated prior to billing the Department;
6. Qualified Grantees may invoice for no more than seven (7) percent of the Program Payment for administrative costs.

8.960.3.F Annual Report

On or before September 1, 2016, and each September 1 thereafter, each Qualified Grantee receiving funds from the Colorado Dental Health Care Program for Low-Income Seniors shall submit a report to the Department following the state fiscal year contract period.

The annual report shall be completed in a format specified by the Department and shall include:

1. The number of Eligible Seniors served;
2. The types of Covered Dental Care Services provided;
3. An itemization of administrative expenditures;
4. The procedures and amounts billed to Medicare Advantage Plans for Eligible Seniors;
and
5. Any other information deemed relevant by the Department.

DO NOT PUBLISH THIS PAGE

10 CCR 2505-10 § 8.960 APPENDIX A: COLORADO DENTAL HEALTH CARE PROGRAM FOR LOW-INCOME SENIORS COVERED SERVICES AND PROCEDURE CODES

Capitalized terms within this appendix shall have the meaning specified in the Definitions section.

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Periodic oral evaluation - established client	D0120	\$46.00	\$46.00	\$0.00	Evaluation performed on a client of record to determine any changes in the client's dental and medical health status since a previous comprehensive or periodic evaluation. This may include an oral cancer evaluation and periodontal evaluation, diagnosis, treatment planning. Frequency: One time per 6 month period per client.
Limited oral evaluation - problem focused	D0140	\$62.00	\$52.00	\$10.00	Evaluation limited to a specific oral health problem or complaint. This code must be used in association with a specific oral health problem or complaint and is not to be used to address situations that arise during multi-visit treatments covered by a single fee, such as, endodontic or post-operative visits related to treatments including prosthesis. Specific problems may include dental emergencies, trauma, acute infections, etc. Cannot be used for adjustments made to prosthesis provided within previous 6 months. Cannot be used as an encounter fee.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Comprehensive oral evaluation - new or established client	D0150	\$81.00	\$81.00	\$0.00	Evaluation used by general dentist or a specialist when evaluating a client comprehensively. Applicable to new clients; established clients with significant health changes or other unusual circumstances; or established clients who have been absent from active treatment for three or more years. It is a thorough evaluation and recording of the extraoral and intraoral hard and soft tissues, and an evaluation and recording of the client's dental and medical history and general health assessment. A periodontal evaluation, oral cancer evaluation, diagnosis and treatment planning should be included. Frequency: 1 per 3 years per client. Cannot be charged on the same date as D0180.
Comprehensive periodontal evaluation - new or established client	D0180	\$88.00	\$88.00	\$0.00	Evaluation for clients presenting signs & symptoms of periodontal disease & clients with risk factors such as smoking or diabetes. It includes evaluation of periodontal conditions, probing and charting, evaluation and recording of the client's dental and medical history and general health assessment. It may include the evaluation and recording of dental caries, missing or unerupted teeth, restorations, occlusal relationships and oral cancer evaluation. Frequency: 1 per 3 years per client. Cannot be charged on the same date as D0150.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Intraoral - complete series of radiographic images	D0210	\$125.00	\$125.00	\$0.00	Radiographic survey of whole mouth, usually consisting of 14-22 periapical & posterior bitewing images intended to display the crowns & roots of all teeth, periapical areas of alveolar bone. Panoramic radiographic image & bitewing radiographic images taken on the same date of service shall not be billed as a D0210. Payment for additional periapical radiographs within 60 days of a full month series or a panoramic film is not covered unless there is evidence of trauma. Frequency: 1 per 5 years per client. Any combination of x-rays taken on the same date of service that equals or exceeds the max allowable fee for D0210 must be billed and reimbursed as D0210. Should not be charged in addition to panoramic film D0330. Either D0330 or D0210 per 5 year period.
Intraoral - periapical first radiographic image	D0220	\$25.00	\$25.00	\$0.00	D0220 one (1) per day per client. Report additional radiographs as D0230. Any combination of D0220, D0230, D0270, D0272, D0273, D0274, or D0277 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210. D0210 will only be reimbursed every 5 years.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Intraoral - periapical each additional radiographic image	D0230	\$23.00	\$23.00	\$0.00	D0230 must be utilized for additional films taken beyond D0220. Any combination of D0220, D0230, D0270, D0272, D0273, D0274, or D0277 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210. D0210 will only be reimbursed every 5 years.
Bitewing - single radiographic image	D0270	\$26.00	\$26.00	\$0.00	Frequency: 1 in a 12 month period. Report more than 1 radiographic image as: D0272 two (2); D0273 three (3); D0274 four (4). Any combination of D0220, D0230, D0270, D0272, D0273, D0274, or D0277 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210.
Bitewings - two radiographic images	D0272	\$42.00	\$42.00	\$0.00	Frequency: 1 time in a 12 month period. Any combination of D0220, D0230, D0270, D0272, D0273, D0274, or D0277 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210.
Bitewings - three radiographic images	D0273	\$52.00	\$52.00	\$0.00	Frequency: 1 time in a 12 month period. Any combination of D0220, D0230, D0270, D0272, D0273, D0274, or D0277 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Bitewings - four radiographic images	D0274	\$60.00	\$60.00	\$0.00	Frequency: 1 time in a 12 month period. Any combination of D0220, D0230, D0270, D0272, D0273, D0274, or D0277 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210.
Vertical bitewings – seven to eight radiographic images	D0277	\$68.32	\$68.32	\$0.00	Frequency: 1 time in a 12-month period. This does not constitute a full mouth intraoral radiographic series. Any combination of D0220, D0230, D0270, D0272, D0273, D0274, or D0277 taken on the same date of service that exceeds the max allowed fee for D0210 is reimbursed at the same fee as D0210.
Panoramic radiographic image	D0330	\$63.00	\$63.00	\$0.00	Frequency: 1 per 5 years per client. Cannot be charged in addition to full mouth series D0210. Either D0330 or D0210 per 5 years.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Prophylaxis - adult	D1110	\$88.00	\$88.00	\$0.00	<p>Removal of plaque, calculus and stains from the tooth structures with intent to control local irritational factors. Frequency:</p> <ul style="list-style-type: none"> • 1 time per 6 calendar months; 2 week window accepted. • May be billed for routine prophylaxis. • D1110 may be billed with D4341 and D4342 one time during initial periodontal therapy for prophylaxis of areas of the mouth not receiving nonsurgical periodontal therapy. When this option is used, individual should still be placed on D4910 for maintenance of periodontal disease. D1110 can only be charged once, not per quadrant, and represents areas of the mouth not included in the D4341 or D4342 being reimbursed. • May be alternated with D4910 for maintenance of periodontally-involved individuals. • D1110 cannot be billed on the same day as D4346 • Cannot be used as 1 month re-evaluation following nonsurgical periodontal therapy.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Topical application of fluoride varnish	D1206	\$52.00	\$52.00	\$0.00	Topical fluoride application is to be used in conjunction with prophylaxis or preventive appointment. Should be applied to whole mouth. Frequency: up to four (4) times per 12 calendar months. Cannot be used with D1208.
Topical application of fluoride - excluding varnish	D1208	\$52.00	\$52.00	\$0.00	Any fluoride application, including swishing, trays or paint on variety, to be used in conjunction with prophylaxis or preventive appointment. Frequency: one (1) time per 12 calendar months. Cannot be used with D1206. D1206 varnish should be utilized in lieu of D1208 whenever possible.
Interim caries arresting medicament application – per tooth	D1354	\$5.60	\$5.60	\$0.00	Two of D1354 per 12 months per patient per tooth for primary and permanent teeth. Not to exceed 4 times per tooth in a lifetime. Cannot be billed on the same day as D1355 or any D2000 series code (D2140–D2954). Must Report both tooth number and surface(s).
Caries preventive medicament application – per tooth	D1355	\$5.47	\$5.47	\$0.00	For primary prevention or remineralization. Medicaments applied do not include topical fluorides. Medicaments that may be applied during the delivery of D1355 procedure include Silver Diamine Fluoride (SDF), Silver Nitrate (SN), thymol-CHX varnish, and topical povidone iodine (PVP-I). Cannot be billed on the same day as: D1206, D1208, D1354, D0140, D9110, or any restoration codes on the same day or within 12 months of D2140 thru D2954. Maximum of four D1355 per tooth per lifetime. Must report both tooth number and surface(s).

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Amalgam - one surface, primary or permanent	D2140	\$112.67	\$102.67	\$10.00	Includes tooth preparation, all adhesives, liners, polishing, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Amalgam - two surfaces, primary or permanent	D2150	\$141.20	\$131.20	\$10.00	Includes tooth preparation, all adhesives, liners, polishing, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Amalgam - three surfaces, primary or permanent	D2160	\$170.88	\$160.88	\$10.00	Includes tooth preparation, all adhesives, liners, polishing, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Amalgam - four or more surfaces, primary or permanent	D2161	\$204.96	\$194.96	\$10.00	Includes tooth preparation, all adhesives, liners, polishing, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite - one surface, anterior	D2330	\$115.00	\$105.00	\$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite - two surfaces, anterior	D2331	\$146.00	\$136.00	\$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite - three surfaces, anterior	D2332	\$179.00	\$169.00	\$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Resin-based composite - four or more surfaces or involving incisal angle (anterior)	D2335	\$212.00	\$202.00	\$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite - one surface, posterior	D2391	\$134.00	\$124.00	\$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite -two surfaces, posterior	D2392	\$176.00	\$166.00	\$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite - three surfaces, posterior	D2393	\$218.00	\$208.00	\$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Resin-based composite - four or more surfaces, posterior	D2394	\$268.00	\$258.00	\$10.00	Includes tooth preparation, all adhesives, liners, etching, and bases. Adjustments are included. Frequency: 36 months for the same restoration. See Explanation of Restorations.
Crown - porcelain/ceramic	D2740	\$780.00	\$730.00	\$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Crown - porcelain fused to high noble metal	D2750	\$780.00	\$730.00	\$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - porcelain fused to predominantly base metal	D2751	\$780.00	\$730.00	\$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - porcelain fused to noble metal	D2752	\$780.00	\$730.00	\$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - 3/4 cast predominantly base metal	D2781	\$780.00	\$730.00	\$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Crown - 3/4 cast noble metal	D2782	\$780.00	\$730.00	\$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - 3/4 porcelain/ceramic	D2783	\$780.00	\$730.00	\$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - full cast high noble metal	D2790	\$780.00	\$730.00	\$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - full cast predominantly base metal	D2791	\$780.00	\$730.00	\$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Crown - full cast noble metal	D2792	\$780.00	\$730.00	\$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Crown - titanium	D2794	\$780.00	\$730.00	\$50.00	Only one of the following will be reimbursed each 84 months per client per tooth: D2740, D2750, D2751, D2752, D2781, D2782, D2783, D2790, D2791, D2792, or D2794. Second molars are only covered if it is necessary to support a partial denture or to maintain eight posterior teeth in occlusion.
Re-cement or re-bond inlay, onlay, veneer or partial coverage restoration	D2910	\$87.00	\$77.00	\$10.00	Not allowed within 6 months of placement.
Re-cement or re-bond crown	D2920	\$89.00	\$79.00	\$10.00	Not allowed within 6 months of placement.
Core buildup, including any pins when required	D2950	\$225.00	\$200.00	\$25.00	Only one of the following will be reimbursed per 84 months per client per tooth. D2950, D2952, or D2954. Refers to building up of coronal structure when there is insufficient retention for a separate extracoronary restorative procedure. A core buildup is not a filler to eliminate any undercut, box form, or concave irregularity in a preparation. Not payable on the same tooth and same day as D2951.
Pin retention per tooth	D2951	\$50.00	\$40.00	\$10.00	Pins placed to aid in retention of restoration. Can only be used in combination with a multi-surface amalgam.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Cast post and core in addition to crown	D2952	\$332.00	\$307.00	\$25.00	Only one of the following will be reimbursed per 84 months per client per tooth. D2950, D2952, or D2954. Refers to building up of anatomical crown when restorative crown will be placed. Not payable on the same tooth and same day as D2951.
Prefabricated post and core in addition to crown	D2954	\$269.00	\$244.00	\$25.00	Only one of the following will be reimbursed per 84 months per client per tooth. D2950, D2952, or D2954. Core is built around a prefabricated post. This procedure includes the core material and refers to building up of anatomical crown when restorative crown will be placed. Not payable on the same tooth and same day as D2951.
Endodontic therapy, anterior tooth (excluding final restoration)	D3310	\$566.40	\$516.40	\$50.00	Complete root canal therapy; Includes all appointments necessary to complete treatment; also includes intra-operative radiographs. Does not include diagnostic evaluation and necessary radiographs/diagnostic images. Teeth covered: 6-11 and 22-27.
Endodontic therapy, premolar tooth (excluding final restoration)	D3320	\$661.65	\$611.65	\$50.00	Complete root canal therapy; Includes all appointments necessary to complete treatment; also includes intra-operative radiographs. Does not include diagnostic evaluation and necessary radiographs/diagnostic images. Teeth covered: 4, 5, 12, 13, 20, 21, 28, and 29.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Endodontic therapy, molar tooth (excluding final restoration)	D3330	\$786.31	\$736.31	\$50.00	Complete root canal therapy; Includes all appointments necessary to complete treatment; also includes intra-operative radiographs. Does not include diagnostic evaluation and necessary radiographs/diagnostic images. Teeth covered: 2, 3, 14, 15, 18, 19, 30, and 31.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Periodontal scaling & root planing - four or more teeth per quadrant	D4341	\$177.00	\$167.00	\$10.00	<p>Involves instrumentation of the crown and root surfaces of the teeth to remove plaque and calculus from these surfaces. For clients with periodontal disease and is therapeutic, not prophylactic. D4341 and D1110 can be reported on same service date when D1110 is utilized for areas of the mouth that are not affected by periodontal disease. D1110 can only be charged once, not per quadrant; A diagnosis of periodontitis with clinical attachment loss (CAL) included. Diagnosis and classification of the periodontology case type must be in accordance with documentation as currently established by the American Academy of Periodontology. Current periodontal charting must be present in client chart documenting active periodontal disease. Frequency:</p> <ul style="list-style-type: none"> • 1 time per quadrant per 36 month interval. • No more than 2 quadrants may be considered in a single visit in a non-hospital setting. Documentation of other treatment provided at same time will be requested. • Cannot be charged on same date as D4346. • Any follow-up and re-evaluation are included in the initial reimbursement.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Periodontal scaling & root planing - one to three teeth per quadrant	D4342	\$128.00	\$128.00	\$0.00	<p>Involves instrumentation of the crown and root surfaces of the teeth to remove plaque and calculus from these surfaces. For clients with periodontal disease and is therapeutic, not prophylactic. D4342 and D1110 can be reported on same service date when date when D1110 is utilized for areas of the mouth that are not affected by periodontal disease. D1110 can only be charged once, not per quadrant; A diagnosis of periodontitis with clinical attachment loss (CAL) included. Current periodontal charting must be present in client chart documenting active periodontal disease. Frequency:</p> <ul style="list-style-type: none"> • 1 time per quadrant per 36 month interval. • No more than 2 quadrants may be considered in a single visit in a non-hospital setting.. Documentation of other treatment provided at same time will be requested. • Cannot be charged on same date as D4346. • Any follow-up and re-evaluation are included in the initial reimbursement.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Scaling in presence of generalized moderate or severe gingival inflammation – full mouth, after oral evaluation	D4346	\$102.00	\$92.00	\$10.00	<p>The removal of plaque, calculus, and stains from supra- and sub-gingival tooth surfaces when there is generalized moderate or severe gingival inflammation in the absence of periodontitis. It is indicated for patients who have swollen, inflamed gingiva, generalized suprabony pockets, and moderate to severe bleeding on probing. Should not be reported in conjunction with prophylaxis, scaling and root planing, or debridement procedures. Frequency: once in a lifetime.</p> <ul style="list-style-type: none"> Any follow-up and re-evaluation are included in the initial reimbursement. Cannot be charged on the same date as D1110, D4341, D4342, or D4910.
Full mouth debridement to enable a comprehensive evaluation and diagnosis on a subsequent visit	D4355	\$94.02	\$84.02	\$10.00	<p>One of (D4335) per 3 year(s) per patient. Prophylaxis D1110 is not reimbursable when provided on the same day of service as D4355. D4355 is not reimbursable if patient record indicates D1110 or D4910 have been provided in the previous 12 month period. Other D4000 series codes are not reimbursable when provided on the same date of service as D4355.</p>

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Periodontal maintenance procedures	D4910	\$136.00	\$136.00	\$0.00	<p>Procedure following periodontal therapy D4341 or D4342. This procedure includes removal of the bacterial plaque and calculus from supragingival and subgingival regions, site specific scaling and root planing where indicated and polishing the teeth. Frequency:</p> <ul style="list-style-type: none"> Up to four times per fiscal year per client. Cannot be charged on the same date as D4346. Cannot be charged within the first three months following active periodontal treatment.
Complete denture - maxillary	D5110	\$874.52	\$794.52	\$80.00	<p>Reimbursement made upon delivery of a complete maxillary denture to the client. D5110 or D5120 cannot be used to report an immediate denture, D5130 or D5140. Routine follow-up adjustments/relines within 6 months are to be anticipated and are included in the initial reimbursement. A complete denture is made after teeth have been removed and the gum and bone tissues have healed - or to replace an existing denture. Complete dentures are provided once adequate healing has taken place following extractions. This can vary greatly depending upon client, oral health, overall health, and other confounding factors. Frequency: Program will only pay for one per every five years - documentation that existing prosthesis cannot be made serviceable must be maintained.</p>

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Complete denture - mandibular	D5120	\$875.94	\$795.94	\$80.00	Reimbursement made upon delivery of a complete mandibular denture to the client. D5110 or D5120 cannot be used to report an immediate denture, D5130, D5140. Routine follow-up adjustments/relines within 6 months are to be anticipated and are included in the initial reimbursement. A complete denture is made after teeth have been removed and the gum and bone tissues have healed - or to replace an existing denture. Complete dentures are provided once adequate healing has taken place following extractions. This can vary greatly depending upon client, oral health, overall health, and other confounding factors. Frequency: Program will only pay for one per every five years - documentation that existing prosthesis cannot be made serviceable must be maintained.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Immediate denture – maxillary	D5130	\$874.52	\$794.52	\$80.00	Reimbursement made upon delivery of an immediate maxillary denture to the client. Routine follow-up adjustments/soft tissue condition relines within 6 months are to be anticipated and are included in the initial reimbursement. An immediate denture is made prior to teeth being extracted and is inserted same day of extraction of remaining natural teeth. Frequency: D5130 can be reimbursed only once per lifetime per client. Complete denture, D5110, may be considered 5 years after immediate denture was reimbursed. Documentation that existing prosthesis cannot be made serviceable must be maintained.
Immediate denture – mandibular	D5140	\$875.94	\$795.94	\$80.00	Reimbursement made upon delivery of an immediate mandibular denture to the client. Routine follow-up adjustments/soft tissue condition relines within 6 months are to be anticipated and are included in the initial reimbursement. An immediate denture is made prior to teeth being extracted and is inserted same day of extraction of remaining natural teeth. Frequency: D5140 can be reimbursed only once per lifetime per client. Complete dentures, D5120, may be considered 5 years after immediate denture was reimbursed – documentation that existing prosthesis cannot be made serviceable must be maintained.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Maxillary partial denture - resin base (including retentive/clasping materials, rests, and teeth)	D5211	\$700.00	\$640.00	\$60.00	Reimbursement made upon delivery of a complete partial maxillary denture to the client. D5211 and D5212 are considered definitive treatments. Routine follow-up adjustments or relines within 6 months are to be anticipated and are included in the initial reimbursement. A partial resin base denture can be made right <u>after</u> having teeth extracted (healing from only a few teeth is not as extensive as healing from multiple). A partial resin base denture can also be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and "try-in" appointments may be necessary and are included in the cost. Frequency: Program will only pay for one resin maxillary per every 3 years - documentation that existing prosthesis cannot be made serviceable must be maintained.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Mandibular partial denture - resin base (including retentive/clasping materials, rests, and teeth)	D5212	\$778.00	\$718.00	\$60.00	<p>Reimbursement made upon delivery of a complete partial mandibular denture to the client. D5211 and D5212 are considered definitive treatment. Routine follow-up adjustments/relines within 6 months are to be anticipated and are included in the initial reimbursement. A partial resin base denture can be made right <u>after</u> having teeth extracted (healing from only a few teeth is not as extensive as healing from multiple). A partial resin base denture can also be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and "try-in" appointments may be necessary and are included in the cost. Frequency: Program will only pay for one resin mandibular per every 3 years - documentation that existing prosthesis cannot be made serviceable must be maintained.</p>

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Maxillary partial denture – cast metal framework with resin denture bases (including any conventional clasps, rests and teeth)	D5213	\$844.31	\$784.31	\$60.00	Reimbursement made upon delivery of a complete partial maxillary denture to the client. D5213 and D5214 are considered definitive treatment. Routine follow-up adjustments or relines within 6 months are to be anticipated and are included in the initial reimbursement. A partial cast metal base can also be made right after having teeth extracted (healing from only a few teeth is not as extensive as healing from multiple). A partial cast metal base denture can be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and “try-in” appointments may be necessary and are included in the cost. Frequency: Program will only pay for one maxillary per every five years - documentation that existing prosthesis cannot be made serviceable must be maintained.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Mandibular partial denture – cast metal framework with resin denture bases (including any conventional clasps, rests and teeth)	D5214	\$844.31	\$784.31	\$60.00	Reimbursement made upon delivery of a complete partial mandibular denture to the client. D5213 and D5214 are considered definitive treatment. Routine follow-up adjustments or relines within 6 months are to be anticipated and are included in the initial reimbursement. A partial cast metal base can be made right after having teeth extracted (healing from only a few teeth is not as extensive as healing from multiple). A partial cast metal base denture can also be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and “try-in” appointments may be necessary and are included in the cost. Frequency: Program will only pay for one mandibular per every five years - documentation that existing prosthesis cannot be made serviceable must be maintained.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Immediate maxillary partial denture – resin base (including any conventional clasps, rests and teeth)	D5221	\$607.61	\$547.61	\$60.00	Reimbursement made upon delivery of an immediate partial maxillary denture to the client. D5221 can be reimbursed only once per lifetime per client and must be on the same date of service as the extraction. Routine follow-up adjustments or relines within 6 months is to be anticipated and are included in the initial reimbursement. An immediate partial resin base denture can be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and “try-in” appointments may be necessary and are included in the cost. Frequency: A maxillary partial denture may be considered 3 years after immediate partial denture was reimbursed. Documentation that existing prosthesis cannot be made serviceable must be maintained.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Immediate mandibular partial denture – resin base (including any conventional clasps, rests and teeth)	D5222	\$607.61	\$547.61	\$60.00	Reimbursement made upon delivery of an immediate partial mandibular denture to the client. D5222 can be reimbursed only once per lifetime per client and must be on the same date of service as the extraction. Routine follow-up adjustments or relines within 6 months is to be anticipated and are included in the initial reimbursement. An immediate partial resin base denture can be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and “try-in” appointments may be necessary and are included in the cost. Frequency: A mandibular partial denture may be considered 3 years after immediate partial denture was reimbursed. Documentation that existing prosthesis cannot be made serviceable must be maintained.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Immediate maxillary partial denture – cast metal framework with resin denture bases (including any conventional clasps, rests and teeth)	D5223	\$844.31	\$784.31	\$60.00	Reimbursement made upon delivery of an immediate partial maxillary denture to the client. D5223 can be reimbursed only once per lifetime per client and must be on the same date of service as the extraction. Routine follow-up adjustments or relines within 6 months is to be anticipated and are included in the initial reimbursement. An immediate partial cast metal framework with resin base denture can be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and “try-in” appointments may be necessary and are included in the cost. Frequency: A maxillary partial denture may be considered 5 years after immediate partial denture was reimbursed. Documentation that existing prosthesis cannot be made serviceable must be maintained.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Immediate mandibular partial denture – cast metal framework with resin denture bases (including any conventional clasps, rests and teeth)	D5224	\$844.31	\$784.31	\$60.00	Reimbursement made upon delivery of an immediate partial mandibular denture to the client. D5224 can be reimbursed only once per lifetime per client and must be on the same date of service as the extraction. Routine follow-up adjustments or relines within 6 months are to be anticipated and are included in the initial reimbursement. An immediate partial cast metal framework with resin base denture can be made before having teeth extracted if the teeth being removed are in the front or necessary healing will be minimal. Several impressions and “try-in” appointments may be necessary and are included in the cost. Frequency: A mandibular partial denture may be considered 5 years after immediate partial denture was reimbursed. Documentation that existing prosthesis cannot be made serviceable must be maintained.
Repair broken complete denture base, mandibular	D5511	\$123.70	\$113.70	\$10.00	Repair broken complete denture base, mandibular
Repair broken complete denture base, maxillary	D5512	\$123.70	\$113.70	\$10.00	Repair broken complete denture base, maxillary
Replace missing or broken teeth - complete denture (each tooth)	D5520	\$92.91	\$82.91	\$10.00	Replacement/repair of missing or broken teeth.
Repair resin partial denture base, mandibular	D5611	\$95.00	\$85.00	\$10.00	Repair resin partial denture base, mandibular
Repair resin partial denture base, maxillary	D5612	\$95.00	\$85.00	\$10.00	Repair resin partial denture base, maxillary
Repair cast partial framework, mandibular	D5621	\$121.29	\$111.29	\$10.00	Repair cast partial framework, mandibular
Repair cast partial framework, maxillary	D5622	\$121.29	\$111.29	\$10.00	Repair cast partial framework, maxillary
Repair or replace broken retentive/clasping materials – per tooth	D5630	\$131.00	\$121.00	\$10.00	Repair of broken clasp on partial denture base – per tooth.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Replace broken teeth-per tooth	D5640	\$94.02	\$84.02	\$10.00	Repair/replacement of missing tooth.
Add tooth to existing partial denture	D5650	\$109.00	\$99.00	\$10.00	Adding tooth to partial denture base. Documentation may be requested when charged on partial delivered in last 12 months.
Add clasp to existing partial denture	D5660	\$136.05	\$126.05	\$10.00	Adding clasp to partial denture base – per tooth. Documentation may be requested when charged on partial delivered in last 12 months.
Rebase complete maxillary denture	D5710	\$322.00	\$297.00	\$25.00	Rebasing the denture base material due to alveolar ridge resorption. Frequency: one (1) time per 12 months. Completed at laboratory. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a reline in a 12 month period.
Rebase complete mandibular denture	D5711	\$322.00	\$297.00	\$25.00	Rebasing the denture base material due to alveolar ridge resorption. Frequency: one (1) time per 12 months. Completed at laboratory. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a reline in a 12 month period.
Rebase maxillary partial denture	D5720	\$304.00	\$279.00	\$25.00	Rebasing the partial denture base material due to alveolar ridge resorption. Frequency: one (1) time per 12 months. Completed at laboratory. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a reline in a 12 month period.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Rebase mandibular partial denture	D5721	\$304.00	\$279.00	\$25.00	Rebasing the partial denture base material due to alveolar ridge resorption. Frequency: one (1) time per 12 months. Completed at laboratory. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a reline in a 12 month period.
Reline complete maxillary denture (chairside)	D5730	\$182.00	\$172.00	\$10.00	Chair side reline that resurfaces without processing denture base. Frequency: One (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline complete mandibular denture (chairside)	D5731	\$182.00	\$172.00	\$10.00	Chair side reline that resurfaces without processing denture base. Frequency: One (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline maxillary partial denture (chairside)	D5740	\$175.82	\$165.82	\$10.00	Chair side reline that resurfaces without processing partial denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline mandibular partial denture (chairside)	D5741	\$177.49	\$167.49	\$10.00	Chair side reline that resurfaces without processing partial denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Reline complete maxillary denture (laboratory)	D5750	\$243.00	\$218.00	\$25.00	Laboratory reline that resurfaces with processing denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline complete mandibular denture (laboratory)	D5751	\$243.00	\$218.00	\$25.00	Laboratory reline that resurfaces with processing denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline maxillary partial denture (laboratory)	D5760	\$239.00	\$214.00	\$25.00	Laboratory reline that resurfaces with processing partial denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Reline mandibular partial denture (laboratory)	D5761	\$239.00	\$214.00	\$25.00	Laboratory reline that resurfaces with processing partial denture base. Frequency: one (1) time per 12 months. Cannot be charged on denture provided in the last 6 months. Cannot be charged in addition to a rebase in a 12 month period.
Extraction, erupted tooth or exposed root (elevation and/or forceps removal)	D7140	\$111.78	\$101.78	\$10.00	Routine removal of tooth structure, including minor smoothing of socket bone, and closure as necessary. Treatment notes must include documentation that an extraction was done per tooth.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Surgical removal of erupted tooth requiring removal of bone and/or sectioning of tooth, and including elevation of mucoperiosteal flap if indicated	D7210	\$172.88	\$162.88	\$10.00	Includes removal of bone, and/or sectioning of erupted tooth, smoothing of socket bone and closure as necessary. Treatment notes must include documentation that a surgical extraction was done per tooth.
Removal of impacted tooth-soft tissue	D7220	\$207.25	\$187.25	\$20.00	Occlusal surface of tooth covered by soft tissue; requires mucoperiosteal flap elevation. Teeth 1-32 One of D7220 per 1 lifetime per patient per tooth
Removal of impacted tooth-partially bony	D7230	\$255.53	\$235.53	\$20.00	Part of crown covered by bone; requires mucoperiosteal flap elevation and bone removal. Teeth 1-32 One of D7230 per 1 lifetime per patient per tooth
Removal of impacted tooth-completely bony	D7240	\$296.38	\$276.38	\$20.00	Most or all of crown covered by bone; requires mucoperiosteal flap elevation and bone removal. Teeth 1-32 One of D7240 per 1 lifetime per patient per tooth.
Removal of impacted tooth-completely bony, with unusual surgical complications	D7241	\$389.20	\$369.20	\$20.00	Most or all of crown covered by bone; unusually difficult or complicated due to factors such as nerve dissection required, separate closure of maxillary sinus required or aberrant tooth position. Teeth 1-32 One of D7241 per lifetime per patient per tooth.
Surgical removal of residual tooth roots (cutting procedure)	D7250	\$182.30	\$172.30	\$10.00	Includes removal of bone, and/or sectioning of residual tooth roots, smoothing of socket bone and closure as necessary. Treatment notes must include documentation that a surgical extraction was done per tooth. Can only be charged once per tooth. Cannot be charged for removal of broken off roots for recently extracted tooth.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Incisional biopsy of oral tissue-soft	D7286	\$381.00	\$381.00	\$0.00	Removing tissue for histologic evaluation. Treatment notes must include documentation and proof that biopsy was sent for evaluation.
Alveoloplasty in conjunction with extractions - four or more teeth or tooth spaces, per quadrant	D7310	\$150.00	\$140.00	\$10.00	Substantially reshaping the bone after an extraction procedure, much more than minor smoothing of the bone. Reported per quadrant.
Alveoloplasty in conjunction with extractions - one to three teeth or tooth spaces, per quadrant	D7311	\$139.42	\$129.42	\$10.00	Substantially reshaping the bone after an extraction procedure, much more than minor smoothing of the bone. Reported per quadrant.
Alveoloplasty not in conjunction with extractions - four or more teeth or tooth spaces, per quadrant	D7320	\$200.47	\$190.47	\$10.00	Substantially reshaping the bone after an extraction procedure, correcting anatomical irregularities. Reported per quadrant.
Alveoloplasty not in conjunction with extractions - one to three teeth or tooth spaces, per quadrant	D7321	\$200.47	\$190.47	\$10.00	Substantially reshaping the bone after an extraction procedure, correcting anatomical irregularities. Reported per quadrant.
Removal of lateral exostosis (maxilla or mandible)	D7471	\$290.11	\$280.11	\$10.00	Removal of a benign bony outgrowth (bone spur) for proper prosthesis fabrication. Reported per arch.
Removal of torus palatinus	D7472	\$341.08	\$331.08	\$10.00	To remove a malformation of bone for proper prosthesis fabrication.
Removal of torus mandibularis	D7473	\$332.69	\$322.69	\$10.00	To remove a malformation of bone for proper prosthesis fabrication.
Incision & drainage of abscess - intraoral soft tissue	D7510	\$193.00	\$183.00	\$10.00	Incision through mucosa, including periodontal origins.

DO NOT PUBLISH THIS PAGE

Procedure Description	Alpha-numeric Code	Max Allowable Fee	Program Payment	Max Client Co-Pay	PROGRAM GUIDELINES
Palliative (emergency) treatment of dental pain - minor procedure	D9110	\$78.23	\$53.23	\$25.00	Emergency treatment to alleviate pain/discomfort. This code cannot be used for filing claims or writing or calling in a prescription to the pharmacy or to address situations that arise during multi-visit treatments covered by a single fee such as surgical or endodontic treatment. Report per visit, no procedure. Frequency: Limit 1 time per year. Maintain documentation that specifies problem and treatment.
Evaluation for moderate sedation, deep sedation or general anesthesia	D9219	\$40.90	\$40.90	\$0.00	One of D9219 or D9310 per 12 month(s) per provider or location
Deep sedation/general anesthesia-each 15 minute increment	D9223	\$103.40	\$93.40	\$10.00	Ten of D9223 per 1 day per patient. Not allowed with D9243
Intravenous moderate (conscious) sedation/analgesia-each 15 minute increment	D9243	\$103.40	\$93.40	\$10.00	Fourteen of D9243 per 1 day per patient. Not allowed with D9223

EXPLANATION OF RESTORATIONS		
Location	Number of Surfaces	Characteristics
Anterior	1	Placed on one of the following five surface classifications – Mesial, Distal, Incisal, Lingual, or Labial.
	2	Placed, without interruption, on two of the five surface classifications – e.g., Mesial–Lingual.
	3	Placed, without interruption, on three of the five surface classifications – e.g., Lingual–Mesial–Labial.
	4 or more	Placed, without interruption, on four or more of the five surface classifications – e.g., Mesial-Incisor-Lingual-Labial.
Posterior	1	Placed on one of the following five surface classifications – Mesial, Distal, Occlusal, Lingual, or Buccal.
	2	Placed, without interruption, on two of the five surface classifications – e.g., Mesial-Occlusal.
	3	Placed, without interruption, on three of the five surface classifications – e.g., Lingual-Occlusal-Distal.
	4 or more	Placed, without interruption, on four or more of the five surface classifications – e.g., Mesial-Occlusal-Lingual-Distal.

NOTE: Tooth surfaces are reported using the letters in the following table.

DO NOT PUBLISH THIS PAGE

Surface	Code
Buccal	B
Distal	D
Facial (or Labial)	F
Incisal	I
Lingual	L
Mesial	M
Occlusal	O

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Eligibility Rules Concerning General and Citizenship Eligibility Requirements, Section 8.100.3.G

Rule Number: MSB 21-08-27-A

Division / Contact / Phone: Eligibility Policy Section / Jennifer VanCleave / 303-866-6204

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 21-08-27-A, Revision to the Medical Assistance Eligibility Rules Concerning General and Citizenship Eligibility Requirements, Section 8.100.3.G
3. This action is an adoption of: <Select One>
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) OP Pages, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? <Select One>
If yes, state effective date:
Is rule to be made permanent? (If yes, please attach notice of Yes hearing).

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.100.3.G.1.g.iv with the proposed language beginning at 8.100.3.G.1.g.iv through the end of 8.100.3.G.1.g.iv. This rule is effective December 30, 2021.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Eligibility Rules Concerning
General and Citizenship Eligibility Requirements, Section 8.100.3.G
Rule Number: MSB 21-08-27-A
Division / Contact / Phone: Eligibility Policy Section / Jennifer VanCleave / 303-866-6204

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The proposed rule change will amend 10 CCR 2505-10 §8.100.3.G to update General Medical Assistance Eligibility and Citizenship Requirements to include Compact of Free Associate (COFA) migrants as eligible non-citizens not subject to a 5-year waiting period. Effective December 27, 2020, section 208 of the Consolidated Appropriations Act of 2021 requires states and the District of Columbia to provide Medicaid coverage for COFA individuals. COFA is an agreement between the United States and the three Pacific Island sovereign states of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau; also known as Freely Associated States. States must cover COFA migrants in Medicaid as qualified non-citizens without a 5-year waiting period they are otherwise eligible under the Medicaid state plan or section 1115 demonstration.

Eligibility rules at §8.100.3.G.1.g.vi.12 already allow for Medicaid eligibility without a 5-year waiting period for COFA individuals (Micronesia, Marshall Islands, Palau) that are pregnant women, and for children under the age of 19 years. The proposed rule will allow all COFA individuals to be considered qualified non-citizens without a 5-year waiting period, regardless of age or pregnancy. The Centers for Medicare and Medicaid Services (CMS) have provided guidance that the expanded eligibility to this population cannot begin prior to the enactment date of the Consolidated Appropriations Act of 2021. Eligibility for these individuals can begin as early as December 27, 2020. The proposed change will only update rule to consider all COFA individuals as eligible non-citizens. These individuals will still need to meet all other categorical requirement to be eligible for and approved for Medicaid (income, assets, disability, level of care, etc.) based on category.

An emergency rule-making is imperatively necessary

- ☒ to comply with state or federal law or federal regulation and/or
☐ for the preservation of public health, safety and welfare.

Explain:

DO NOT PUBLISH THIS PAGE

The Consolidated Appropriations Act of 2021 has been in effect since December 27, 2020. CMS recently provided guidance for rule and system updates that are required as soon as possible, as the Department is currently out of compliance with federal law. The Colorado Benefit Management System (CBMS) will be updated at next available system build on August 7, 2021, so rule must be updated to ensure systematic and regulatory alignment.

2. Federal authority for the Rule, if any:

Consolidated Appropriations Act 2021, Section 208; 42 C.F.R. §435.406

3. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021);
Section 25.5-4-205, C.R.S. (2021)
Section 24.4-4-103(6)(a), C.R.S. (2021)

Title of Rule: Revision to the Medical Assistance Eligibility Rules Concerning General and Citizenship Eligibility Requirements, Section 8.100.3.G

Rule Number: MSB 21-08-27-A

Division / Contact / Phone: Eligibility Policy Section / Jennifer VanCleave / 303-866-6204

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

With the proposed rule change, all applicants and recipients of Medical Assistance who are a part of COFA, including the citizens of Micronesia, the Marshall Islands, and Palau will now be considered eligible non-citizens without a 5-year waiting period for the purposes of determining their eligibility. They will also be eligible for full benefits, rather than only those services necessary to treat an emergency medical condition. The Department will benefit from the proposed change as the rule will align with federal requirements. The Department will also bear the cost of the proposed rule change, as there will likely be a small increase in the number of individuals who will be eligible for Medical Assistance.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The proposed change will update rule to comply with the requirements put forth in Section 208 of the Consolidated Appropriations Act of 2021. The Department will benefit from compliance with federal regulations. This will ensure that the Medical Assistance eligibility will be accurately determined for COFA individuals. The proposed rule change will also expand eligibility for full Medical Assistance benefits to COFA individuals who were previously only eligible for coverage of services necessary to treat an emergency medical condition.

The Department, stakeholders, applicants, members, and the general public will benefit from a clear description of the expanded population eligible for benefits, as well as the date on which the changes were authorized.

CBMS will also be updated to align COFA eligibility determinations with this rule change, as well as to accurately verify immigration status via the

Verify Lawful Presence (VLP) interface with the Systematic Alien Verification of Entitlements (SAVE) Program

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The Department anticipates that this rule change will result in an increase of the number of individuals eligible for Medical Assistance. The Department anticipates that the population will be small. Based on current data, there are 555 individuals who have applied for Medicaid and are citizens of Micronesia, the Marshall Islands, or Palau, and are not currently eligible for Medicaid. This is likely an upper bound on the impacted population, as not all of these individuals would otherwise meet Medical Assistance eligibility criteria. If all 555 individuals enrolled in Medicaid, it is projected to cost roughly \$2.4 million total funds, including \$250k General Fund, \$187K cash funds, and \$2.0 million federal funds.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The cost of the proposed rule is the costs to cover more members on Medicaid. The benefit of the proposed rule change is to come into compliance with federal law. The cost of inaction is being out of compliance with federal law and risking federal financial participation for Medicaid. The benefit of inaction is to not incur additional costs related to covering more members.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

There are no less costly or less intrusive methods for complying with federal law.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

The Department considered no alternative methods for achieving the purpose of the proposed rule change, as it is required to come into compliance with federal law.

8.100 MEDICAL ASSISTANCE ELIGIBILITY

8.100.3.G. General and Citizenship Eligibility Requirements

1. To be eligible to receive Medical Assistance, an eligible person shall:
 - a. Be a resident of Colorado;
 - b. Meet the following requirements while being an inmate, in-patient or resident of a public institution:
 - i). The following individuals, if eligible, may be enrolled for Medical Assistance
 1. Patients in a public medical institution
 2. Residents of a Long-Term Care Institution
 3. Prior inmates who have been paroled
 4. Resident of a publicly operated community residence which serves no more than 16 residents
 5. Individuals participating in community corrections programs or residents in community corrections facilities ("halfway houses") who have freedom of movement and association which includes individuals who:
 - a) are not precluded from working outside the facility in employment available to individuals who are not under justice system supervision;
 - b) can use community resources (e.g., libraries, grocery stores, recreation, and education) at will;
 - c) can seek health care treatment in the broader community to the same or similar extent as other Medicaid enrollees in the state; and/or
 - d) are residing at their home, such as house arrest, or another location
 - ii). Inmates who are incarcerated in a correctional institution such as a city, county, state or federal prison may be enrolled, if eligible, with benefits limited to an in-patient stay of 24 hours or longer in a medical institution.
 - c. Not be a patient in an institution for tuberculosis or mental disease, unless the person is under 21 years of age or has attained 65 years of age and is eligible for the Medical Assistance Program and is receiving active treatment as an inpatient in a psychiatric facility eligible for Medical Assistance reimbursement. See section 8.100.4.H for special provisions extending Medical Assistance coverage for certain patients who attain age 21 while receiving such inpatient psychiatric services;

- d. Meet all financial eligibility requirements of the Medical Assistance Program for which application is being made;
- e. Meet the definition of disability or blindness, when applicable. Those definitions appear in this volume at 8.100.1 under Definitions;
- f. Meet all other requirements of the Medical Assistance Program for which application is being made; and
- g. Fall into one of the following categories:
 - i) Be a citizen or national of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa or Swain's Island; or
 - ii) Be a lawfully admitted non-citizen who entered the United States prior to August 22, 1996, or
 - iii) Be a non-citizen who entered the United States on or after August 22, 1996 and is applying for Medical Assistance benefits to begin no earlier than five years after the non-citizen's date of entry into the United States who falls into one of the following categories:
 - 1) lawfully admitted for permanent residence under the Immigration and Nationality Act (hereafter referred to as the "INA");
 - 2) paroled into the United States for at least one year under 8 U.S.C. § 1182(d)(5); or
 - 3) granted conditional entry under section 203(a)(7) of the INA, as in effect prior to April 1, 1980; or
 - 4) determined by the eligibility site, in accordance with guidelines issued by the U.S. Attorney General, to be a spouse, child, parent of a child, or child of a parent who, in circumstances specifically described in 8 U.S.C. §1641(c), has been battered or subjected to extreme cruelty which necessitates the provision of Medical Assistance (Medicaid); or
 - iv) Be a non-citizen who arrived in the United States on any date, who falls into one of the following categories:
 - 1) lawfully residing in Colorado and is an honorably discharged military veteran (also includes spouse, unremarried surviving spouse and unmarried, dependent children), or
 - 2) lawfully residing in Colorado and is on active duty (excluding training) in the U.S. Armed Forces (also includes spouse, unremarried surviving spouse and unmarried, dependent children), or
 - 3) granted asylum under section 208 of the INA, or
 - 4) refugee under section 207 of the INA, or

- 5) deportation withheld under section 243(h) (as in effect prior to September 30, 1996) or section 241(b)(3) (as amended by P.L. 104-208) of the INA, or
 - 6) Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, or
 - 7) an individual who (1) was born in Canada and possesses at least 50 percent American Indian blood, or is a member of an Indian tribe as defined in 25 U.S.C. sec. 5304(e)(2016), or
 - 8) admitted to the U.S. as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (as amended by P.L. 100-461), or
 - 9) lawfully admitted permanent resident who is a Hmong or Highland Lao veteran of the Vietnam conflict, or
 - 10) a victim of a severe form of trafficking in persons, as defined in section 103 of the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, as amended (22 U.S.C. § 7105(b) (2016)), or
 - 11) An alien who arrived in the United States on or after December 26, 2007 who is an Iraqi special immigrant under section 101(a)(27) of the INA, or
 - 12) An alien who arrived in the United States on or after December 26, 2007 who is an Afghan Special Immigrant under section 101(a)(27) of the INA, or
 - 13) Compact of Free Association (COFA) migrants, including citizens of Micronesia, the Marshall Islands, and Palau, pursuant to section 208 of the Consolidated Appropriations Act of 2021 (in effect December 27, 2020).
- v) The statutes listed at sections 8.100.3.G.1.g.iii.1-5 and at 8.100.3.G.1.g.iv.3-11 are incorporated herein by reference. No amendments or later editions are incorporated. These regulations are available for public inspection at the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Pursuant to C.R.S. 24-4-103(12.5)(b)(2016), the agency shall provide certified copies of the material incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule.
- vi) Be a lawfully admitted non-citizen who is a pregnant women or a child under the age of 19 years in the United States who falls into one of the categories listed in 8.100.3.G.1.g.iii or into one of the following categories listed below. These individuals are exempt from the 5-year waiting period:
- 1) granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a, or

- 2) granted Temporary Protected Status (TPS) in accordance with 8 U.S.C 1254a and pending applicants for TPS granted employment authorization,
 - 3) granted employment authorization under 8 CFR 274a.12(c), or
 - 4) Family Unity beneficiary in accordance with section 301 of Pub. L. 101-649, as amended.
 - 5) Deferred Enforced Departure (DED), pursuant to a decision made by the President,
 - 6) granted Deferred Action status (excluding Deferred Action for Childhood Arrivals (DACA)) as described in the Secretary of Homeland Security's June 15, 2012 memorandum,
 - 7) granted an administrative stay of removal under 8 CFR 241.6(2016), or
 - 8) Beneficiary of approved visa petition who has a pending application for adjustment of status.
 - 9) Pending an application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C. 1231, or under the Convention Against Torture who-
 - a) as been granted employment authorization; or
 - b) Is under the age of 14 and has had an application pending for at least 180 days.
 - 10) granted withholding of removal under the Convention Against Torture,
 - 11) A child who has a pending application for Special Immigrant Juvenile status under 8 U.S.C. 1101(a)(27)(J), or
 - 12) Citizens of Micronesia, the Marshall Islands, and Palau, or
 - 13) is lawfully present American Samoa under the immigration of laws of American Samoa.
 - 14) A non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or under 8 U.S.C. 1101(a)(17), or
 - 15) A non-citizen who has been paroled into the United States for less than one year under 8 U.S.C. § 1182(d)(5), except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings.
- vii) Exception: The exception to these requirements is that persons who apply for and meet the criteria for one of the categorical Medical Assistance programs, but who are not citizens, and are not eligible non-citizens, according to the criteria set forth in 8.100.3.G.1.g, shall receive Medical Assistance benefits for emergency medical care only. The rules on confidentiality prevent the Department or eligibility site from reporting to the United States Citizenship and Immigration Services persons who have applied for or are receiving assistance.

These persons need not select a primary care physician as they are eligible only for emergency medical services.

For non-qualified aliens receiving Medical Assistance emergency only benefits, the following medical conditions will be covered:

An emergency medical condition (including labor and delivery) which manifests itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- 1) placing the patient's health in serious jeopardy;
- 2) serious impairment of bodily function; or
- 3) serious dysfunction of any bodily organ or part.

A physician shall make a written statement certifying the presence of an emergency medical condition when services are provided and shall indicate that services were for a medical emergency on the claim form. Coverage is limited to care and services that are necessary to treat immediate emergency medical conditions. Coverage does not include prenatal care or follow-up care.

2. For determinations of eligibility for Medical Assistance, legal immigration status must be verified. This requirement applies to a non-citizen individual who meets the criteria of any category defined at 8.100.3.G(1)(g)(ii) (iii) (iv) or (vi) and has declared that he or she has a legal immigration status.
 - a. The Verify Lawful Presence (VLP) interface will be used to verify immigration status. The VLP interface connects to the Systematic Alien Verification for Entitlements (SAVE) Program to verify legal immigration status.
 - i) If an automated response from VLP confirms that the information submitted is consistent with VLP data for immigration status verification requirements, no further action is required for the individual and no additional documentation of immigration status is required.
 - ii) If the VLP cannot automatically confirm the information submitted, the individual will be contacted with a request for additional documents and/or information needed to verify their legal immigration status through the VLP interface. If a response from the VLP interface confirms that the additional documents and/or information received from the individual verifies their legal immigration status, no further action is required for the individual and no additional documentation of immigration status is required.
3. Reasonable Opportunity Period
 - a. If the verification through the electronic interface is unsuccessful then the applicant will be provided a reasonable opportunity period, of 90 days, to submit documents indicating a legal immigration status, as listed in 8.100.3.G.1.g. The reasonable opportunity period will begin as of the date of the Notice of Action. The required documentation must be received within the reasonable opportunity period.

- b If the applicant does not provide the necessary documents within the reasonable opportunity period, then the applicant's Medical Assistance application shall be terminated.
- c. The reasonable opportunity period applies to MAGI, Adult and Buy-In Programs.
 - i) For the purpose of this section only, MAGI Programs for persons covered pursuant to 8.100.4.G or 8.100.4.I. include the following:

Commonly Used Program Name	Rule Citation
Children's Medical Assistance	8.100.4.G.2
Parent and Caretaker Relative Medical Assistance	8.100.4.G.3
Adult Medical Assistance	8.100.4.G.4
Pregnant Women Medical Assistance	8.100.4.G.5
Legal Immigrant Prenatal Medical Assistance	8.100.4.G.6
Transitional Medical Assistance	8.100.4.I.1-5

- ii) For the purpose of this section only, Adult and Buy-In Programs for persons covered pursuant to 8.100.3.F, 8.100.6.P, 8.100.6.Q, or 8.715. include the following:

Commonly Used Program Name	Rule Citation
Old Age Pension A (OAP-A)	8.100.3.F.1.c
Old Age Pension B (OAP-B)	8.100.3.F.1.c
Qualified Disabled Widow/Widower	8.100.3.F.1.e
Pickle	8.100.3.F.1.e
Long-Term Care	8.100.3.F.1.f-h
Medicaid Buy-In Program for Working Adults with Disabilities	8.100.6.P
Medicaid Buy-In Program for Children with Disabilities	8.100.6.Q
Breast and Cervical Cancer Program (BCCP)	8.715

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning
Immunization Services, Section 8.815.
Rule Number: MSB 21-08-28-A
Division / Contact / Phone: Health Program Office / Christina Winship / 303-
866-5578

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 21-08-28-A, Revision to the Medical Assistance Act Rule concerning Immunization Services, Section 8.815.
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) 8.815, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)?
If yes, state effective date:
Is rule to be made permanent? (If yes, please attach notice of Yes hearing).

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.815 with the proposed text beginning at 8.815.1 through the end of 8.815.1. Replace the current text at 8.815.3 with the proposed text beginning at 8.815.3.A through the end of 8.815.3.A. Replace the current text at 8.815.4 beginning at 8.815.4.A through the end of 8.815.4.C. Replace the current text at 8.815.6 with the proposed text beginning at 8.815.6 through the end of 8.815.6. This rule is effective December 30, 2021.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Immunization Services, Section 8.815.

Rule Number: MSB 21-08-28-A

Division / Contact / Phone: Health Program Office / Christina Winship / 303-866-5578

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

This rule revision is required for the Department to comply with section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136. Specifically, the Department must reimburse providers for COVID-19 testing services and treatments, including vaccines and the administration of such vaccines, provided to Medicaid enrollees. The Department will otherwise no longer qualify for the temporary 6.2 percentage point increase to the Federal Medical Assistance Percentage (FMAP) (the federal government's contribution toward Colorado's Medicaid expenditure) and will be subject to clawback. Current Department policy limits reimbursement for vaccine administration to members 18 and under exclusively through the Vaccines for Children (VFC) program. This revision will allow the Department to reimburse providers for pediatric administration of any and all vaccines provided free of cost by the federal government.

2. An emergency rule-making is imperatively necessary

☒ to comply with state or federal law or federal regulation and/or
☐ for the preservation of public health, safety and welfare.

Explain:

This revision is necessary to comply with section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136. This provision requires the Department to be able to reimburse for administration of the COVID-19 vaccine currently being developed.

3. Federal authority for the Rule, if any:

Section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136

DO NOT PUBLISH THIS PAGE

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2020);

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Immunization Services, Section 8.815.

Rule Number: MSB 21-08-28-A

Division / Contact / Phone: Health Program Office / Christina Winship / 303-866-5578

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Health First Colorado members aged 18 and under, and providers licensed to administer vaccines, will benefit from the flexibility provided by this rule revision for providers to administer the COVID-19 vaccine regardless of whether it's distributed specifically through the Vaccines for Children (VFC) program. Current policy limits reimbursement to pediatric vaccines provided through VFC. There are no actual costs anticipated due to this change to members, providers, or the Department.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The impact to the Department is the avoidance of federal noncompliance and clawback of the increased FMAP percentage. For members aged 18 and under, this revision ensures timely access to the COVID-19 vaccine. This will also expand the number of providers eligible for reimbursement for administration of the COVID-19 vaccine.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

There are no associated costs to the Department or any other agency for the implementation and enforcement of the proposed rule. This revision is anticipated to be budget neutral.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The benefit of the proposed rule is federal compliance and expansion of COVID-19 vaccine administration to the pediatric population. The cost of inaction would be exposure to the risk of clawback of the enhanced FMAP claimed by the Department during the Public Health Emergency and a

DO NOT PUBLISH THIS PAGE

smaller pool of providers eligible to administer the COVID-19 vaccine to the pediatric population.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

There are no less costly or intrusive methods to achieve the purpose of the proposed rule.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

There are no alternative methods for achieving the purpose of the proposed rule because the current rule language is explicit in restricting eligible providers for the pediatric population to those participating in the VFC program.

8.815 IMMUNIZATION SERVICES

8.815.1 Definitions

- 8.815.1.A. Advisory Committee on Immunization Practices (ACIP) means the group of medical and public health experts that develops recommendations on how to use vaccines to control diseases in the United States. ACIP was established under Section 222 of the Public Health Service Act (42 U.S.C. § 217a).
- 8.815.1.B. Immunization means the process whereby a person is made immune or resistant to an infectious disease, typically by the administration of a vaccine.
- 8.815.1.C. School District means any board of cooperative services established pursuant to article 5 of title 22, C.R.S., any state educational institution that serves students in kindergarten through twelfth grade including, but not limited to, the Colorado School for the Deaf and Blind, created in article 80 of title 22, C.R.S., and any public School District organized under the laws of Colorado except a junior college district.
- 8.815.1.D. Vaccine means a biological preparation that improves immunity to a particular disease.
- 8.815.1.E. Vaccine Administration Services means the provision of an injection, nasal absorption, or oral administration of a vaccine product.
- 8.815.1.F. Vaccines for Children (VFC) means the federally funded program administered through the Centers for Disease Control for the purchase and distribution of pediatric vaccines to program-registered providers for the Immunization of vaccine-eligible children 18 years of age and younger.

8.815.2 Client Eligibility

- 8.815.2.A. All Colorado Medicaid clients are eligible for Immunization and Vaccine Administration Services.

8.815.3 Provider Eligibility

- 8.815.3.A. Rendering Providers
1. Colorado Medicaid enrolled providers are eligible to administer Vaccines and Vaccine Administration Services as follows:
 - a. If it is within the scope of the provider's practice;
 - b. In accordance with the requirements at 10 CCR 2505-10, Section 8.200.2.; and
 - c. If the provider is administering Vaccines and Vaccine Administration Services to a client 18 years of age or younger, the provider is using Vaccines provided free of cost by the federal government, including through the VFC program.
- 8.815.3.B. Prescribing Providers
1. Colorado Medicaid enrolled providers are eligible to prescribe Vaccines and Vaccine Administration Services in accordance with Section 8.815.3.A.1.a.-b.

8.815.4 Covered Services

8.815.4.A. Vaccines identified in the ACIP Vaccine Recommendations and Guidelines are updated routinely and are covered as follows:

1. For clients 18 years of age and younger, Vaccines are either provided through the VFC program or are otherwise provided without cost by the federal government.
2. For clients 19 years of age and older, Vaccines are covered by Colorado Medicaid.

8.815.4.B. Administration of Vaccines identified in the ACIP Vaccine Recommendations and Guidelines is a covered service for all clients.

8.815.4.C. Immunization and Vaccine Administration Services that are provided by home health agencies, physicians, or other non-physician practitioners to clients at nursing facilities, group homes, or residential treatment centers are covered only as follows:

1. Immunization services for clients who are residents of nursing facilities and clients receiving home health services are covered only if ordered by their physician. The skilled nursing component for Immunization administration provided at a nursing facility is included in the facility's rate or part of a regularly scheduled home health service for clients receiving home health services.
2. Clients who are residents of an Alternative Care Facility, as defined at Section 8.495.1, may receive Immunization services from their own physician. They may also receive Immunization services as part of a home health service in accordance with Section 8.815.4.C.1.

8.815.5 Prior Authorization Requirements

8.815.5.A. Prior authorization is not required for this benefit.

8.815.6 Non-covered Services

8.815.6.A. The following services are not covered by Colorado Medicaid:

1. For clients 18 years of age and younger, Vaccines that have been obtained from a source other than the federal government;
2. Immunization and Vaccine Administration Services provided by a School District provider; and
3. Travel-related Immunization and Vaccine Administration Services.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00536

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

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

on 10/08/2021

10 CCR 2505-10

MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY

The above-referenced rules were submitted to this office on 10/08/2021 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 27, 2021 10:45:32

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Food Assistance Program (Volume 4B)

CCR number

10 CCR 2506-1

Rule title

10 CCR 2506-1 RULE MANUAL VOLUME 4B, FOOD ASSISTANCE 1 - eff 11/30/2021

Effective date

11/30/2021

4.207.3 Benefit Allotment

D. The Food Assistance maximum and minimum monthly benefit allotment tables will be adjusted as announced by the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS).

Household Size	Maximum Monthly Allotment Effective October 1, 2021
1	\$250
2	\$459
3	\$658
4	\$835
5	\$992
6	\$1,190
7	\$1,316
8	\$1,504
Each additional person	+\$188

Household Size	Minimum Monthly Allotment Effective October 1, 2021
1-2	\$20

4.401.1 Gross Income Levels

Effective October 1, 2021, the gross income level for one hundred thirty percent (130%), two hundred percent (200%), and one hundred sixty-five percent (165%) of the federal poverty level for the corresponding household size is as follows:

Household Size	130% Gross Income Level	200% Gross Income Level	165% Gross Income Level
1	\$1,396	\$2,148	\$1,771
2	\$1,888	\$2,904	\$2,396
3	\$2,379	\$3,660	\$3,020
4	\$2,871	\$4,418	\$3,644
5	\$3,363	\$5,174	\$4,268

6	\$3,855	\$5,930	\$4,893
7	\$4,347	\$6,688	\$5,517
8	\$4,839	\$7,444	\$6,141
Each additional person	+\$492	+\$758	+\$625

4.401.2 Net Income Levels

Effective October 1, 2021, the net income level of one hundred percent (100%) of the federal poverty level for the corresponding household size is as follows:

Household Size	100% Net Income Level
1	\$1,074
2	\$1,452
3	\$1,830
4	\$2,209
5	\$2,587
6	\$2,965
7	\$3,344
8	\$3,722
Each additional person	+\$379

4.407.1 Standard Deduction

A standard deduction of 8.31% of the federal poverty income guidelines for the household size as described in 4.401.2 will be used to calculate the amount that is allowed to all households. The established standard amount will be adjusted annually as announced by FNS, USDA. The calculation of 8.31% of the federal poverty income guidelines for eligible members will be used for all households up to the household size of six (6). All households with six (6) or more eligible members will use the six (6) person standard deduction.

Standard Deduction Amount				
Household Size	1-3	4	5	6+
Effective October 1, 2021	\$177	\$184	\$215	\$246

4.407.3 Excess Shelter Deduction

B. A shelter deduction cap, as specified below, applies to households that do not contain a person who is elderly and/or a person with a disability. Those households containing a person who is elderly

and/or a person with a disability shall receive an excess shelter deduction for the monthly cost of shelter that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions.

Shelter Deduction Cap	
Effective October 1, 2021	\$597

C. Homeless households shall be entitled to use a standard estimate of shelter expenses for households in which all members are homeless and are not receiving free shelter throughout the calendar month.

The FNS, USDA, provides an update of this estimated figure annually when the shelter cap for other households is adjusted.

The Homeless Shelter Deduction is as follows:

Homeless Shelter Deduction	
Effective October 1, 2021	\$159.73

All homeless households that incur, or reasonably expect to incur, shelter costs during a month shall be eligible for the estimate, unless higher shelter costs are verified, at which point the household may use actual shelter costs rather than the estimate.

Homeless households that incur no shelter costs during the month shall not be eligible for the homeless shelter deduction

If a homeless household has difficulty in obtaining traditional types of verification of shelter costs, the eligibility technician shall use the prudent person principle in determining if verification obtained is adequate.

4.407.31 Four-Tiered Mandatory Standard Utility Allowance

A. Heating and Cooling Utility Allowance (HCUA)

4. The HCUA standard is as follows:

HCUA Standard	
Effective October 1, 2021	\$493

B. Basic Utility Allowance (BUA)

3. The BUA standard is as follows:

BUA Standard

Effective October 1, 2021	\$314
---------------------------	-------

C. One Utility Allowance (OUA)

3. The OUA standard is as follows:

OUA Standard	
Effective October 1, 2021	\$59

D. Telephone Allowance

2. The telephone allowance is as follows:

Telephone Standard	
Effective October 1, 2021	\$80

4.408 RESOURCE ELIGIBILITY STANDARDS

E. The resource limits are as follows: Effective October 1, 2021, the resource limit for households that contain a member who is elderly and/or a person with a disability is three thousand seven hundred and fifty dollars (\$3,750). The resource limit for households that do not contain a member who is elderly and/or a person with a disability is two thousand five hundred dollars (\$2,500).

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00558

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

Food Assistance Program (Volume 4B)

on 10/08/2021

10 CCR 2506-1

RULE MANUAL VOLUME 4B, FOOD ASSISTANCE

The above-referenced rules were submitted to this office on 10/08/2021 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 20, 2021 17:01:36

A handwritten signature in blue ink, appearing to read "P. J. Weiser", is written over a horizontal line.

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-2

Rule title

12 CCR 2509-2 REFERRAL AND ASSESSMENT 1 - eff 11/30/2021

Effective date

11/30/2021

DEPARTMENT OF HUMAN SERVICES

Social Services Rules

REFERRAL AND ASSESSMENT

12 CCR 2509-2

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

7.112 STATE FAIR HEARING BEFORE THE OFFICE OF ADMINISTRATIVE COURTS

- A. When the Office of Administrative Courts receives the appeal documents from the State Department, the Office of Administrative Courts shall docket the appeal and enter a procedural order to the parties indicating the following:
1. The date and time for a telephone scheduling conference with the parties.
 2. During the telephone scheduling conference, the Office of Administrative Courts shall determine the date for the hearing. Following the scheduling conference, the Office of Administrative Courts will issue a further procedural order and notice of hearing. The order/notice will contain the hearing date, the fourteen (14) day deadline for the notice of issues, the fourteen (14) day deadline for response and deadline for filing pre-hearing statements. Any party requiring an extension or modification of any of the deadlines in the order may file a request with the Administrative Law Judge. The Office of Administrative Courts shall also issue a protective order which will protect and govern the handling of all pleadings, discovery, and evidence. The order must be signed by an Administrative Law Judge and must state that:
 - a. Any documents exchanged by the parties containing confidential information, including, but not limited to pleadings, Trails reports and investigative records, medical records, law enforcement investigation records, and documents regarding child victims will be used for the sole purpose of proceeding with this appeal.
 - b. The parties may disclose confidential information to their attorneys or any expert witness only as necessary for the prosecution or defense of the appeal. The appellant is not authorized to disclose or use confidential information for any other purpose.
 - c. The parties may exchange discovery containing information that is confidential under department rule 12 CCR 2509-2, § 7.111.
 - d. To the extent that the parties may disclose confidential records to expert witnesses, the parties shall provide a copy of the protective order to the expert witnesses and advise the expert witness of his or her obligation not to disclose the records or information learned from the confidential records.
 - e. The exchange and use of the confidential information or records does not waive the right of either party to object to the admission of the documents into evidence on any grounds.

- f. If the parties use or offer confidential information or records as evidence during the course of the hearing, counsel and the parties shall take reasonable measures to protect such information or records from public disclosure including but not limited to filing records under seal.
 - g. The appellant must destroy or return to the department all protected health and abuse and neglect information (including all copies made) at the end of the appeal or, should the appellant choose to pursue any further administrative remedies, when those remedies have been exhausted.
 - h. The hearing regarding the factual basis for the child abuse and/or neglect finding shall be closed to the public.
 - i. This order does not prohibit the department from using documents or information as authorized, required, or permitted by law.
 - 3. The notice of issues shall include the following:
 - a. The specific allegations(s) that form the basis of the county department's finding that the Appellant was responsible for child abuse or neglect;
 - b. The specific type and severity of child abuse asserted against Appellant and the legal authority supporting the finding; and,
 - c. To the extent that the State Department determines that the facts contained in the state automated case management system support a modification of the type or severity of child abuse or neglect determined by the county department, the State Department shall so notify the county department and the Appellant of that modification and the process shall proceed on the modified finding(s).
 - 4. The Appellant shall respond to the State Department's submittal by providing the factual and legal basis supporting the appeal to the State Department and to the Office of Administrative Courts.
 - 5. If the Appellant fails to participate in the scheduling conference referenced above or fails to submit the response referenced herein, the Office of Administrative Courts shall deem the appeal to have been abandoned by the Appellant and render an Initial Decision Dismissing Appeal. In accordance with the procedures set forth below, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.
 - 6. In the event that either party fails to respond to a motion to dismiss filed in the appeal, the Administrative Law Judge shall not consider the motion to be confessed and shall render a decision based on the merits of the motion.
- B. The Administrative Law Judge shall conduct the appeal in accordance with the Administrative Procedure Act, Section 24-4-105, C.R.S. The rights of the parties include:
- 1. The State Department shall have the burden of proof to establish the facts by a preponderance of the evidence and that the facts support the conclusion that the Appellant is responsible for the child abuse or neglect indicated in the notice of issues provided by the State Department. The state automated case management system is not the only acceptable evidence for establishing that the finding is supported by a preponderance of evidence;

2. Each party shall have the right to present his or her case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination;
 3. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be subsequently prejudiced thereby, the Administrative Law Judge may receive all or part of the evidence in written form or by oral stipulations;
 4. A telephonic hearing may be conducted as an alternative to a face-to-face hearing unless either party requests a face-to-face hearing in writing. The written request for a face-to-face hearing must be filed with the Office of Administrative Courts and the other party at least ten (10) calendar days before the scheduled hearing. A request for a face-to-face hearing may necessitate the re-setting of the hearing; and,
 5. Where facilities exist that have videoconferencing technology local to the county department that made the founded finding, either party may request that the hearing be conducted via that technology. The requesting party shall investigate the feasibility of this approach and shall submit a written request outlining the arrangements that could be made for video conference. The Office of Administrative Courts shall hold the hearing via videoconferencing for the convenience of the parties whenever requested and feasible. A request for a hearing via videoconferencing may necessitate the re-setting of the hearing.
- C. At the conclusion of the hearing, unless the Administrative Law Judge allows additional time to submit documentation, the Administrative Law Judge shall take the matter under advisement. After considering all the relevant evidence presented by the parties, the Administrative Law Judge shall render an Initial Decision for review by the Colorado Department of Human Services, Office of Appeals.
- D. The Initial Decision shall uphold, modify or overturn/reverse the county finding. The Administrative Law Judge shall have the authority to modify the type and severity level of the child abuse or neglect finding to meet the evidence provided at the hearing. The Administrative Law Judge shall not order the county to modify its record; rather, the State Department shall indicate the outcome of the appeal in its portion of the state automated case management system.
- E. When an Appellant fails to appear at a duly scheduled hearing having been given proper notice, without having given timely advance notice to the Office of Administrative Courts of acceptable good cause for inability to appear at the hearing at the time, date and place specified in the notice of hearing, then the appeal shall be considered abandoned and the Administrative Law Judge shall enter an Initial Decision Dismissing Appeal. In accordance with the procedures set forth in Section 7.114, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00559

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

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

on 10/08/2021

12 CCR 2509-2

REFERRAL AND ASSESSMENT

The above-referenced rules were submitted to this office on 10/11/2021 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 20, 2021 17:05:24

A handwritten signature in blue ink, appearing to read 'P. J. Weiser'.

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-4

Rule title

12 CCR 2509-4 CHILD WELFARE SERVICES 1 - eff 11/30/2021

Effective date

11/30/2021

QUALIFIED RESIDENTIAL TREATMENT PROGRAM PLACEMENT REVIEWS 7.304.651

DEFINITION:

A QUALIFIED RESIDENTIAL TREATMENT PROGRAM (QRTP) PLACEMENT REVIEW MEANS A REVIEW CONDUCTED BY THE STATE DEPARTMENT'S ADMINISTRATIVE REVIEW DIVISION (ARD), THAT IS OPEN TO THE PARTICIPATION OF THE PARENTS, LEGAL GUARDIAN OR CUSTODIAN OF EACH CHILD OR YOUTH, THE CHILD OR YOUTH (IF AGE APPROPRIATE AS DETERMINED BY THE CASEWORKER), THE QRTP STAFF, AND ATTORNEYS OF RECORD; AND CONDUCTED BY A PLACEMENT REVIEWER, WHO IS NOT RESPONSIBLE FOR THE CASE MANAGEMENT OF, OR THE DELIVERY OF SERVICES TO THE CHILD OR YOUTH WHO IS SUBJECT TO THE REVIEW.

A. THE COUNTY DEPARTMENT SHALL PARTICIPATE IN THE QRTP PLACEMENT REVIEW FOR ALL CHILDREN IN QRTP PLACEMENTS WHO MEET THE CRITERIA FOR INCLUSION IN THE REVIEW SYSTEM.

B. IDENTIFICATION OF YOUTH ELIGIBLE FOR AN ARD QRTP PLACEMENT REVIEW

1. CHILDREN AND YOUTH ARE ELIGIBLE FOR A REVIEW CONDUCTED BY THE ARD AT OR BEFORE 90 DAYS OF PLACEMENT IN A QRTP.
2. FOR CASES THAT ARE COURT INVOLVED, ALL PARTIES TO THE CASE MUST CONSENT TO A REVIEW BY THE ARD. IF ALL PARTIES DO NOT CONSENT THE REVIEW WILL REMAIN WITH THE COURTS.
3. THE DETERMINATION THAT ALL PARTIES CONSENT THAT THE ARD WILL REVIEW THE PLACEMENT AT 90 DAYS MUST HAPPEN NO LATER THAN THE 60 DAY COURT REVIEW.
4. FOR CASES THAT ARE COURT INVOLVED, THE COUNTY DEPARTMENT SHALL DOCUMENT THAT EACH PARTY CONSENTED TO THE QRTP PLACEMENT REVIEW TO BE CONDUCTED BY THE ARD INSTEAD OF THE COURT. THE COUNTY DEPARTMENT SHALL DOCUMENT THIS CONSENT IN THE COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM.
5. AT EACH SUBSEQUENT REVIEW THE COUNTY DEPARTMENT WILL ASK THE PARTIES IN ATTENDANCE IF THEY CONSENT TO THE NEXT REVIEW BEING CONDUCTED BY THE ARD. COUNTY DEPARTMENTS WILL BE RESPONSIBLE FOR SEEKING CONSENT FOR ANY PARTIES WHO WERE NOT AT THE REVIEW NO LATER THAN 30 DAYS PRIOR TO THE NEXT REVIEW.
6. IN INSTANCES OF A VOLUNTARY PLACEMENT, THE ARD SHALL REVIEW THE CHILD OR YOUTH'S PLACEMENT NO LATER THAN 60 DAYS AFTER PLACEMENT IN A QRTP OR WITHIN 30 DAYS AFTER PLACEMENT WHEN THE QUALIFIED INDIVIDUAL DOES NOT SUPPORT THE QRTP LEVEL OF CARE OR THE CHILD, JUVENILE, OR YOUTH, GUARDIAN AD LITEM, OR ANY PARTY OBJECTS TO THE PLACEMENT.

C. SCHEDULING PROCESS FOR ARD QRTP PLACEMENT REVIEWS

1. FOR CASES THAT ARE COURT INVOLVED, THE COUNTY DEPARTMENT SHALL COORDINATE WITH THE ARD TO SCHEDULE THE REVIEW NO LATER THAN 1 BUSINESS DAY AFTER THE 60 DAY COURT REVIEW.
 - a. SCHEDULING SHALL INCLUDE DETERMINATION OF THE FOLLOWING:
 - i. DAY OF THE REVIEW.
 - ii. TIME OF THE REVIEW.
 - iii. VENUE FOR THE REVIEW.
2. IN INSTANCES OF A VOLUNTARY PLACEMENT THE COUNTY WILL NOTIFY THE ARD OF THE NEED FOR REVIEW NO LATER THAN TWO BUSINESS DAYS AFTER PLACEMENT AND THE SCHEDULING PROCESS SHALL COMMENCE.
3. IF A CHILD OR YOUTH LEAVES THE QRTP LEVEL OF CARE AFTER A REVIEW HAS BEEN SCHEDULED, THE COUNTY DEPARTMENT MUST CANCEL THE REVIEW AND NOTIFY THE ARD AND ALL PARTIES AS SOON AS POSSIBLE.

D. INVITATIONS

1. THE COUNTY DEPARTMENT SHALL INVITE PARENTS, LEGAL GUARDIAN OR CUSTODIAN, THE CHILD (IF AGE APPROPRIATE AT DETERMINED BY THE CASEWORKER), MEMBERS SELECTED BY THE CHILD (FOR CHILDREN 14 YEARS OF AGE AND ABOVE), KIN, OUT-OF-HOME CARE PROVIDERS, AND ATTORNEYS OF RECORD TO THE QRTP PLACEMENT REVIEW. THE COUNTY DEPARTMENT SHALL ENCOURAGE ALL INVITEES TO ATTEND.
2. THE COUNTY DEPARTMENT SHALL SEND LETTERS OF INVITATION TO ALL REVIEW PARTICIPANTS AT LEAST TWO WEEKS PRIOR TO SCHEDULED REVIEWS, AND ENSURE THAT INVITED PARTIES ARE PROPERLY DOCUMENTED IN THE COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM PRIOR TO THE TIME OF THE REVIEW. THE PARENT OR INDIAN CUSTODIAN AND THE INDIAN CHILD'S TRIBE SHALL BE SENT LETTER(S) OF INVITATION AT LEAST TWO WEEKS PRIOR TO THE SCHEDULED REVIEW BY CERTIFIED OR REGISTERED MAIL WITH RETURN RECEIPT REQUESTED. ALL OTHER INVITATIONS MAY BE SENT BY ELECTRONIC MAIL. INVITATIONS SHALL INCLUDE DATE, TIME, LOCATION, AND PURPOSE OF THE REVIEW. IF THE CASE INVOLVES AN INDIAN CHILD, THE REQUIREMENTS OF THE PENDING COURT PROCEEDINGS SECTION OF THE INDIAN CHILD WELFARE ACT APPLIES. 25 U.S.C. § 1912(A) (2020) IS HEREBY INCORPORATED BY REFERENCE. NO LATER AMENDMENTS OR EDITIONS ARE INCORPORATED. COPIES ARE AVAILABLE FOR PUBLIC INSPECTION BY CONTACTING THE ARD DIRECTOR DURING REGULAR BUSINESS HOURS AT COLORADO DEPARTMENT OF HUMAN SERVICES, ADMINISTRATIVE REVIEW DIVISION, 4045 S. LOWELL BLVD., DENVER,

COLORADO 80236; OR AT A STATE PUBLICATIONS DEPOSITORY LIBRARY.

E. REVIEW PROCESS

1. THE COUNTY DEPARTMENT SHALL SUBMIT EVIDENCE:

- a. DEMONSTRATING THAT ONGOING ASSESSMENT OF THE STRENGTHS AND NEEDS OF THE CHILD, JUVENILE, OR YOUTH CONTINUES TO SUPPORT THE DETERMINATION THAT THE NEEDS OF THE CHILD, JUVENILE, OR YOUTH CANNOT BE MET THROUGH PLACEMENT WITH A PARENT, LEGAL GUARDIAN, LEGAL CUSTODIAN, KIN CAREGIVER, OR IN A FOSTER FAMILY HOME; THAT THE PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM PROVIDES THE MOST EFFECTIVE AND APPROPRIATE LEVEL OF CARE FOR THE CHILD, JUVENILE, OR YOUTH IN THE LEAST RESTRICTIVE ENVIRONMENT; AND THAT THE PLACEMENT IS CONSISTENT WITH THE SHORT- AND LONG-TERM GOALS FOR THE CHILD, JUVENILE, OR YOUTH AS SPECIFIED IN THE PERMANENCY PLAN FOR THE CHILD, JUVENILE, OR YOUTH, OR AS OUTLINED IN THE FAMILY SERVICES PLAN;
- b. DOCUMENTING THE SPECIFIC TREATMENT OR SERVICE NEEDS THAT WILL BE MET FOR THE CHILD, JUVENILE, OR YOUTH IN THE PLACEMENT AND THE LENGTH OF TIME THE CHILD, JUVENILE, OR YOUTH IS EXPECTED TO NEED TREATMENT OR SERVICES; AND
- c. DOCUMENTING THE EFFORTS MADE BY THE COUNTY DEPARTMENT TO PREPARE THE CHILD, JUVENILE, OR YOUTH TO RETURN HOME OR TO BE PLACED WITH A FIT AND WILLING KIN CAREGIVER, A LEGAL GUARDIAN, LEGAL CUSTODIAN, OR AN ADOPTIVE PARENT, OR IN A FOSTER FAMILY.

F. FINDINGS

1. THE ARD SHALL ENTER COPIES OF ADMINISTRATIVE REVIEW FINDINGS IN THE DEPARTMENT'S COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM AND THE COUNTY DEPARTMENT SHALL INCLUDE A SUMMARY OF THOSE FINDINGS IN COURT REPORTS.
2. IN THE EVENT THAT THE ARD DISAGREES WITH THE PLACEMENT OF A CHILD IN A QRTP, IT MAY RESULT IN THE PLACEMENT BECOMING IV-E NON-REIMBURSABLE IF THE CHILD DOES NOT STEP DOWN TO A LOWER LEVEL OF CARE WITHIN 30 DAYS OF THE ARD DETERMINATION.

G. FISCAL SANCTIONS

1. FISCAL SANCTIONS AND DISALLOWANCES MAY OCCUR AS A RESULT OF QRTP PLACEMENT REVIEW THAT DOES NOT IDENTIFY PLACEMENT IN A QRTP AS THE MOST EFFECTIVE AND

APPROPRIATE LEVEL OF CARE FOR THE CHILD, JUVENILE, OR YOUTH. REIMBURSEMENT IS REDUCED TO THE AVERAGE COST OF THE DETERMINED LESS RESTRICTIVE TYPE OF AVAILABLE PLACEMENT, UNLESS THE CHILD IS COURT-ORDERED INTO THE MORE RESTRICTIVE PLACEMENT AGAINST THE RECOMMENDATION OF THE COUNTY DEPARTMENT.

2. THE COUNTY DEPARTMENT SHALL MOVE THE CHILD, JUVENILE OR YOUTH TO A LOWER LEVEL OF CARE WITHIN THIRTY (30) CALENDAR DAYS OF THE QRTP PLACEMENT REVIEW FINDING IN ORDER FOR REIMBURSEMENT TO BE UNINTERRUPTED. THE COUNTY DEPARTMENT SHALL PROVIDE THE ARD WITH CONFIRMATION OF THE CHANGE IN PLACEMENT.
3. IF THE COUNTY DEPARTMENT DISAGREES WITH THE FINDINGS OF THE ARD'S QRTP PLACEMENT REVIEW, THE COUNTY DEPARTMENT MAY APPEAL IN WRITING. AN APPEAL MUST BE RECEIVED BY THE ARD WITHIN THREE (3) WORKING DAYS OF THE RECEIPT OF WRITTEN RESULTS OF THE REVIEW.
4. REIMBURSEMENT IS DENIED FROM THE DATE OF THE REVIEW IF THE COUNTY DEPARTMENT NEITHER CORRECTS THE NON-COMPLIANCE NOR APPEALS THE REVIEW DECISION WITHIN ALLOTTED TIMELINES.

H. CONFIDENTIALITY

1. FEDERAL CONFIDENTIALITY REQUIREMENTS AT 42 U.S.C.A. SECTION 5106a(2)(B)(viii) RESTRICT THE USE OF, OR DISCLOSURE OF, INFORMATION CONCERNING INDIVIDUALS SERVED BY THE CHILD WELFARE AGENCY, AND THESE SAME RULES APPLY TO THE QRTP PLACEMENT REVIEW PROCESS.
2. SECTION 19-1-307, C.R.S. REQUIRES THAT REPORTS OF CHILD ABUSE OR NEGLECT AND THE NAME AND ADDRESS OF ANY CHILD, FAMILY, OR INFORMANT OR ANY OTHER IDENTIFYING INFORMATION CONTAINED IN SUCH REPORTS SHALL BE CONFIDENTIAL AND SHALL NOT BE PUBLIC INFORMATION. TO THE EXTENT QRTP PLACEMENT REVIEWS ARE INCORPORATED IN CHILD ABUSE AND NEGLECT RECORDS, THEY SHALL BE CONFIDENTIAL.
3. AUDIO AND/OR VIDEO RECORDING OF QRTP PLACEMENT REVIEWS SHALL NOT OCCUR WITHOUT RELEASES OF CONFIDENTIALITY FORMS SIGNED BY ALL PARTIES TO THE CASE PRIOR TO RECORDING.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00400

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

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

on 10/08/2021

12 CCR 2509-4

CHILD WELFARE SERVICES

The above-referenced rules were submitted to this office on 10/12/2021 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 20, 2021 16:58:31

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-8

Rule title

12 CCR 2509-8 CHILD CARE FACILITY LICENSING 1 - eff 12/01/2021

Effective date

12/01/2021

7.702 RULES REGULATING CHILD CARE CENTERS THAT PROVIDE LESS THAN 24-HOUR CARE

All childcare centers must comply with the current “General Rules for Child Care Facilities” 7.701; “Rules Regulating Child Care Centers that provide less than 24-hour care” 7.702; “Rules Regulating Special Activities” 7.719;” 6 CCR 1010-7, “The Health and Sanitation Rules and Regulations Governing the Sanitation of Child Care Facilities in the State of Colorado C.R.S.; and the USDA CACFP Part 266.20(1.5).

Drop-in, part day, mobile preschool, teen parent, and other programs operated by public school districts must be in compliance with all rules found in this section. Additional rules or substitution to rules can be found under section 7.702.100.

Hardship waivers

Any applicant or licensee who has applied for or been issued a license to operate a childcare facility has a right to appeal, pursuant to § 26-6-106(3), C.R.S., any rule or standard which, in his or her opinion, poses an undue hardship on the person, facility, or community. An “undue hardship” is defined as a situation where compliance with the rule creates a substantial, unnecessary burden on the applicant or licensee’s business operation or the families or community it serves, which reasonable means cannot remedy. An undue hardship does not include the normal cost of operating the business.

7.702.1 DEFINITIONS

- A. Childcare centers that provide less than 24-hour care (referred to as “centers”) provide comprehensive care for children when the parents or guardians are employed or otherwise unavailable to care for the children. Childcare centers may operate twenty-four (24) hours a day, but the children are cared for at the center fewer than twenty-four (24) hours a day.
- B. Childcare centers that provide less than 24-hour programs of care include the following types of facilities:
 - 1. A “large childcare center” provides care for 16 or more children between the ages six (6) weeks and eighteen (18) years.
 - 2. A “small childcare center” provides care for up to fifteen (15) children between the ages of two (2) and eighteen (18) years.
 - 3. An “infant program” provides care for children between the ages of six (6) weeks and eighteen (18) months.
 - 4. A “toddler program” provides care for children between the ages of twelve (12) months (when walking independently or with a health care provider’s statement indicating developmental appropriateness of placement in a toddler program) and thirty-six (36) months.
 - 5. A “preschool” is a childcare program for five (5) or more children between the ages of two and one-half (2 1/2) and seven (7) years.
 - 6. A “mobile part-day preschool program” is a program with a mobile classroom that uses no permanent building on a regular basis, for children three (3) to seven (7) years of age, with no more than (8) eight children at any given time. Each class session must not exceed five (5) hours.
 - 7. A “kindergarten program” provides a program for children the year before they enter the first grade. Only private kindergarten programs not regulated by the Colorado Department of Education are required to be licensed.

8. A “full day program” enrolls children for five (5) or more hours per day.
 9. A “part-day program” enrolls children for a maximum of up to five (5) hours per day. Individual children shall not attend more than one (1) five (5) hour session per day.
 10. A “drop-in childcare center” provides occasional care for 40 or fewer children between the ages of twelve (12) months and thirteen (13) years of age for short periods of time not to exceed six (6) hours in any 24-hour period of time or fifteen (15) hours in any seven (7) day period of time.
 11. A “teen parent program” provides care for children fourteen (14) days old to thirty-six (36) months and is operated by an accredited public school system on school premises. Infants between seven (7) and thirteen (13) days old may be accepted for care with written approval from a health care provider.
 12. “Staff” all references to staff or staff positions include paid staff, equally qualified volunteers, and substitutes under Section 7.702.45.
- C. Licensed childcare centers enrolling children five (5) years of age or younger are required to participate in Colorado Shines, the state quality rating and improvement system.

7.702.2 ADMINISTRATION

(See also “Administration” at section 7.701.5 of the General Rules for Child Care Facilities)

- A. The governing body must appoint a Director who will be responsible to the governing body and who will be delegated the authority and responsibility for the operation of the center according to its defined purpose and policies.
- B. The governing body must formulate the purpose and policies to be followed by the center. It must have a regular planned review of such purpose and policies to determine that the center is in compliance with licensing rules.
- C. The governing body is responsible for providing necessary facilities, adequate financing, qualified personnel, services, and program functions for the safety and well-being of children in accordance with these rules.
- D. Any center having a Director assigned to a classroom must have qualified and adequate staff, allowing the Director or qualified staff the ability to attend to the duties of a director as they arise.
- E. The Director of the center is responsible for administering the center in accordance with licensing rules. The Director must plan and supervise the child development program, plan for or participate in selection of staff, plan for orientation and staff development, supervise and coordinate staff activities, evaluate staff performance, and participate in the program activities.

7.702.3 POLICIES AND PROCEDURES

7.702.31 Statement of Policies and Procedures

- A. At the time of enrollment, and upon amendments to policies and procedures, the center must give the parent(s)/guardian(s) the center’s policies and procedures and provide the opportunity to ask questions. Written copies must be available either electronically or in hard copy. The center must obtain a signed document stating that the parent(s)/guardian(s) have received the policies and procedures, and by signing the policies and procedures document, the parent(s)/guardian(s) agree to follow, accept the conditions of, and give authorization and approval for the activities described in the policies and procedures.

- B. The written policies and procedures must be developed, implemented, and followed, and must include at a minimum the following information:
1. The center's purpose and its philosophy on childcare;
 2. The ages of children accepted;
 3. The hours the center is open, specific hours during which special programs are offered, and holidays when the center is closed;
 4. The procedure regarding inclement and excessively hot weather;
 5. The procedure concerning admission and registration of children including whether non-immunized or under immunized children are enrolled in the program;
 6. An itemized fee schedule;
 7. The procedure for identifying where children are at all times including times of transition;
 8. The center's procedure on positive guidance, behavior expectations, positive instruction, supporting positive behaviors, as well as strategies and techniques for supporting children with challenging behaviors, including how the center will:
 - a. Promote responsive and positive child, staff, and family relationships and interactions;
 - b. Create and maintain a program-wide culture that promotes children's mental health, social, and emotional well-being;
 - c. Implement teaching strategies supporting positive behavior, pro-social peer interaction, and overall social and emotional competence in young children; and,
 - d. Provide individualized social and emotional intervention supports for children who need them, including methods for understanding child behavior; and developing, adopting, and implementing a team-based positive behavior support plan with the intent to reduce challenging behavior and prevent suspensions and expulsions.
 9. How decisions are made and what steps are taken prior to the suspension, expulsion, or request to parents or guardians to withdraw a child from care due to concerns about the child's behavioral issues. These procedures must be consistent with the center's policy on guidance and positive instruction, and include documentation of the steps taken to understand and respond to challenging behavior including:
 - a. Identify and consult with an early childhood mental health consultant or other specialist as needed.
 10. The procedure, including notification of parent(s)/guardian(s), for handling children's illnesses, accidents, and injuries;
 11. The procedures for emergencies and disaster preparedness such as but not limited to lost children, tornadoes, fires, shelter in place, lockdown, active shooter on premises, reunification with families after emergency or disaster, and evacuating children with disabilities as specified in section 7.701.100 of the general rules for child care facilities;

12. The procedure for transporting children, if applicable, including transportation arrangements and parental permission for excursions and related activities;
 13. The procedure for governing field trips, television and video viewing, and special activities, including staff responsibility for the supervision of children;
 14. Media and internet usage policy outlining screen and media use related to their curriculum. The media plan must have information on ongoing communication with children about online safe practices for children over the age of five (5);
 15. The procedure on children's safety related to riding in a vehicle, seating, supervision, and emergency procedures on the road;
 16. The procedure for releasing children from the center only to persons for whom the center has written authorization and the procedure for picking-up the child during an emergency;
 17. The procedures followed when a child is picked up from the center after the center is closed or not picked up at all, and to ensure that all children are picked up before the staff leave for the day;
 18. The procedure for caring for children who arrive late to the center and their class/group is away from the center on a field trip or excursion;
 19. The procedure for storing and administering children's medication and delegation of medication administration in compliance with Section §12-38-132, C.R.S., of the "Nurse Practice Act";
 20. The procedure concerning children's personal belongings and money;
 21. The provision of meals and snacks;
 22. The procedure for diapering, toilet training, and toileting;
 23. The procedure for allowing visitors to the center;
 24. The procedure for conducting parent and staff conferences to partner with the parents(s)/guardian(s) to discuss the child's progress, social, emotional, and physical needs;
 25. The procedure for filing a complaint about childcare (see section 7.701.55 of the General Rules for Child Care Facilities);
 26. The procedure for reporting of child abuse (see section 7.701.53, of the General Rules for Child Care Facilities);
 27. The procedure of the protection of infants from secondhand and thirdhand smoke;
 28. The procedure for establishing safe sleep environments for infants including how staff will supervise and physically check on infants who are sleeping;
 29. The procedure for dressing children appropriately for the weather; and,
 30. Notification when childcare service is withdrawn and when parent(s)/guardian(s) withdraw their children from the center.
- C. Policies and procedures must be reviewed annually. Any changes must be incorporated and must be communicated to the parent(s)/guardian(s).

7.702.32 Communication, Emergency, and Security Procedures

- A. For security purposes, a sign-in/sign-out sheet or other mechanism for parents/guardians, or staff if children are being transported, must be maintained daily by the center. It must include, for each child in care, the date, the child's name, the time when the child arrived at and left the center, and the parent /guardian or staff member's signature or other unique identifier. For children who are transported, parent(s)/guardian(s) must verify the accuracy of the sign-in/sign-out sheet at least weekly.
- B. The center must have a working telephone with the number available to the public. Emergency telephone numbers of the following must be posted near the telephone: a 911 notice, where 911 is available, or rescue unit if 911 isn't available; a hospital or emergency medical clinic; the local fire, police, and health departments; and Rocky Mountain Poison Control. The telephone must be available to staff at all times that the center is in operation.
- C. The center must be able to provide emergency transportation to a health care facility at all times.
- D. The Director of the center, or the Director's delegated substitute, must have a means for determining at all times who is present at the center.
- E. A written policy regarding visitors to the center must be posted and a record maintained daily by the center that includes at a minimum the date, time, visitor's name, and the purpose of the visit. At least one (1) piece of identification must be inspected for individuals who are unknown to personnel at the center.
- F. The center must release the child only to an individual over the age of sixteen (16) for whom written authorization has been given by the parent(s)/guardian(s) and is maintained in the child's record (see Section 7.702.34). In an emergency, the child may also be released to an individual for whom the child's parent/guardian has given verbal authorization. If the staff member who releases the child does not know the individual, identification must be required to assure that the individual is authorized to pick up the child.
- G. The center must have a procedure for dealing with individuals not authorized by the parent or guardian of a child who attempts to have the child released to them.
- H. The center must have a written procedure for closing the center at the end of the day to ensure that all children are picked up.

7.702.33 Administrative Records and Reports

- A. The following records must be on file at the center:
 - 1. Records of enrollment, daily attendance for each child, and daily record of the time the child arrives at and departs from the center;
 - 2. A list of current staff members, substitutes, and staffing patterns;
 - 3. Copies of menus; and
 - 4. A record of visitors to the center.
- B. The center must submit to the Department as soon as possible, but not longer than twenty-four (24) hours, a written report about any child who has been separated from the group outside of the supervision of their assigned staff member or for whom the local authorities have been contacted. Such report must indicate:
 - 1. The name, birth date, address, and telephone number of the child;

2. The names of the parent(s)/guardian(s) and their address and telephone number if different from those of the child;
 3. The date when the child was lost;
 4. The location, time, and circumstances when the child was last seen;
 5. Actions taken to locate the child; and,
 6. The name of the staff person supervising the child.
- C. All programs must register their operational status information in the Office of Early Childhood Provider Status Portal every calendar year in the months of April and October.
1. All programs must update their information any time their operational status changes during a declared state emergency.
- D. All prospective and current staff members in the following roles must register with the Colorado Shines Professional Development Information System:
1. Large Center Director;
 2. Large Center Assistant Director;
 3. Small Center Director;
 4. Early Childhood Teacher;
 5. Infant Program Supervisor;
 6. Infant Early Childhood Teacher;
 7. Toddler Early Childhood Teacher;
 8. Kindergarten Teacher;
 9. Assistant Early Childhood Teacher; and,
 10. Staff Aide.

7.702.34 Children's Records

- A. An admission record must be completed for each child prior to or at the time of the child's admission. This record must be updated annually and when changes occur. The admission record must include:
1. The child's full name, birth date, current address, and date of enrollment;
 2. Parent(s)/guardian(s) names; home and e-mail addresses; telephone numbers, including home, work, and cell numbers; employer name and work address; and, any special instructions as to how the parent(s)/guardian(s) may be reached during the hours that the child is in care at the center;
 3. Names, addresses, and telephone numbers of persons authorized to pick up the child from the center;

4. Names, addresses, and telephone numbers of persons who can assume responsibility for the child in the event of an emergency if the parent(s)/guardian(s) cannot be reached immediately;
 5. Name, address, and telephone numbers of the child's health care provider, dentist, and if applicable, their hospital of choice;
 6. A health history, including any health care plans, which indicates communicable diseases and chronic illnesses or injuries the individual has had, any known drug reactions and allergies, medications being taken, any necessary health procedures or special diets, and immunization record;
 7. A dated, written authorization for emergency medical care signed and updated annually by the parent(s)/guardian(s). The authorization must be notarized if required by the local hospital, clinic, or emergency health care facility;
 8. Written authorization, obtained in advance of the event from a parent/guardian, for a child to participate in field trips or special activities, whether scheduled or unscheduled, whether walking or riding in an approved vehicle; and,
 9. Written authorization from a parent/guardian for media release.
- B. The center must maintain and update annually and upon changes, a record on each child that includes:
1. A written record of any serious accident, illness, or injury occurring during care must be retained in each child's record, with a copy provided to the parent(s)/guardian(s).
 2. Observations of the child's development to document the child's progress and challenges to be discussed at parent conferences;
 3. A record of parent conferences, including dates of conferences, and names of center staff and parent(s)/guardian(s) involved; and,
 4. A copy of the child's health statement completed by a health care provider.

7.702.35 Staff Records

- A. A record must be maintained, either written or electronic, for each staff member that includes the following:
1. Name, address, telephone number, and birth date of the individual;
 2. Verification of qualifications and training;
 3. Immunization record or statement, and health history;
 4. Dates of employment and employment history;
 5. Names, addresses, and telephone numbers of persons to be notified in the event of an emergency; and,
 6. All information from background checks as required in the General Rules for Child Care Facilities at Section 7.701.32.

7.702.36 Confidentiality and Retention

- A. The confidentiality of all staff and children's records must be maintained. See Section 7.701.6 of the General Rules for Child Care Facilities.
- B. Staff and children's records must be available, upon request, to authorized personnel of the Department.
- C. If records for organizations having more than one (1) center are kept in a central file, duplicate identifying and emergency information for both staff and children must also be kept on file at the center attended by the child and where the staff member is assigned.
- D. The records of children and staff must be maintained by the center for at least three (3) years after the last date of attendance or employment with the program.
- E. The health and mental health consultation records must be maintained by the center for at least three (3) years from the date of consultation.
- F. Records of enrollment, daily attendance for each child and daily records of the time the child arrives at and departs from the center for the past twelve (12) months must be on file at the center. The previous two (2) years must be on file at either the center or a central location or storage.
- G. Posting of any personal information or photos of children on social media or advertisement without written parental consent is prohibited.

7.702.4 STAFF

7.702.41 General Requirements for All Staff

- A. All staff at the center must demonstrate knowledgeable decision-making, judgment, and concern for the proper care and well-being of children.
- B. Staff must not consume or be under the influence of any substance that impairs their ability to care for children.
- C. Illegal drugs and drug paraphernalia, must never be present on the premises of the center.
- D. Staff must not use marijuana and marijuana infused products, tobacco products of any kind, or alcohol in the presence of children. To prevent exposure to secondhand smoke, child care centers must prohibit the use of tobacco and marijuana products on all center property, both indoors and outdoors. All marijuana and marijuana infused products, vaping and tobacco products, and alcohol must be kept inaccessible to children at all times.
- E. When caring for children, staff must refrain from the personal use of electronics including, but not limited to, cell phones and portable electronic devices.
- F. Staff members must be current for all immunizations routinely recommended for adults by their health care provider.
- G. All staff members must submit to the center a medical statement, signed and dated by a physician or other health care provider, verifying that they are in good mental, physical, and emotional health appropriate for the position for which they have been hired. This statement must be dated no more than six (6) months prior to employment or within thirty (30) calendar days after the first date of employment. Subsequent self-reported health histories must be submitted annually.
- H. The duties and responsibilities of each staff position and the lines of authority and responsibility within the center must be in writing.

- I. At the time of employment, staff members must be informed of their duties and assigned a supervisor.
- J. Prior to working with children, each staff member must read and be instructed about all policies and procedures of the center. Staff members must sign a statement indicating that they have read and understand the center's policies and procedures.
- K. Within thirty (30) calendar days of employment at the center, each staff member must read and be instructed about all licensing rules governing childcare centers. Staff members must sign a statement indicating that they have read and understand the licensing rules.
- L. If volunteers are used by the center, there must be a clearly established policy regarding their function, orientation, and supervision. See also Section 7.702.44 A-E.
- M. Within thirty (30) calendar days of the last day of employment, staff members must be provided a letter verifying their experience at the center. The letter must contain the center's address, phone number, and license number; the employee's start date and end date; and the total number of hours worked with children. Hours worked with infants and toddlers must be documented separately from hours worked with other age groups. The letter must be signed by a Director, owner, or human resources agent of the center or governing body.

7.702.42 Training

- A. All staff must complete a pre-service Building and Physical Premises Safety training prior to working with children. The training must include identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, vehicular traffic handling and storage of hazardous materials and the appropriate disposal of biological contaminants.
 - 1. This training is developed and facilitated by the program for staff to identify program specific environmental hazards. Staff must be retrained if there are changes to the building and physical premises.
- B. All staff must complete a Department-approved Standard Precautions training that meets current Occupational Safety and Health Administration (OSHA) requirements prior to working with children. This training must be renewed annually and will be counted towards ongoing professional development.
- C. Staff working with infants less than twelve (12) months old must complete a Department-approved Safe Sleep training prior to working with infants less than twelve (12) months old. This training must be renewed annually and will be counted towards ongoing professional development.
- D. Staff working with children less than three (3) years of age must complete a Department-approved Prevention of Shaken Baby/Abusive Head Trauma training prior to working with children less than three (3) years of age. This training must be renewed every two (2) years and will be counted towards ongoing professional development.
- E. For every thirty (30) or fewer children in attendance, there must be at least one (1) staff member on duty who holds a current Department-approved First Aid and Safety Certificate (including CPR for all ages of children) and is responsible for administering First Aid and CPR to children. Such individuals must be with the children at all times when the center is in operation. If children are at different locations, there must be a First Aid and CPR qualified staff member at each location.
- F. Within thirty (30) calendar days of employment, all employees caring for children, not required by rule to be certified in First Aid and CPR, must complete the Department-approved Introduction to First Aid and CPR module. The module must be renewed every two (2) years.

- G. Within thirty (30) calendar days of employment, all employees and regular volunteers must be trained using a Department-approved training about child abuse prevention, which includes common symptoms and signs of child abuse, how to report, where to report, and when to report suspected or known child abuse or neglect. This training must be renewed annually.
- H. Within ninety (90) calendar days of employment, all staff required to register with the Colorado Shines Professional Development Information System (listed in Section 7.702.33, d) must complete the Department-approved training course: Introduction to the Early Intervention and Preschool Special Education Programs. This course is required once and will be counted towards ongoing professional development.
- I. Within ninety (90) calendar days of employment, all staff required to register with the Colorado Shines Professional Development Information System (listed in Section 7.702.33, d) must complete the Department-approved Recognizing the Impact of Bias on Early Childhood Professionals training or other Department-approved training on implicit bias. This course is required once and will be counted towards ongoing professional development.
- J. Within ninety (90) calendar days of employment, all Directors and Assistant Directors must complete the Department-approved training: Working with an Early Childhood Mental Health Consultant. This course is required once and will be counted towards ongoing professional development.
- K. Within ninety (90) calendar days of employment, all Directors and Assistant Directors must complete the department-approved training: Introduction to Child Care Health Consultation. This course is required once and will be counted towards ongoing professional development.
- L. All staff who work with children must complete a minimum of fifteen (15) clock hours of ongoing professional development each year, beginning with the start date of the employee. At least three (3) clock hours per year must be in the focus of social-emotional development.
 - 1. Ongoing professional development courses must demonstrate a direct connection to one (1) or more of the following competency areas:
 - a. Child growth and development, and learning-
 - b. Child observation and assessment;
 - c. Family and community partnerships;
 - d. Social-emotional health and development promotion;
 - e. Health, safety and nutrition;
 - f. Professional practice;
 - g. Teaching practices
 - 2. Each one (1) semester credit hour course with a direct connection to the competency area listed in Section 7.702.42, L, 1, a-h, taken at an accredited college or university shall count as fifteen (15) clock hours of ongoing professional development.
 - 3. Training hours completed can only be counted during the year taken and cannot be carried over.
 - 4. To be counted for ongoing professional development, the training certificate must have documentation that includes:

- a. The title of the training;
 - b. The competency domain or from a nationally approved vendor list;
 - c. The date and clock hours of the training;
 - d. The name or signature of the trainer, or other approved method of verifying the identity of trainer or entity;
 - e. Expiration of training, if applicable; and,
 - f. Connection to social emotional focus, if applicable.
5. The trainer must have documentation of the qualifications for each topic of training conducted, which must be available for review by the department.
- M. Within thirty (30) calendar days of employment and annually, all staff responsible for the collection, review, and maintenance of the child immunizations records must complete the Colorado Department of Public Health and Environment immunization course.

7.702.43 Director Qualifications - Large Child Care Center

- A. Large center directors must have a current director qualifications letter issued by the Department or a current Early Childhood Professional Credential level III or higher in version 3.0 as determined by the Department prior to working as the director of a large center.
- B. The educational requirements for the director of a large center must be met by satisfactory completion of one (1) of the following. (All course hours are given in semester credit hours, but equivalent quarter credit hours are acceptable.) Official college transcripts must be submitted to the Department for evaluation of qualifications.
 - 1. A Bachelor's, Master's, or Doctorate degree from an accredited college or university in one (1) of the following:
 - a. Child Development;
 - b. Child Psychology;
 - c. Early Childhood Education;
 - d. Early Childhood Special Education;
 - e. Educational Leadership and Administration;
 - f. Elementary Education;
 - g. Family and Human Development;

- h. Family Studies; or,
- i. Special Education; or,
- 2. Completion of all of the following three (3) semester credit hour courses from an accredited college or university in each of the following subject or content areas:
 - a. Introduction to Early Childhood Professions;
 - b. Introduction to Early Childhood Techniques;
 - c. Guidance Strategies for Young Children or has been issued the Colorado Pyramid Model Training certificate of completion;
 - d. Health, Nutrition, and Safety;
 - e. Administration of Early Childhood Care and Education Programs;
 - f. Administration: Human Relations for Early Childhood Professions or Introduction to Business;
 - g. Curriculum Development: Methods and Techniques;
 - h. Child Growth and Development;
 - i. The Exceptional Child; and,
 - j. Infant/Toddler Theory and Practice or have been issued the Expanding Quality Infant/Toddler Training certificate of completion; or,
- 3. Completion of a course of training approved by the Department that includes course content listed at Section 7.702.43, B, 1; and experience listed at Section 7.702.43, C.
- C. The experience requirements for the director of a large center must include direct work with young children and families within an early care and education setting and is based on the completion of the following amount of verified work experience in the care and supervision of four (4) or more children less than eight (8) years of age who are not related to the individual:
 - 1. Persons with a Bachelor's, Master's, or Doctorate degree with a major emphasis as listed in Section 7.702.43, B, 1, or individuals with an Early Childhood Professional Credential Level III Version 3.0 as determined by the Department; no additional experience is required.
 - 2. Persons with an Associate's degree in Early Childhood Education or Child Development must have three (3) months (455 hours) of verified experience.
 - 3. Persons with a Bachelor's degree and have completed the thirty (30) semester credit hours specified in Section 7.702.43, B, 2, must have three (3) months (455 hours) of verified experience.
 - 4. Persons who have no degree but have completed the thirty (30) semester credit hours specified in Section 7.702.43, B, 2, must have six (6) months (910 hours) of verified experience.
 - 5. Additional requirements for verified experience include:

- a. Verified experience acquired in a school-age childcare center may count for up to half of the required experience for director qualifications. The other half of the required experience must be working directly with children in a child development program; and,
- b. For family childcare home experience to be considered, the applicant must be, or have been, the licensee in the State of Colorado.

D. Renewal of Large Center Director Qualifications Letter

- 1. All individuals who were previously qualified as a large center director by the Department, who have not completed the required courses in each of the following subject or content areas, must take one (1) course every two (2) years from an accredited college or university, with all courses completed by February 1, 2022, or be in compliance with a current Transitory Director Qualification Letter. Official transcripts listing completion of one (1) or more of the five (5) courses shall be submitted to the Department within thirty (30) calendar days of completing each course until all five (5) courses have been completed in:
 - a. Guidance Strategies for Young Children or has been issued a Colorado Pyramid Model Training certificate of completion;
 - b. Health, Nutrition and Safety or Child Nutrition;
 - c. The Exceptional Child;
 - d. Infant/Toddler Theory and Practice or have been issued the Expanding Quality in Infant and Toddler Care Training certificate of completion; and,
 - e. Administration: Human Relations for Early Childhood Professions or Introduction to Business.
- 2. Except for individuals holding an Early Childhood Professional Credential Level III Version 3.0 as determined by the Department, directors meeting all large center director requirements in Section 7.702.43, B, in centers operating more than six (6) hours a day must complete a three (3) semester credit hour course from an accredited college or university every five (5) years in a subject related to the operation of a center and must be able to demonstrate the relationship of the course taken to the operation of the center.
- 3. The renewal application and the official transcripts must be submitted to the Department. The renewed director letter shall expire five (5) years from approval of the renewal application.
- 4. Director letters must be renewed prior to the expiration date or the letter becomes invalid and the individual no longer qualifies as a director of a large center.

E. Revocation of Large Center Director Letter

- 1. Persons may be denied an original or renewal of a director letter; a director letter may be revoked if substantial evidence has been found that the applicant or director is responsible for one or more of the following at any childcare facility, including, but not limited to:
 - a. Committing fraud;
 - b. Responsible for egregious or repetitive grounds for negative licensing actions;
 - c. Providing false information;

- d. Providing false transcripts for self or staff; or,
 - e. Providing false letters of experience for self or staff.
 - 2. Persons who have had a Director Letter revoked or denied for the reasons listed in Section 7.702.43, E, 1, a-e, may submit a new application for consideration after a period of two (2) years from the date of denial or revocation.
 - 3. A person issued a new director letter after a denial or revocation shall receive a provisional letter for no less than nine (9) months. After the provisional period has been completed, a new application may be submitted for consideration of a five (5) year time limited letter.
 - 4. Persons whose director letter has been denied or revoked for the reasons listed in Section 7.702.43, E, 1, a-e, may file an appeal in the same manner as a request for waiver, as specified in Section 7.701.13 of the "General Rules for Child Care Facilities".
- F. Assistant Director Requirements
- 1. An Assistant Director working under the supervision of a Director must be at least eighteen (18) years of age, have at least nine (9) months (1,365 hours) of experience as an Early Childhood Teacher, and must meet one (1) of the following qualifications:
 - a. A Bachelor's, Master's, or Doctorate degree from an accredited college or university; or,
 - b. Completion of at least half of the required coursework for director qualifications in section 7.702.43, B, 3, including the following two (2) administration courses:
 - (1) Administration of Early Childhood Care and Education Programs; and,
 - (2) Administration: Human Relations for Early Childhood Professions, or Introduction to Business.
- G. All course grades used for the large center Director or Assistant Director requirements must be a "C" or better.

7.702.44 Director Qualifications - Small Child Care Center

- A. The Director or Substitute Director of a Small Center must either: meet large center Director qualifications or meet at least one (1) of the following qualifications:
 - 1. Posses a current professional teaching license issued by the Colorado Department of Education with an endorsement in the area of Elementary Education, Early Childhood Education, Early Childhood Special Education, or Early Childhood Special Education Specialist; or,
 - 2. Possess a current Early Childhood Professional Credential Level II or higher in Version 3.0 as determined by the Department; or,
 - 3. Current certification as a Child Development Associate (CDA) credential in: Center-Based, Preschool; Center-Based, Infant-Toddler; or Family Child Care; or other Department-approved credential; or,

4. Two (2) years and nine (9) months (5,005 hours) of satisfactory experience in the care and supervision of four (4) or more children less than eight (8) years of age who are not related to the individual, and at least two (2) three (3)-semester credit hour courses from an accredited college or university in Early Childhood Education, and one (1) of the courses must be either:
 - a. Introduction to Early Childhood; or,
 - b. Early Childhood Guidance Strategies for Children or has been issued Colorado Pyramid Model Training certificate of completion; or,
 5. Nine (9) months (1,365 hours) of satisfactory experience in the care and supervision of four (4) or more children less than eight (8) years of age who are not related to the individual, and an Associate's degree from an accredited college or university, with at least two (2) three (3)-semester credit hour courses in Early Childhood Education, and one (1) of the courses must be either:
 - a. Introduction to Early Childhood Professions; or,
 - b. Early Childhood Guidance Strategies for children or has been issued a Colorado Pyramid Model Training certificate of completion; or,
 6. Three (3) months (455 hours) of satisfactory experience in the care and supervision of four (4) or more children less than eight (8) years of age who are not related to the individual; and an Associate's degree in Child Development or Early Childhood Education from an accredited college or university, with at least two (2) three (3)-semester credit hour courses in either:
 - a. Introduction to Early Childhood Professions or possesses a Child Development Associate (CDA) credential in: Center-Based, Preschool; Center-Based, Infant-Toddler; or Family Child Care; or,
 - b. Early Childhood Guidance Strategies for Children or has been issued a Colorado Pyramid Model Training certificate of completion.
- B. Satisfactory experience includes all options listed at Section 7.702.43, B and C.
- C. All course grades used for the small child care center Director requirements must be a "C" or better.
- D. Substitute Director Requirements
1. In the absence of the Director of a small center, an individual who meets Director qualifications for a small center or a large center must substitute for the Director.

7.702.45 Qualifications for Teachers, Substitutes, Staff Aides, and Volunteers

- A. Early Childhood Teacher
1. An Early Childhood Teacher, assigned responsibility for a single group of children and working under the supervision of a Director, must be at least eighteen (18) years of age and meet at least one (1) of the following qualifications:
 - a. A Bachelor's, Master's, or Doctorate degree from an accredited college or university with a major area of study in one (1) of the following areas:
 - (1) Child Development;

- (2) Child Psychology;
 - (3) Early Childhood Education;
 - (4) Early Childhood Special Education;
 - (5) Educational Leadership and Administration;
 - (6) Elementary Education;
 - (7) Family and Human Development;
 - (8) Family Studies; or,
 - (9) Special Education; or,
- b. A Bachelor's, Master's, or Doctorate degree from an accredited college or university with a major area of study in any area other than those listed at Section 7.702.45, A, 1, a, and an additional two (2) three (3)-semester credit hour courses in Early Child Education, with one (1) course as the following:
- (1) Introduction to Early Childhood Professions; or,
 - (2) Early Childhood Guidance Strategies for Children or has been issued a Colorado Pyramid Model Training certificate of completion; or,
- c. An Associate's degree (60 semester credit hours) from an accredited college or university in Early Childhood Education or Child Development, which must include at least two (2), three (3)-semester credit hour courses in either:
- (1) Introduction to Early Childhood Professions; or,
 - (2) Early Childhood Guidance Strategies for Children or has been issued a Colorado Pyramid Model Training certificate of completion; or,
- d. A current professional teaching license issued by the Colorado Department of Education with an Endorsement in the area of Elementary Education, Early Childhood Education, Early Childhood Special Education, or Early Childhood Special Education Specialist; or,
- e. A current Early Childhood Professional Credential Level II or higher in Version 3.0 as determined by the Department; or,
- f. A current certification as a Child Development Associate (CDA) in: Center-Based, Preschool; Center-Based, Infant-Toddler; or Family Child Care; or other Department-approved credential; or,
- g. Completion of a course of training approved by the Department and published on the Department's approval list; and nine (9) months (1,365 hours) of verified experience in the care and supervision of four (4) or more children less than eight (8) years of age who are not related to the individual; or,
- h. Three (3) months (455 hours) of verified experience in the care and supervision of four (4) or more children less than eight (8) years of age who are not related to the individual; and the completion of eighteen (18) semester credit hours from an accredited college or university in Early Childhood Education, with one (1) course as:

- (1) Introduction to Early Childhood Professions; or,
 - (2) Early Childhood Guidance Strategies for Children or has been issued a Colorado Pyramid Model Training certificate of completion; or,
 - i. Twenty-one (21) months (3,185 hours) of verified experience in the care and supervision of four (4) or more children less than eight (8) years of age who are not related to the individual. Satisfactory experience includes being a licensee of a Colorado Family Child Care Home, a Teacher's Aide or Teacher in a childcare center, preschool, or elementary school. In addition, the individual must either:
 - (1) Possess a current Early Childhood Professional Credential Level I or higher in Version 3.0 as determined by the Department; or,
 - (2) Complete two (2) three (3) semester credit hour courses from an accredited college or university in Early Childhood Education with one (1) course as either:
 - (a) Introduction To Early Childhood Professions or has been issued the Child Development Associate (CDA) Credential; Or,
 - (b) Early Childhood Guidance Strategies for Children or has been issued a Colorado Pyramid Model Training certificate of completion.
 - 2. All course grades used for the Early Childhood Teacher requirements must be a "C" or better.
- B. Infant Program Staff
 - 1. Staff Requirements
 - a. The infant program must have an Infant Program Supervisor who meets at least one (1) of the following qualifications:
 - (1) A Registered Nurse, licensed to practice in Colorado, with a minimum of three (3) months (455 hours) of verifiable experience in the care and supervision of infants who are not related to the individual; or,
 - (2) A Licensed Practical Nurse, licensed to practice in Colorado, a minimum of nine (9) months (1,365 hours) of verifiable experience in the care and supervision of infants who are not related to the individual; or,
 - (3) An adult who holds a certificate in infant and toddler care from an accredited college or university with completion of a minimum of thirty (30) semester credit hours in the development and care of infants and toddlers in a group setting; or,
 - (4) An adult who is currently certified as a child development associate (CDA) in: Center-Based, Preschool; Center-Based, Infant-Toddler; or Family Child Care; and has completed the Infant/Toddler Theory and Practice or has been issued the Expanding Quality in Infant and Toddler Care Training certificate of completion; or,
 - (5) An adult who holds a current Early Childhood Professional Credential Level II or higher in Version 3.0, as determined by the Department, has a

minimum of nine (9) months (1,365 hours) of verifiable-experience in the care and supervision of infants and/or toddlers, and:

- (a) Has completed one (1) three (3) semester credit hour course in Infant/Toddler Development; or,
 - (b) Has completed the Department-approved Expanding Quality in Infant and Toddler Care training course.
- (6) An adult who:
- (a) Is at least nineteen (19) years of age;
 - (b) Is qualified as an Early Childhood Teacher (Section 7.702.45, A);
 - (c) Has a minimum of nine (9) months (1,365 hours) of verifiable experience in the group care of infants or toddlers; and,
 - (d) Has completed at least two (2) three (3)-semester credit hour courses from an accredited college or university on the development and care of infants and toddlers in a group setting, one (1) of which must be:
 - (i) Infant/Toddler Development; or,
 - (ii) The Department-approved Expanding Quality in Infant and Toddler Care training course; or,
- (7) An adult who:
- (a) Is at least nineteen (19) years of age;
 - (b) Is qualified as an Early Childhood Teacher (Section 7.702.45, A);
 - (c) Has a minimum of one (1) year and nine (9) months (3,185 hours) of verifiable experience in the group care and supervision of infants or toddlers; and,
 - (d) Will complete, within the first six (6) months of employment, two (2) three (3)-semester credit hour courses from an accredited college or university, one (1) of which must be:
 - (i) Infant/Toddler Development; or,
 - (ii) The Department-approved Expanding Quality in Infant and Toddler Care training course.
- b. An Infant Program Early Childhood Teacher must meet the following requirements:
- (1) Meet the qualifications for an Early Childhood Teacher found at Section 7.702.45, A, or be qualified as an Infant Program Supervisor; and,
 - (2) Has a minimum three (3) months (455 hours) of verifiable experience in the care and supervision of children under three (3) years of age.

- c. Prior to being assigned a group of children, the Infant Program Early Childhood Teacher must complete eight (8) hours of orientation in the infant program under the supervision of the Infant Program Supervisor. The orientation may include, but not limited to, the following topics:
 - (1) Toys and equipment, appropriate activities for infants and toddlers, appropriate sleep positions for infants and toddlers, and the safe and appropriate diaper change technique.
- d. The Infant Program Staff Aide must be at least eighteen (18) years of age, must have completed eight (8) hours of orientation as listed above at the infant program, and must work under the direct supervision of an Infant Early Childhood Teacher.
- e. There must be at least one (1) staff member on duty in each infant room at all times who holds a current Department-approved First Aid and Safety certificate that includes CPR for all ages of children.

2. Required Staff and Supervision

(See chart in Section 7.702.46)

- a. In the infant program, there must be a qualified Infant Program Supervisor present sixty percent (60%) of the hours of operation of the infant program who is responsible for the care of the infants. An individual qualified as an Infant Early Childhood Teacher must be responsible during the remaining time.
- b. The Infant Program Supervisor or an Infant Early Childhood Teacher must be assigned to each group of ten (10) or fewer infants in attendance. An Infant Program Staff Aide may be assigned to assist the Infant Program Supervisor or the Infant Early Childhood Teacher when six (6) through ten (10) infants are in care in the group to maintain the staff ratio of one (1) adult for each five (5) infants.
- c. There must be assigned at least one (1) Infant Program Supervisor in the infant program for each twenty (20) or fewer infants in attendance.

C. Toddler Program Staff

1. Staff Requirements

The Toddler Early Childhood Teacher, a staff member assigned responsibility for a single group and working under the supervision of the Director, must meet at least one (1) of the following qualifications:

- a. A Registered Nurse, licensed to practice in Colorado, with a minimum of three (3) months (455 hours) of verifiable experience in the care and supervision of children less than three (3) years of age who are not related to the individual; or,
- b. A Licensed Practical Nurse, licensed to practice in Colorado, with at least nine (9) months (1,365 hours) of verifiable experience in the care and supervision of children less than three (3) years of age who are not related to the individual; or,
- c. An adult who holds a certificate in infant and toddler care from an accredited college or university with completion of at least thirty (30) semester credit hours or equivalent in such courses as child growth and development, nutrition, and care practices with children birth to three (3) years of age; or,

- d. An adult who is certified as a Child Development Associate (CDA) in: Center-Based, Preschool; Center-Based, Infant-Toddler; or Family Child Care; or is certified as a Child Care Professional (CCP); or holds another Department-approved certificate; or,
 - e. An adult who meets the education and experience requirements for an Early Childhood Teacher of a large center (Section 7.702.45, A); or,
 - f. A current Early Childhood Professional Credential Level II or higher in Version 3.0 as determined by the Department.
- 2. Staff Aides must be at least sixteen (16) years of age, must work directly under the supervision of the Director or a Toddler Early Childhood Teacher, and must have completed eight (8) hours of orientation at the toddler program.
 - 3. For every fifteen (15) or fewer toddlers, there must be at least one (1) staff member in the toddler program at all times who has a current Department-approved First Aid and Safety certificate that includes CPR for all ages of children.

D. Kindergarten Teacher

A Kindergarten Teacher, assigned responsibility for a single group of children during times specified in Section 7.702.46, must meet one (1) of the following qualifications:

- 1. Each teacher of a kindergarten class must have the same qualifications as a Director for a large center (see Section 7.702.43); or must possess a current professional teaching license issued by the Colorado Department of Education in Elementary Education; or,
- 2. A current Early Childhood Professional Credential Level III or higher in Version 3.0 as determined by the Department.

E. Assistant Early Childhood Teacher

An Assistant Early Childhood Teacher, assigned responsibility for a single group of children during times specified in Section 7.702.46, must meet one (1) of the following qualifications:

- 1. Completion of one (1) of the Early Childhood Education courses in Section 7.702.43 B, 3, with a course grade of "C" or better; and a minimum of nine (9) months (1,365 hours) of verified experience in the care and supervision of four (4) or more children less than eight (8) years of age who are not related to the individual. Assistant Early Childhood Teachers must be enrolled in and attending the second (2nd) Early Childhood Education course, which will be used as the basis for their qualification for the position of Early Childhood Teacher; or,
- 2. Completion of two (2) of the Early Childhood Education courses referenced in Section 7.702.43, B, 3, with a course grade of "C" or better and no experience; or,
- 3. A current Early Childhood Professional Credential Level I or higher in Version 3.0 as determined by the Department.

F. Substitute Staff

- 1. Equally qualified staff must be available to substitute for regularly assigned staff who are sick, on vacation, or otherwise unable to be on duty.
- 2. For short term unscheduled Early Childhood Teacher vacancies up to ten (10) business days per calendar year, an Assistant Early Childhood Teacher can substitute for the Early

Childhood Teacher. The date and times of substitution must be recorded and available for review at all times.

G. Staff Aide

1. Staff Aides must be at least sixteen (16) years of age and must work directly under the supervision of the Director or an Early Childhood Teacher.
2. Infant Staff Aides must be at least eighteen (18) years of age.
3. Staff Aides, without supervision from an Early Childhood Teacher or Director, may supervise no more than two (2) preschool age children while assisting the children with diapering or toileting.

H. Volunteers

1. Volunteers who are used to meet staff to child ratio must be equally qualified as an Early Childhood Teacher, Assistant Early Childhood Teacher, or Staff Aide. Equally qualified volunteers must have complete staff records as required in Section 7.702.35 and complete training requirements as required in Section 7.702.42.
2. Volunteers who are not required to be equally qualified or successfully complete background checks must be supervised and given instruction as to the center's policies and procedures.
3. Volunteers between the ages of twelve (12) and sixteen (16) must have a written purpose developed by the center for volunteering and may not volunteer for more than two (2) hours per day.

7.702.46 Required Staff and Supervision

A. Staff-Child Ratios

1. For the purposes of this subsection A, in determining staff-child ratios, only staff members and/or volunteers qualified under Section 7.702.45, who work directly with children are counted.
2. For full day programs, during times of low attendance and/or during the first and last hour of the day, when only eight (8) or fewer children are present in the facility, there must be at least one (1) Early Childhood Teacher or Assistant Early Childhood Teacher working with the children and a second staff member must be on site and immediately available. There must be no more than two (2) children less than the age of two (2) present. When nine (9) or more children are in attendance, at least two (2) staff members must be on duty.
3. The Director of the center must be present at the center at least sixty percent (60%) of any day that the center is open.
 - a. Centers licensed under the same governing body that provide care for preschool-age children only at multiple locations are not required to have a large center Director qualified staff member assigned to each program. to qualify, centers must have an organizational structure that includes employees of the center that provide at least ten (10) administrative support elements from the following:
 1. Colorado Preschool Program Coordinator;
 2. Parent Educational Specialist;

3. Principal or Executive Director;
4. Health Coordinator;
5. Nurse;
6. Health Technician;
7. Food Service Director;
8. A Registered Dietitian or an individual with a Master's level or higher education in Nutrition;
9. Fire/Health/Safety Inspector;
10. Mental Health Team;
11. Speech Language Pathologist;
12. Occupational/Physical Therapist;
13. School Psychologist;
14. Family Outreach Worker;
15. Human Resource Specialist; or,
16. Transportation Manager.

b. The program must obtain a Director who meets large center Director qualifications if substantial evidence has been found leading to an adverse licensing action for any of the following:

1. Lack of supervision;
2. Operating out of the approved staff member to child ratio;
3. Operating without sufficient qualified staff.

4. If the Director of a large center cannot be present sixty percent (60%) of any day, an Assistant Director must be on site acting in the capacity of the Director.
5. When there is a Director vacancy or absence, an Assistant Director may substitute for the director for a maximum of up to twelve (12) weeks per calendar year. The Assistant Director must be on site at least sixty percent (60%) of any day the center is open. For vacancies exceeding twelve (12) weeks, an individual meeting Director qualification must be on site acting as director until a new Director is appointed. The dates must be documented and kept on file for review.
6. An Assistant Director must consult with a qualified Director on administering the center in accordance with early childhood principles and practices and licensing rules.
7. There must be assigned at least one (1) qualified Early Childhood Teacher supervising each group of children unless otherwise specified in rules. A Director may be the assigned teacher for one (1) group of children.

8. Full day programs may have Assistant Early Childhood Teachers supervise preschool-age and older children during the following periods of operation:
 - a. Opening hours: an Assistant Early Childhood Teacher may be alone with children for the first two (2) hours of a center's daily operating hours;
 - b. Nap time: an Assistant Early Childhood Teacher may be alone with children for up to one (1) hour during nap time;
 - c. Closing hours: an Assistant Early Childhood Teacher may be alone with children for up to the two (2) hours prior to the closing time of a center's daily operations;
 - d. Taking children to the restroom or diapering; and,
 - e. When substituting for an Early Childhood Teacher in compliance with Section 7.702.45, F, 2.
9. At least one (1) staff member with the current Department-approved Medication Administration training and delegation must be on duty at all times.
10. At nap time, the child to staff ratio may be doubled for children two and one half (2 ½) years of age and older in preschool classrooms when the following conditions have been met:
 - a. At least half of the children are sleeping;
 - b. Another staff member is onsite in the center and immediately available;
 - c. Maximum group size and room capacity are not exceeded; and,
 - d. Staff member supervising children is qualified as an Early Childhood Teacher or Assistant Early Childhood Teacher.
11. Formal kindergarten class sessions must have one (1) staff member for each twenty-five (25) or fewer children in attendance. At other parts of the day when children are in attendance, the ratio must be one (1) staff member to each fifteen (15) or fewer children.
12. Children of the Director or of staff members who attend the center and other children on the premises for supervision and care must be counted against the licensed capacity in the appropriate age groups.
13. In determining staff-child ratios, children who are in attendance for only part of the day are counted only while at the center.
14. Staff-Child Ratios

AGES OF CHILDREN	NUMBER OF STAFF
6 weeks to 18 months (infants)	1 staff member to 5 infants
12 months to 36 months	1 staff member to 5 toddlers
24 months to 36 months	1 staff member to 7 toddlers
2-1/2 years to 3 years	1 staff member to 8 children
3 years to 4 years	1 staff member to 10 children
4 years to 5 years	1 staff member to 12 children
5 years and older	1 staff member to 15 children
Mixed age group 2-1/2 years to 6 years	1 staff member to 10 children

- a. In other preschool age combinations, the staff ratio for the youngest child must be utilized if more than twenty percent (20%) of the group is composed of younger children. This does not apply to infants and toddlers. The ratio for toddler groups is based on the youngest child in the group.

15. Maximum Group Size for Children

AGES OF CHILDREN	MAXIMUM GROUP SIZE
6 weeks to 18 months	10 infants
12 months to 36 months	10 toddlers
24 months to 36 months	14 toddlers
2-1/2 years to 3 years	16 children
3 years to 4 years	20 children
4 years to 5 years	24 children
5 years and older	30 children
Mixed age group 2-1/2 to 6 years of age	20 children

- a. In other preschool age combinations, the maximum group size for the youngest child must be utilized if more than twenty percent (20%) of the group is composed of younger children. This does not apply to infants and toddlers. The group size for toddler groups is based on the youngest child in the group.
- b. Preschool age and school-age groups of children must be separated into developmentally appropriate activities. Groups are not required to be separated from each other by permanent or portable dividers or walls.
- c. Group size for children in preschool and school-age classrooms may be exceeded for circle time, meal and snack time, special occasions, and activities.
- d. The licensed room capacity must not be exceeded at any time.
- e. Toddler-age groups of children must be separated from each other by permanent or portable dividers or other methods as approved by the Department.
- f. When combining age groups, not including individual child transitions, children must be cared for in the room licensed for the youngest child in care, including the outdoor play area.

16. Emergency Situations

- A. In the case of an emergency situation, including but not limited to illness, death, accident, law enforcement action, road closure, hazardous weather, emergency bodily function, child elopement, or providing emergency attention or care to a child, the child care center may operate under the following guidelines:
 - (1) The facility may temporarily use a staff member, who has successfully completed criminal background check requirements, to supervise children for no more than two (2) hours until a qualified staff member is secured. The dates and times must be recorded and made available for review at all times.
 - (2) A large child care center or a child care center that operates on the property of a school district, district charter school, or institute charter school, may permit a staff member, who has successfully completed criminal background check requirements but is not a qualified caregiver, to supervise children for an amount of time that is reasonably necessary to address an emergency circumstance.

- (3) During any emergency situation, the facility must be in compliance with the staff-to-child ratio.

B. Service/Housekeeping Personnel

1. Service personnel must be available for housekeeping and food preparation as needed for adequate operation and maintenance of the center.
2. Assignment of housekeeping and maintenance duties to childcare staff must not interfere with their supervisory responsibilities and childcare duties.

C. Child Care Health Consultant

1. Center staff must have a monthly consultation with a current Department-approved Child Care Health Consultant who must meet one (1) of the following qualifications:
 - a. A Licensed Registered Nurse with knowledge and experience in maternal and child health;
 - b. A Pediatric Nurse Practitioner;
 - c. A Family Nurse Practitioner; or,
 - d. A Physician with knowledge and experience in pediatrics or maternal and child health.
2. The monthly consultation must be specific to the needs of the facility and include some of the following topics: training, delegation and supervision of medication administration and special health procedures, health care plans, hygiene, disease prevention, equipment safety, nutrition, interaction between children and adult caregivers, and child growth and development.
3. The monthly consultation must be conducted on-site at least quarterly or more frequently as required by the Child Care Health Consultant. Teleconsultations are allowed for the remaining months.
4. The date and content of each consultation must be recorded and maintained in the center's files for three (3) years.
5. For the Department-approved Child Care Health Consultant, the center must maintain documentation from the Colorado Department of Regulatory Agencies that the Registered Nurse or the Medical Doctor's licensure is in good standing.
6. For the Department-approved Child Care Health Consultant, the center must maintain documentation of a brief biography highlighting applicable knowledge, experience, and approximate dates worked as a school nurse or Child Care Health Consultant.
7. All Department-approved Child Care Health Consultants must complete the Department-approved Child Care Health Consultant Introductory training course within six (6) months of hire. Child Care Health Consultants must complete Department-approved ongoing professional development training every three (3) years. The center must obtain and maintain proof of training completion.
8. All Department-approved Child Care Health Consultants must complete the Department-approved Colorado Department of Public Health and Environment immunization course annually. The center must obtain and maintain proof of course completion.

9. All Department-approved Child Care Health Consultants must complete the Department-approved training about child abuse prevention, which includes common symptoms and signs of child abuse or neglect. This training must be completed within thirty (30) days of hire and renewed every three (3) years.

7.702.5 ADMISSION PROCEDURE

- A. The center must accept and care only for children of the ages for which it has been licensed. At no time shall the number of children in attendance exceed the number for which the center has been licensed.
- B. Admission procedures must be completed prior to the child's attendance at the center and must include:
 1. A pre-admission interview with the child's parent(s)/guardian(s) to determine whether the services offered by the center will meet the needs of the child and the parent(s)/guardian(s);
 2. Completion of the registration information required for inclusion in the child's record as required in Section 7.702.34 and,
 3. If applicable, a Department-approved health care plan authorized by the child's health care provider and parent(s)/guardian(s) defining the interventions needed to care for a child who has an identified health or developmental condition or concern including, but not limited to seizures, asthma, diabetes, severe allergies, heart or respiratory conditions, and physical disabilities. Any applicable medications, supplies, and/or medical equipment must be available to the staff prior to the child's first day of care. The staff working with a child with a health care plan must be informed, trained, and delegated responsibility for carrying out the health care plan by the Department-approved Child Care Health Consultant; supervision of the plan and interventions must be documented.
- C. Children with Special Needs
 1. The admission of children who have special health care needs, disabilities, or developmental delays which includes children with social emotional and behavioral needs must be in alignment with the training and ability of staff and in compliance with the Americans with Disabilities Act. Services offered must show that a reasonable effort is made to accommodate the child's needs and to integrate the child with other children. (See Section 7.701.14 of the General Rules for Child Care Facilities)
 2. The center must inform its Department-approved Child Care Health Consultant prior to the first day of care of the enrollment of a child with special health care needs, if known, so staff receive training, delegation and supervision by the Department-approved Child Care Health Consultant as indicated by the child's individualized health care plan.
 3. For a child with special health care needs requiring intervention and/or medication, the center must obtain written instructions for providing services from the child's parent(s)/guardian(s), and the health care provider. If an existing individualized health care plan is provided for the child, it must be reviewed and followed by the center staff when caring for the child. If the child does not have an existing individualized health care plan, the individualized health care plan must be obtained by the child's first day of care.
 4. For an enrolled child with a newly identified special health care need, the center must obtain written instructions for providing services from the child's parent(s)/guardian(s) and the health care provider. If the child with special health care needs does not have an existing individualized health care plan, the individualized health care plan and all associated medication(s) and/or equipment must be provided within thirty (30) calendar days of the child's identified need.

5. The individual health care plan must be updated at least every twelve (12) months from the date of the initial plan and as changes occur. The plan must include all information needed to care for the child, must be signed by the health care provider, parent(s)/guardian(s) and must include, but not be limited to, the following:
 - a. Medication and dosing schedule;
 - b. Nutrition and feeding instructions;
 - c. Medical equipment or adaptive devices, including instructions;
 - d. Medical emergency instructions;
 - e. Toileting and personal hygiene instructions;
 - f. Behavioral interventions; and,
 - g. Medical procedure/intervention orders.
- D. If the parent(s)/guardian(s) agree(s) that the center should care for a child in the infant program who is eighteen (18) months or older, the center must have on file a written statement from a health care provider confirming that care for the child is appropriate in the infant program.
- E. If the parent(s)/guardian(s) agree(s) that the center should care for a child in the toddler program who is twelve (12) months old but not walking independently, or is over thirty-six (36) months old, the center must have on file a written statement from a health care provider confirming that care for the child is appropriate in the toddler program.

7.702.51 Health Care

A. Statements of Health Status

1. The center has the right to refuse to admit a child if a statement from a health care provider or documentation of immunization status, or exemption, is not submitted.
2. At the time of admission, the parent(s)/guardian(s) must provide for each child entering the center:
 - a. Documentation of school-required immunization status or Certificate of Medical or Nonmedical Exemption, is required by the Colorado Board of Health. Up-to-date school-required immunizations must be documented as specified on the Colorado Department of Public Health and Environment Certificate of Immunization or on an "approved alternate" Certificate of Immunization. Colorado law requires proof of immunization status or exemption be provided prior to or on the first day of admission.
 - b. Within thirty (30) calendar days of admission, and within thirty (30) calendar days following the expiration date of a previous health statement, the parent(s)/guardian(s) of each child must submit a statement of the child's current health status or written verification of a scheduled appointment with a health care provider. The statement of the child's current health status must be signed and dated by a health care provider who has seen the child within the last twelve (12) months, or within the last six (6) months for children less than two and one-half (2½) years of age. The statement must include when the next visit is required by the health care provider. All health statements must be kept at the center.
 - c. Statements of health status of children less than two (2) years of age must be updated in accordance with the American Academy of Pediatrics recommended

schedule for routine health supervision or as required in writing by the health care provider.

- d. Health statements for children over two (2) years of age to seven (7) years of age must be updated in accordance with the American Academy of Pediatrics recommended schedule for routine well child exams.
- e. For children seven (7) years of age and older or who have completed the first (1st) grade, subsequent statements of health status must be obtained every three (3) years.

B. Medication

- 1. Any unexpired routine medication, prescription or non-prescription (over the counter), must be administered only with a current written order of a health care provider with prescriptive authority and with written parental consent. home remedies, homeopathic medication, vitamins, and supplements must not be administered to children in childcare.
- 2. The written order by the person with prescriptive authority shall include:
 - a. Child's name;
 - b. Licensed prescribing practitioner name, telephone number, and signature;
 - c. Date authorized;
 - d. Name of medication and dosage;
 - e. Time of day medication is to be given;
 - f. Route of medication;
 - g. Length of time the medication is to be given;
 - h. Reason for medication (unless this information needs to remain confidential);
 - i. Side effects or reactions to watch for; and,
 - j. Special instructions.
- 3. Medications must be kept in the original labeled bottle or container. Prescription medications must contain the original pharmacy label.
- 4. Over-the-counter medication must be kept in the originally labeled container and be labeled with the child's first and last name.
- 5. In the case medication needs to be given on an ongoing, long-term basis, the authorization and consent forms must be reauthorized on an at least annual basis. Any changes in the original medication authorization require a new written order by the prescribing practitioner and a change in the prescription label.
- 6. Staff designated by the Director to give medications must complete the Department-approved Medication Administration training and have current annual delegation or more often as determined by the Department-approved Child Care Health Consultant. Delegation must be from the center's current Department-approved Child Care Health Consultant who must observe and document the competency of each staff member involved in medication administration. All staff administering medication must have

current CPR and First Aid training prior to administering medication with the following exceptions:

- a. Staff determined by the Director, in consultation with the Department-approved Child Care Health Consultant, to be responsible for providing emergency medications must complete the Department-approved Medication Administration training: Severe Allergy or Asthma. After completing the training, staff must receive delegation from their Department-approved Child Care Health Consultant for those medications only. Staff must then provide those medications to children based on the instructions from the child's individualized health care plan.
 - b. Staff determined by the Director, in consultation with the Department-approved Child Care Health Consultant, to be responsible for providing medications not covered in the approved medication administration training shall also be permitted to administer medications and/or medical treatments such as emergency seizure medication, insulin, or oxygen with individualized training and delegation from the Department-approved Child Care Health Consultant based on instructions from the child's individualized health care plan.
 - c. Staff may be trained and delegated in the administration of a single rescue medication or rescue medical intervention by the center's Department-approved Child Care Health Consultant. Such training and delegation shall qualify the staff member to provide a rescue medication or treatment for a specific child based on instructions from the child's individualized health care plan.
7. All medications, except those medications specified in the Department-approved medication administration training as emergency medications, must be locked and inaccessible to children, but available to staff trained in administering medication. Controlled medications must be counted and safely secured, and specific policies regarding their handling require special attention in the center's policies. Access to these medications must be limited.
 - a. Emergency medications are not required to be locked but must be stored in an area inaccessible to children, and easily accessible and identifiable to staff. Emergency medications must be stored in accordance with the Department-approved Child Care Health Consultant's recommendation.
 - b. When away from the classroom, staff assigned to supervise the child must carry the emergency medication.
8. The center must have a written policy on the storage and access of inhalers and epinephrine carried by school-age children. The policy must include a written contract with the parent(s)/guardian(s) and child acknowledgement assigning levels of responsibility of each individual. This contract includes orders for the medication from a health care provider, along with confirmation from the health care provider and the Department-approved Child Care Health Consultant that the student has been instructed and is capable of self-administration of the prescribed medications.
9. Children are not allowed to bring medications to childcare unless accompanied by a responsible adult.
10. If a medication is out of date or left over, the parent(s)/guardian(s) is responsible for picking up the medication. If the parent(s)/guardian(s) do not respond, the center must dispose of the medications as required by the Colorado Department of Public Health and Environment.

11. Topical preparations such as petroleum jelly, diaper rash ointments, sunscreen, insect repellent, and other ointments may be administered to children with written authorization from the parent(s)/guardian(s). These preparations may not be applied to open wounds or broken skin unless there is a written order by the prescribing health care provider.
12. A written medication log must be kept for each child. This log is part of the child's records. The log must contain the following:
 - a. Child's name and birthdate;
 - b. name of the medication, dosage, and route;
 - c. time medication is to be given by written medication authorization;
 - d. time medication is administered to child;
 - e. Special instructions;
 - f. Name and initials of the individuals giving the medication; and,
 - g. Notation if the medication was not given and the reason.

C. Sun Protection

1. The center must obtain written authorization and instructions from the parent(s)/guardian(s) for the application of sunscreen or the use of another form of parent(s)/guardian(s) approved sun protection with a full-spectrum UVA/UVB rating of SPF thirty (30) or greater to their children's exposed skin prior to outside play year-round. a doctor's permission is not needed to use sunscreen at the center.
2. The center must apply sunscreen, have the parent(s)/guardian(s) apply sunscreen, or use another form of parent/guardian approved sun protection for children prior to children going outside. Sunscreen must be reapplied as directed by the product label.
 - a. When the parent(s)/guardian(s) applies sunscreen, the center must have a mechanism for documenting application times to ensure sunscreen is reapplied as directed by the product label. If documentation of application time is not available, the center must ensure that sunscreen is applied thirty (30) minutes before going outdoors. If the child will be outside for more than one hour, sunscreen must be reapplied every two hours.
3. When supplied for an individual child, the sunscreen must be labeled with the child's first and last name.
4. If sunscreen is provided by the center, parent(s)/guardian(s) must be notified in advance, in writing, of the type of sunscreen the center will use.
5. Children over four (4) years of age may apply sunscreen to themselves under the direct supervision of a staff member.
6. Infants under six (6) months must be kept out of direct sunlight while outdoors.

7.702.6 CHILD CARE SERVICES

7.702.61 Personal Hygiene

A. Diapering

1. All diaper change areas must:
 - a. Be a minimum of thirty-six (36) by eighteen (18) inches in size and large enough to accommodate the size of the child;
 - b. Have a place inaccessible to children for storing all diaper change supplies and disinfecting solutions and products;
 - c. Have a sufficient supply of diapers at all times; and,
 - d. Be located and arranged to provide privacy for older children in need of diaper changing.
 2. Children being diapered must be within arm's reach of the staff member and actively supervised throughout the diapering process.
 3. One (1) diaper change area is required in every infant and toddler classroom.
 4. One (1) designated diaper change area is required for every twenty-four (24) preschool age children.
- b. Toileting
1. There must be no attempt to toilet train children until they are able to communicate or otherwise indicate need, help manage their own clothing, and be able to access toileting facilities.
 2. For each child who is learning to use a toilet, the child's individual developmental abilities and needs must be accommodated as stated in the written policies and procedures for the center.

7.702.62 Physical Care and Supervision

A. General

1. All children must be under the direct supervision at all times of a qualified adult who has been assigned the responsibility to supervise.
2. The time a child arrives and leaves the center each day must be recorded. Staff members must complete written attendance verification periodically throughout the day, including during transitions.
3. Staff must be awake, alert, and actively supervising all children.
4. Staff must directly supervise children and maintain staff to child ratio during special activities that occur with an outside vendor or provider and where the vendor uses their expert staff to facilitate the activity.
5. The staff must ensure that children are dressed appropriately for the weather before going outside.

B. Infant and Toddler Programs

1. Outside of mealtimes, children who are awake must not be confined for more than fifteen (15) minutes at a time to cribs, playpens, swings, highchairs, infant seats, or other equipment that confines movement. Children must have the opportunity for freedom of gross motor movement.

2. Throughout the day, each child must have frequent, individual, personal contact, and attention from an adult, such as being held, rocked, taken on walks inside and outside the center, talked to, read to, and sung to.
3. Staff must investigate whenever children cry, scream, or appear to withdraw and must try to verbally or physically soothe the child. When putting infants to sleep, staff may allow for a period of no longer than ten (10) minutes without verbally or physically soothing the child to enable the infant to try to self soothe and fall asleep.
4. Children must be allowed to form and observe their own pattern of sleep and waking periods. Special provision must be made so that children requiring a morning nap time have a separate area for their nap apart from space used for play.
 - a. Children must be allowed to leave their sleeping area immediately upon waking.

C. Safe Sleep Environments for Infants

1. Each infant up to eighteen (18) months of age and enrolled in the infant program must be provided with an individual crib, futon approved for infants, or other approved sleep/rest equipment meeting Consumer Product Safety Commission (CPSC) standards. Individual cribs or futons must provide each infant with sufficient space for the infant's length, size, and movement.
2. In the infant room, soft bedding or materials that could pose a suffocation hazard are not permitted in cribs, futons approved for infants, or other approved sleep/rest equipment. Soft bedding means, but is not limited to, any soft sleep surface like bumper pads, pillows, blankets, quilts, comforters, sleep positioning devices, sheepskins, blankets, flat sheets, cloth diaper bibs, plush toys, pacifiers with stuffed animals attached, and stuffed animals.
 - a. Mattresses for cribs and futons must have a properly fitted, clean sheet.
3. Approved sleeping equipment must be firm and mattresses must fit snugly ensuring no more than two fingers are able to be inserted between the mattress and the side of the approved sleeping equipment.
4. Toys, including mobiles and other types of play equipment that are designed to be attached to any part of sleeping equipment, must be kept away from sleeping infants and out of sleep environments, including hanging toys. Blankets and other items must not be hung from or draped over the sides or any part of sleeping equipment.
5. All sleep/rest equipment must be safe, sturdy, and free from hazards including, but not limited to broken or loose slats, torn mattress, chipping paint or loose screws.
6. Drop side and stacking cribs are prohibited.
7. Bassinets and playpens are prohibited in childcare centers.
8. Other sleep equipment not manufactured for commercial use is prohibited.
9. An infant must be placed on his/her back for sleeping.
10. Alternative sleep positions for infants must only be allowed with a health care plan completed and signed by the child's physician.
11. Swaddling of infants must only be allowed with a health care plan completed and signed by the child's health care provider.

12. Each infant up to twelve (12) months of age who uses a pacifier must have the pacifier offered when being put down to sleep unless the parent(s)/guardian(s) direct(s) otherwise.
 13. Infant sound monitors must be used in separate sleeping rooms for infants unless qualified staff remain in the room with sleeping infants at all times. When monitors are used, the following conditions must be met:
 - a. The sound monitoring equipment is able to pick up the sounds of all sleeping infants;
 - b. The receiver of the sound monitoring equipment is actively monitored by staff at all times;
 - c. All sleeping infants must be physically observed at least every ten (10) minutes by a staff member;
 - d. Sound monitoring equipment must be regularly checked to ensure it is working correctly; and,
 - e. The monitor must be out of reach of children.
 14. Separate sleep rooms are prohibited in new construction, change of governing body, and change of capacity in childcare centers.
 15. Infants who fall asleep in a piece of equipment not approved for sleep must immediately be moved to their approved sleep area and placed on their back to sleep.
 16. Cribs must be used for sleeping, not extended play nor confinement.
 17. If music is played in the infant sleep area, the music must not be played at a loud volume that would prevent infants from being heard by staff. Music equipment must not be placed under a crib or within three (3) feet of the sleeping infant.
 18. Supervised tummy time must be offered to infants one (1) month of age or older at least four (4) times per day for full day programs for short periods (3-5 minutes) and increase the amount of time as the infant shows they enjoy the activity. If the infant falls asleep during tummy time, immediately place him/her on their back in approved sleeping equipment.
 19. When staff place infants in approved sleeping equipment for sleep, they must check to ensure that the temperature in the room is comfortable for a lightly clothed adult, check the infants to ensure that they are comfortably clothed (not overheated or sweaty), and that bibs, necklaces, and garments with ties or hoods are removed.
 - a. Clothing sacks or other clothing designed for sleep must be worn in lieu of blankets if needed for additional warmth. clothing must not restrict the movement of the child's arms or legs.
 20. Infants must not be placed to sleep in the same crib or futon as another infant or child at the same time.
- D. Rest Time and Equipment
1. Children must not be forced to sleep.

2. In rooms used for napping, the lighting must be dim at nap time to promote an atmosphere conducive to sleep but must be bright enough for supervision of children.
3. When the room provided for rest is used for other program activities, the cots, pads, and linens must be stored in an area that is not included in the required square footage assigned for play space.
4. In the toddler room, a crib, sleeping cot, or two (2) inch mat must be provided for each child, and there must be a minimum of two (2) feet between each crib or cot. Aisles between cots or cribs must be kept free of all obstructions while cribs are occupied. No child less than the age of two (2) years should use a cot for sleeping without written permission of the parent or guardian.
 - a. Individual cribs must provide each toddler with sufficient space for the toddler's length, size, and movement, and must meet federal Consumer Product Safety Commission standards. Each crib must be fitted with a firm, comfortable mattress. If individual cribs are used, they must be separated by a sturdy divider from the area used for activities.
 - b. Sleeping cots and mats must be of firm construction and in good repair.
 - c. A fitted sheet and a blanket, or suitable covering, must be provided for each child to be used only by that child.
5. If preschool-age children are in care for longer than five (5) hours, the center must provide at least a thirty (30) minute rest period meeting the following:
 - a. A firm cot or two (2) inch mat with a sheet and blanket, or other suitable covering, must be provided for each child;
 1. Cots or pads must be spaced at least two (2) feet apart on all sides during rest time. Children must have a safe area in which to rest that is easily supervised, out of the path of traffic, and free of hazards.
 - b. Quiet activities must be available for children who do not sleep during the thirty (30) minute period. Older children requiring a rest time must be given one;
 - c. Children who do not sleep after thirty (30) minutes must be allowed to move to another area and be provided with quiet toys and equipment to play with such as puzzles or books; and,
 - d. Children who fall asleep must be allowed to leave their napping area within ten (10) minutes of waking.

7.702.63 Food and Nutrition

- A. Meals and Snacks provided by the center
 1. All meals and snacks provided by the center must meet current United States Department of Agriculture (USDA) Child and Adult Care Food Program (CACFP) meal pattern requirements and be offered at suitable intervals not more than three (3) hours apart. Children who are at the center for more than four (4) hours, day or evening, must be offered a meal. Arrangements must be made for feeding children who are in care before 6 a.m. or after 6 p.m.
 2. If 100% fruit juice, which is not a sugar sweetened beverage, is offered as part of meals and/or snacks, it must be limited to no more than two (2) times per week.

3. Centers must not provide sugar sweetened beverages to children. These are beverages that have been sweetened with various forms of sugars that add calories and include, but are not limited to: soda, fruitades, fruit drinks, flavored milks, and sports and energy drinks.
4. The size of servings must be suitable for the child's age and sufficient time must be allowed so that meals are unhurried.
5. Foods offered shall be age appropriate and not pose a choking hazard.
6. In centers that do not regularly provide a meal, if a child brings a meal from home that does not appear to meet current USDA Child and Adult Care Food Program meal pattern requirements, the center must have foods available to offer as a supplement to that meal.
7. Staff members must sit with the children and encourage them to try a variety of food served. During meals, children should be encouraged to engage in conversation and to express their independence.
8. Children must not be given foods that are contrary to the religious beliefs of their families or that are known to cause an allergic reaction or a health hazard.
9. Food and beverages are not to be used as a reward.
10. Meal menus must be planned at least one week in advance, dated, and posted in a place visible to parents. After use, menus must be filed and retained for three (3) months.
11. A table, counter, or shelf, separate from the diaper changing area, must be available for preparing infants' and toddlers' food.

B. Feeding the Infant

1. An individualized diet and feeding schedule must be provided according to a written plan submitted by the parent or by the child's physician with the knowledge and consent of the parent. A change of diet and schedule must be noted on each child's daily activity schedule and posted in an area clearly visible to the staff.
2. All infants less than six (6) months of age must be held for bottle feeding. Bottles must not be propped. Older infants must not be allowed to hold their own bottles when lying flat. Bottles must not be allowed in a crib with the infant.
3. Older infants must be provided with suitable solid foods that encourage freedom in self-feeding and must be fed in safe chairs such as highchairs or baby-feeding tables.
4. When the infant program provides food other than breast milk or formula, food must be varied and include food from cereal, vegetable, fruit, and protein sources. When the center does not provide solid food, it must supply any additional foods and/or monitor the infant's total nutritional intake.
5. A staff member may not mix cereal with breast milk or formula and feed it to an infant from a bottle or infant feeder unless there are written instructions from the child's health care provider.
6. In infant nurseries, an adequate number of highchairs, or other suitable pieces of equipment that meet federal Consumer Product Safety Commission standards, must be provided for infant feeding.

7. Children who are actively eating may be in a highchair or other approved feeding equipment for longer than fifteen (15) minutes. Children must be moved once feeding is complete.

C. Feeding the Toddler

1. Staff members must either feed toddlers or supervise them when they are eating, and children must be encouraged to try a variety of food served.
2. Toddlers must be sitting when eating or drinking.
3. Children who are actively eating may be in a highchair or other approved feeding equipment for longer than fifteen (15) minutes. Children must be moved away from the feeding location once feeding is complete.

7.702.64 Guidance

- A. Guidance used at the center must be appropriate to the development of the child and is used as an opportunity to teach children social-emotional skills, such as self-regulation, problem-solving, and empathy for others.
- B. Children must not be subjected to physical or emotional harm, humiliation, or threats.
- C. The Director must not use, or permit a staff person or child to use, corporal or other harsh punishment.
- D. Guidance must not be associated with food, rest, or toileting. No child should be punished for toileting accidents. Food must not be denied to or forced upon a child as a disciplinary measure.
- E. Physical activity and outdoor time must not be withheld as a disciplinary measure.
- F. Separation, when used for guidance, must not exceed five (5) minutes and must be appropriate for the child's development. The child must be in a safe, lighted, well-ventilated area and be within sight and hearing of an adult. The child must not be isolated in a locked, closed room, or closet.
- G. Verbal abuse and derogatory remarks about the child are not permitted.
- H. Any form of restraint is not permitted.
- I. Physical redirection may be used to keep a child from immediate imminent danger. The child must be immediately released once removed from imminent danger.

7.702.65 Activities

A. Activity Schedules

1. The center must carry out a planned program suitable to the needs of the children. This program must be described in writing and be available for review when requested by the department or by parents or guardians of children in care.
2. Daily physical gross motor activities, with or without equipment or materials, must be provided outdoors, or indoors during inclement weather, to children toddler age and older for no less than sixty (60) minutes total for full day programs. Activities do not have to occur all at once.
 - a. Programs who qualify for an outdoor space hardship per Section 7.702.74, B,1, must provide daily physical gross motor activities indoors or outdoors.

3. Children's access to outdoor space must be provided daily, except during inclement weather.
4. Infants must be provided access to outdoor play at least three (3) times per week, weather permitting.
5. If the center takes children on routine short excursions, such activities and locations must be posted at the center.
6. Portable first aid kits must be available to staff at all times, including field trips and short excursions, and must be checked and restocked on at least a monthly basis.
7. If a child participates in activities away from the facility, the center must obtain the parent or guardian's written permission for the child to participate in the activity at a specific location and day. Staff ratios found at Section 7.702.46 must be maintained.

B. Screen Time and Media Use

1. Screen time, which includes, television, recorded media, computer, tablet, cell phones, video games, and other media devices, is prohibited for children less than two (2) years of age.
2. Screen time is prohibited during snack or meal times.
3. All media that children are exposed to must not contain explicit language or topics.
4. For children two (2) to five (5) years of age, screen time must be limited to no more than thirty (30) minutes per day.
5. For children two (2) years of age and older, screen time may only exceed sixty (60) minutes for a special occasion and must not occur more than once every two (2) weeks.
6. All children must be provided with a developmentally appropriate alternative activity once the child(ren) loses interest in the media activity.
7. There is no time restriction for children using personal adaptive equipment or assistive technology or participating in mandatory school activities.

C. Field Trips

1. The center must notify the children's parents or guardians in advance of any field trip. The staff-child ratio found at Section 7.702.46 must be maintained at all times.
2. All groups of children must be actively supervised by a qualified Early Childhood Teacher at all times.
3. Children must be actively supervised at all times.
4. An accurate itinerary must remain at the center.
5. When taking children on a field trip, staff must have the following information about each child: name, address, and phone number of the child's physician or other appropriate health care professional and the written authorization from the parent or guardian for emergency medical care.

6. If children attending the field trip require routine medications be administered during the field trip or have special health needs, a staff member with current medication administration training and delegation must attend on the field trip.
7. A list of all children and staff on a field trip must be kept at the center.

7.702.66 Transportation

A. Transportation Provided by the Center

1. The center is responsible for any children it transports.
2. The center must obtain written permission from the parent(s)/guardian(s) for any transportation of their child(ren) while in care.
3. The number of staff members who accompany children when being transported in the vehicle must meet the childcare staff ratio found at Section 7.702.46. The driver of the vehicle is considered a staff member.
4. Children must not be permitted to ride in the front seat of a vehicle and must remain seated while the vehicle is in motion. All children must be secured in a child restraint system that is appropriate for the age and development of that child. The child restraint must conform to all applicable Federal Motor Vehicle Safety Standards and Colorado child passenger safety laws.
5. Children must be loaded and unloaded out of the path of moving vehicles.
6. Children must not be permitted to stand or sit on the floor of a moving vehicle, and their arms, legs, and heads must remain inside the vehicle at all times.
7. Children must not be left unattended in the vehicle.
8. Transportation arrangements for school-age children must be by agreement between the center and the children's parents, i.e., whether the child can walk, ride a bicycle, or travel in a car. The center must monitor the children to be sure they arrive at the center when expected and follow up on their whereabouts if they are late. Written permission from parents or guardians for their children to attend community functions after school hours must include agreements regarding transportation.
9. Prior to a field trip or other excursion, the center must obtain information on liability insurance from parents and staff who transport children in their own cars and verify that all drivers have valid driver's licenses.
10. Attendance must be verified as children enter and exit the vehicle to ensure all children are accounted for.

B. Requirements for Vehicles

1. Any vehicle used for the transportation of children to and from the center or during center activities must meet the following requirements:
 - a. The vehicle must be enclosed and have working door locks;
 - b. The seats of the vehicle must be constructed and installed according to the vehicle manufacturer's specifications;

- c. The vehicle must be kept in satisfactory condition to ensure the safety of occupants. Vehicle tires, brakes, and lights must meet safety standards set by the Colorado Department of Revenue, Motor Vehicle Division;
 - d. Seating must be comfortable with a seat of at least ten (10) inches wide for each child;
 - e. The provider must not transport more children than any vehicle is able to safely accommodate when child restraint systems and seat belts are properly installed in the vehicle. Two (2) or more children must never be restrained in one (1) seat belt or child restraint system; and,
 - f. Modifications to vehicles including, but not limited to, the addition of seats and seat belts must be completed by the manufacturer or an authorized representative of the manufacturer. Documentation of such modifications must be available for review.
2. In passenger vehicles, which include automobiles, station wagons, and vans with a manufacturer's established capacity of sixteen (16) or fewer passengers and less than 10,000 pounds, the following is required:
- a. Each child must be restrained in an individual seat belt;
 - b. Two (2) or more children must never be restrained in one (1) seat belt;
 - c. Lap belts must be secured low and tight across the upper thighs and under the belly; and,
 - d. Children must be instructed and encouraged to keep the seat belt properly fastened and adjusted.
3. In vehicles with a manufacturer's established capacity of sixteen (16) or more passengers, seat belts for passengers are not required.

C. Requirements for Drivers of Vehicles

- 1. All drivers of vehicles transporting children must comply with applicable laws of the Colorado Department of Revenue, Motor Vehicle Division, and ordinances of the municipality in which the center operates.
- 2. All drivers of vehicles owned or leased by the center in which children are transported must have a current Department-approved First Aid and Safety certificate that includes CPR for all ages of children.
- 3. In each vehicle used to transport children, drivers must have access to a First Aid kit.
- 4. The driver must ensure that all doors are secured at all times when the vehicle is moving.
- 5. The driver must make a good faith effort to ensure that each child is properly belted throughout the trip.
- 6. The driver must not eat, smoke, or use a cellular device while driving.
- 7. The required staff to child ratio must be maintained at all times.
- 8. All drivers must be at least twenty (20) years of age.

9. Drivers must complete a minimum of four (4) hours of Department-approved driver training. The Department's approval will be based on the review of a training curriculum that includes at a minimum: behind the wheel training; participant transport attendance procedures including taking attendance at the destination; managing behavioral issues; loading and unloading procedures; daily vehicle inspection procedure; proper tire inflation; emergency equipment and how to use it; accident procedures; passenger illness procedures; procedures for backing up; and vehicle evacuation.

D. Transporting Infants and Toddlers

1. Children must be properly fastened into a child restraint system that conforms to all applicable Federal Motor Vehicle Safety Standards pursuant to Colorado law.
2. There must be at least one (1) adult, in addition to the driver, for each five (5) or fewer infants/toddlers being transported. Each adult must have a current Department-approved First Aid and Safety certificate that includes CPR for all ages of children.
3. An adult must accompany each child to and from the vehicle.
4. Infants and toddlers must not be transported in the front seat of a vehicle.

7.702.67 Overnight Care

- A. All of the provisions required in Section 7.702 of these rules for childcare centers apply to centers offering overnight care of children which includes care that extends beyond midnight. In addition, centers must observe the following provisions:

1. A nutritious evening meal must be made available to children. If provided by the center, the meal must meet current USDA Child and Adult Care Food Program meal pattern requirements.
2. Quiet activities must immediately precede the children's bedtime.
3. Children's faces and hands must be washed, children's teeth must be brushed according to the child's age, and children must be changed into comfortable clothing for sleeping.
4. Each child must be provided with a comfortable separate bed, crib, or cot suitable for the child's age or a two (2) inch sleeping mat or mattress. Each child must also be provided with sheets and a clean, washable covering. If mats or mattresses are used, the room temperature at floor level must be 68 to 72 degrees. Pads and mattresses must be fitted with a clean, washable, removable covering. Permission of parents/guardians must be obtained for each child who uses a sleeping mat or mattress placed on the floor.
5. Staff must be awake, alert, and actively supervising all children.
6. The staff-child ratio for sleeping children is one (1) adult to every six (6) or fewer children in attendance. Once one (1) child is awake, the staff-child ratio as defined in Section 7.702.46 must be maintained.

7.702.7 CHILD CARE EQUIPMENT AND MATERIALS

7.702.71 General Requirements

- A. Durable furniture such as tables and chairs must be child-sized or appropriately adapted for children's use.
- B. Window blind cords must be secured out of children's reach to prevent strangulation.

- C. Items labeled “keep out of reach of children” must be inaccessible to children.
- D. Staples must be inaccessible to children less than three (3) years of age.
- E. Thumb tacks must not be used in areas accessible to children less than three (3) years of age.
- F. Glitter must not be used with children under three (3) years of age.
- G. Loose plastic bags must be stored in areas inaccessible to children.
- H. Sharp tools and instruments must be stored in areas inaccessible to children.
- I. For every five (5) infants for which the center is licensed, there must be at least one (1) piece of sturdy mobile equipment that is easily accessible to safely and effectively evacuate infants.
- J. If using a crib is not designed for emergency evacuation, the crib must be reinforced with a kit manufactured for this purpose.
- K. Evacuation equipment must not block exit routes. Nothing may be stored in or under any evacuation equipment.

Evacuation equipment must:

1. Be located in the room or immediately outside the interior classroom door;
 2. Be labeled for easy identification;
 3. Be ready for use; and,
 4. Fit through doorways.
- L. Toys, toy parts, furnishings, equipment, and any materials accessible to children under than three (3) years of age must not be a choke hazard or able to be inhaled. Any area of the facility accessible to children less than three (3) years of age must be free of any choke or inhalation hazards.
 - M. Toys, toy parts, furnishings, equipment, and materials made of brittle, easily breakable plastic or glass are not permitted for children less than five (5) years of age.
 - N. The infant program must have an adult rocking chair.
 - O. In the infant program, some play equipment from the following list must be provided: rubber washable toys, rattles, blocks, balls, and music player.
 - P. Some sand or equivalent dry material or water play should be offered to children eighteen (18) months of age or older, indoors or outdoors, at least monthly and year-round.
 - Q. At least three (3) examples of materials must be available to the children that are developmentally appropriate, culturally sensitive, and represent diversity in ethnicity, race, gender, age, and abilities. Variety must exist in toys, books, and pictures.
 - R. The center must have enough play materials and equipment so that at any one time each child for which the center is licensed for can be individually involved. Separate play rooms or separate interest centers must be provided for each category of equipment required for the program. A variety of material and equipment from the following categories must be available:
 1. Art;

2. Blocks and accessories;
 3. Books and pictures;
 4. Dramatic play;
 5. Gross motor;
 6. Manipulatives;
 7. Music; and,
 8. Science and math.
- S. In the toddler program, some play materials and equipment easily accessible to children must be provided from each of the following categories:
1. Books and pictures;
 2. Dramatic play;
 3. Gross motor;
 4. Manipulatives; and,
 5. Music.
- T. If the center serves school-age children, it must have some age-appropriate materials and equipment from each of the following categories:
1. Arts and crafts;
 2. Games;
 3. Sports;
 4. Science and math; and,
 5. Literature.
- U. An appropriate supply of play materials must be readily accessible to children and must be arranged in an orderly manner so that children can select, remove, and replace the play materials either independently or with minimum assistance.

7.702.72 Indoor/Outdoor Equipment, Materials, and Surfaces

- A. A variety of play equipment and materials appropriate for children's age, size, developmental needs, and activities must be provided for both indoor and outdoor structured and free play.
1. Programs who qualify for an outdoor space hardship per Section 7.702.74, B, 1 are not required to provide equipment and materials for outdoor play.
- B. Indoor and outdoor equipment, materials, and furnishings must be sturdy, safe, and free of hazards.

- C. All other indoor or outdoor playground facilities, with permanently installed or portable climbing equipment, without an annually certified playground inspection must meet the following requirements:

1. Resilient Surfacing

- a. All climbing equipment eighteen (18) inches or higher must have resilient surfacing of at least six (6) inches in the use zone surrounding the equipment.
- b. Department-approved resilient surfacing includes loose fill materials such as wood chips, wood mulch, engineered wood fiber, pea gravel, synthetic pea gravel, shredded rubber tires, and sand. Solid unitary materials include poured in place surfacing, approved rubber mats, playground tiles, and Astroturf with built in resilient pad.
- c. Loose fill resilient surface must be raked regularly to retain its resiliency and to retain a depth of at least six (6) inches.
- d. Any newly installed solid unitary materials used for resilient materials must have written documentation from manufacturer stating the material meet current federal safety standards. The documentation must be available for review at all times.

2. Maximum Height of Equipment

- a. The maximum height for toddler climbing equipment cannot exceed thirty-two (32) inches.
- b. The maximum height for preschool and school-age climbing equipment must not exceed six (6) feet in height with six (6) inches of Department-approved resilient surfacing.

3. Use Zone

- a. Toddler climbing equipment must have a three (3) foot use zone surrounding the equipment. Toddler slides require a six (6) foot use zone extending out from the base of the slide.
- b. The use zone for swings used by toddlers is determined by measuring the distance from the top of the swing to the bottom of the bucket seat. This measured distance must extend from both the front and the back of the swing.
- c. Preschool and school-age climbing equipment must have a six (6) foot use zone surrounding the equipment. For slides exceeding six (6) feet in height, the use zone from the base of the slide must be as long as the slide height.
- d. The use zone for swings used by children preschool age and older is determined by measuring the distance from the top of the swing to the ground. This measured distance must extend from both the front and the back of the swing.

4. Moving equipment must be located toward the edge or corner of a play area or be designed in such a way as to discourage children from running into the path of the moving equipment.
 5. Metal equipment must be placed in the shade.
 6. All pieces of playground equipment must be designed to guard against entrapment and strangulation. Any openings in gross motor equipment above ground must be smaller than three and one half (3 ½) inches or greater than nine (9) inches to prevent entrapment.
 7. Swings must have seats made of a flexible material and all "S" hooks must be secured.
 8. All outdoor play areas used for children's activities must be checked daily and kept safe and free from hazardous materials or debris by removal of debris, dilapidated structures, and broken or worn play equipment. The staff must identify hazardous, high-risk areas; those areas must be made inaccessible to children to reduce the possibility of injuries and accidents.
- D. For purposes of a playground facility inspection, the Department shall accept as satisfactory proof of valid certification of the playground facility, certification, or a copy of certification, from an individual who is licensed or certified to perform playground safety inspections through the National Recreation and Park Association, or other nationally recognized playground facility safety organization. The Department shall not require a duplicate inspection if there is a satisfactory inspection report.
1. All playground facilities who hold a certified playground safety inspection must maintain resilient surfacing in compliance with the certification.
- E. Children must wear helmets when riding scooters, bicycling, skateboarding, or rollerblading. The helmet must be removed after the activity. Motorized riding toys are not permitted.
- F. Trampolines and inflatable bouncers are prohibited.

7.702.73 Indoor Learning Environment

A. Indoor Space Requirements

1. There must be open, indoor play space of at least thirty (30) square feet of floor space per child, including space for movable furniture and equipment. For space to be counted in the square footage calculation, the space must be accessible and used by children.
2. Indoor play areas must be uncluttered, safe, and allow for freedom of movement.
3. Adequate storage space must be provided for indoor and outdoor equipment and supplies.
4. Number of Children Allowed in One (1) Room

AGE OF CHILDREN	MAXIMUM NUMBER OF CHILDREN IN A ROOM
6 weeks to 18 months	10 infants
12 months to 18 months	10 infants
12 months to 36 months	20 toddlers

18 months to 24 months	20 toddlers
24 months to 36 months	28 toddlers
30 months to 36 months	28 toddlers

5. Square Footage Requirement per Child

AGE OF CHILD	SEPARATE FREE PLAY AREA	SEPARATE SLEEP AREA	COMBINED SLEEP AND PLAY AREA
6 weeks to 18 months (infants)	35 square feet	Adequate space to accommodate size of cribs and needs of infant and staff	50 square feet
12 months to 36 months (toddlers)	30 square feet	30 square feet	45 square feet
2-1/2 years to 5 years (preschool)	N/A	N/A	30 square feet
5 years and over (school-age)	N/A	N/A	30 square feet

6. In the infant program, the minimum indoor space per infant for sleep and activities is fifty (50) square feet.

1. In a combination sleep/activity rooms, the sleep area must be separated by a sturdy divider from the area used for activities, and cribs must be arranged so that all infants and cribs are easily accessible to staff members.

7.702.74 Outdoor Learning Environment

A. Outdoor Space Requirements

1. Readily accessible gross motor play space and access to outdoor space must be provided.
2. The outdoor learning environment for preschool age and older must provide a minimum of seventy-five (75) square feet of space per child for a group of children using the total play area at any one time. the total play area must accommodate at least thirty-three percent (33%) of the licensed capacity for children preschool age and older or a minimum of 1500 square feet, whichever is greater.
 - a. Programs who qualify for an outdoor space hardship per Section 7.702.74, B, 1 must meet the minimum outdoor learning environment square footage requirements indoors or through a combination of indoor and outdoor space.
3. The play area must be fenced or have natural barriers, such as hedges or stationary walls at least four (4) feet high, to restrict children from unsafe areas.

- a. Centers licensed to provide care for preschool-age children only may use the centers perimeter fencing if they maintain a ratio of one (1) staff member to eight (8) children.
- 4. The play area must be designed so that it is easily supervised.
- 5. A minimum of one hundred fifty (150) square feet of shaded area in the fenced play area must be provided to guard children against the hazards of excessive sun and heat. Shaded areas must be provided year-round.
- 6. In the infant program, the outdoor play area must be a minimum of four hundred (400) square feet.
- 7. In the infant program, the outdoor area can be used by other age groups at the center, but it must not be used by any other group of children while infants are using it.
- 8. The total outdoor play area for toddler age groups must be a minimum of seven hundred fifty (750) square feet if licensed for ten (10) toddlers and one thousand fifty (1,050) square feet if licensed for fourteen (14) or more toddlers, or seventy-five (75) square feet per child for the largest group size for which the program is licensed.
- 9. In the toddler program, the outdoor play area can be shared by infants, but infants and toddlers must not be allowed to use the play area at the same time.

B. Outdoor Space Hardship

- 1. If an outdoor play space is not directly attached to the facility or accessible via secure access, or the childcare facility cannot meet outdoor space requirements due to a hardship based on the location of the facility, the facility must develop a site-specific plan, which will be submitted to the Department for review and approval, that includes the following:
 - a. Identification of an accessible (appropriate for the age group of children served) alternate outdoor space including a description and approximate square footage of the space;
 - b. A diagram outlining how children will safely travel to and from this location;
 - c. A plan for supervision, including any special staffing requirements, to safely access and utilize the alternate outdoor space that includes:
 - (1) Attendance tracking upon arrival to the outdoor space and return to the facility;
 - (2) Children's toileting and diapering needs;
 - (3) Children's routine and emergency medical needs including the use of first aid kits and accessibility of emergency contact information when not on site at the childcare facility;
 - (4) Plans for alternate activities if the outdoor space is unavailable; and,
 - (5) If play equipment or climbing structures are present in the outdoor space, a plan for assessing safety of equipment and supervising age-appropriate play;

- d. An emergency evacuation plan including the location of a secondary site for reunification with parents in the case of an emergency while at the offsite location and plans for accessing shelter in the case of emergency; and,
 - e. A policy that notifies the parent(s)/guardian(s) of the alternate outdoor space.
2. If the outdoor space becomes unusable or the program cannot maintain what was approved in the plan, the program must submit a new plan to the Department within ten (10) calendar days of a change in the usability of such outdoor space.
 3. Childcare facilities licensed prior to December 1, 2021 may not reduce or eliminate existing licensed outdoor space to qualify for the outdoor space hardship.

7.702.8 BUILDINGS AND FACILITIES

7.702.81 Building Site

A. General

1. Centers can be located in a private residence only when that portion of the residence to which children have access is used exclusively for the care of children during the hours the center is in operation or is separate from the living quarters of the family.
2. No other business can operate in the rooms used by the center during the hours of childcare.
3. Rooms licensed for specific ages of children cannot be used for other ages of children without the prior written approval of the licensing authority.
4. Prior to licensure, if the infant or toddler program is located on a floor above or below the main floor of egress leading directly outside, the childcare facility must develop and submit an alternate location plan for approval by the department that includes following:
 - a. Fire department and building department approval per the locally adopted fire and building codes;
 - b. An emergency evacuation plan with identified primary and secondary areas of refuge;
 - c. Any special equipment necessary to operate in and evacuate safely from the alternate location; and,
 - d. Any special staffing and training requirements to ensure the ability to safely evacuate the alternate location.

B. Infant Programs

1. If the infant program is in the same building as a facility caring for children of other ages, the infant program must be physically separated in different rooms by walls no less than eight (8) feet and full doors.

C. Toddler Program

1. If the toddler program is in the same building as a facility caring for children of other ages, the toddler program must be physically separated in different rooms by walls no less than eight (8) feet and full doors.

2. If the toddler program is combined with a large childcare center or an infant program, toddler facilities, both indoor and outdoor, must be completely separate from facilities for other age groups, except as allowed by Section 7.702.74, A, 6 and 8. If the facility wishes to provide opportunities for a toddler to have occasional contact with siblings, plans must be approved by the Department licensing representative.

7.702.82 Building Plans and Construction

- A. The center must comply with applicable state and local building and fire codes.
- B. Prior to construction, architectural plans for new buildings or for remodeling of existing buildings must be submitted for review and approval by the Department, the local fire department, and the local building department as to appropriateness, adequacy, and suitability for childcare functions.

7.702.83 Toilet Facilities

- A. Toilet facilities for the staff and other adults must be in separate restrooms or be separated by a partition from children's facilities, except in centers licensed for thirty (30) or fewer children and in centers with programs of four (4) hours or less.
 1. In toilet facilities where the adult and children's facilities are separated by a partition, adults and children must not use the facilities at the same time.
 2. After January 1, 2022, staff and children toilet facilities must be separate in new construction.
- B. Toilet facilities for children must be separate from rooms used for other purposes and must be located on the same floor as the inside play area.
- C. A minimum of one (1) sink and one (1) flush toilet must be provided for each fifteen (15) or fewer children.
- D. The same toilet facilities must not be used simultaneously by school-age children of all genders, and toilets for school-age children must be separated by partitions to provide privacy.
 1. School-age children must be allowed the use of toilet facilities that correspond with their gender identity.
- E. Toilet facilities must be provided for children two (2) years of age and older.
- F. Toilet facilities for toddlers must be located within their classroom.

7.702.84 Office Facilities

- A. Office space separate from areas used by children-must be provided for staff to perform administrative duties.
 1. If the office space is accessible to children, it must be free of hazards.
- B. The office must have sufficient space for maintenance and safe storage of children's and staff records and the center's business records.

7.702.9 SAFETY REQUIREMENTS

7.702.91 General Requirements

- A. Firearms as defined in § 18-1-901(3)(h), C.R.S., are prohibited on the premises, both indoor and outdoor, and in any vehicle in which children are transported.
- B. Buildings must be kept in good repair and maintained in a safe condition.
- C. Major cleaning is prohibited in rooms occupied by children.
- D. Volatile substances such as gasoline, kerosene, fuel oil, oil-based paints, firearms, explosives, and other hazardous items must not be stored in any area of the building used for childcare.
- E. Combustibles such as cleaning rags, mops, and cleaning compounds must be stored in well-ventilated areas, separated from flammable materials, and stored in areas inaccessible to children.
- F. All heating units, gas or electric, must be installed and maintained per the manufacturer's specifications with safety devices to prevent fire, explosions, and other hazards. No open-flame gas or oil stoves, unscreened fireplaces, hot plates, or unvented heaters can be used for heating purposes. All heating elements, including hot water pipes, must be insulated or installed in such a way that children cannot come in contact with them.
- G. Combustible materials must not be stored in hallways, stairways, boiler rooms, mechanical rooms, or electrical equipment rooms.
- H. In rooms used by children, all electrical outlets that are accessible to children must have protective covers, or safety outlets must be installed.
- I. Permanently located battery-powered lights must be provided in locations readily accessible to staff in the event of electric power failure. Batteries must be checked regularly.
- J. Closets, attics, basements, cellars, and furnace rooms must be kept free from accumulation of extraneous materials such as furnishings, newspapers, and magazines.
- K. Kitchens, including all hazardous items, must be inaccessible to children at all times.

7.702.92 Fire Safety

Centers must comply with the locally adopted fire code, including but not limited to the following:

- A. Every building and structure must have the minimum required number of exits to permit the prompt escape of occupants in case of fire or other emergency. Additional safeguards must be provided for life safety in case any single safeguard is ineffective due to some human or mechanical failure.
- B. Every building or structure must be constructed, arranged, equipped, maintained, and operated as to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the building or structure in case of fire or other emergency.
- C. In every building or structure, exits must be arranged and maintained so as to provide free and unobstructed egress from all parts of the building or structure at all times when it is occupied. No lock or fastening to prevent free escape from the inside of any building can be installed. Only panic hardware or single-action hardware is permitted on a door or on a pair of doors. All door hardware must be within the reach of children.
- D. No children younger than school age can be cared for in areas above or below the main floor of exit unless in compliance with all Codes and Standards as adopted by the local jurisdiction and

approved by the local fire department, or except as provided in the location exception in Section 7.702.81, A, 4.

- E. One (1) exit from each room must be directly to the exterior of the building or to a common hallway leading to the exterior. The exit path must not go through an intervening room such as a bathroom, another classroom, storage room, or kitchen.
- F. All stairways, interior and exterior, that are used by children must be provided with handrails within reach of the children.
- G. Regardless of the number of staff and children, exit doors shall be openable from the inside without the use of a key or any special knowledge or effort. Dead bolts may be installed on the main exit door, but the lock cannot be used during business hours, and there must a sign indicating that "this door must remain unlocked during business hours."
- H. Every exit must be clearly visible, or the route to reach it must be conspicuously indicated. Each path of escape must be clearly marked.
- I. Fire alarm and fire sprinklers must be provided in accordance with the locally adopted fire code. If a fire alarm system is installed, it must be used to warn occupants of the existence of fire or to facilitate the orderly conduct of fire exit drills.

7.702.100 DROP-IN, PART DAY, MOBILE PART-DAY PRESCHOOL, TEEN PARENT PROGRAMS, AND OTHER PROGRAMS OPERATED BY PUBLIC SCHOOL DISTRICTS

7.702.101 Drop-In Programs

A. Director Requirements

- 1. The Director or Assistant Director of an extended hour drop-in childcare center operating at least six (6) calendar days per week must be present at the center or involved in director activities at least fifty percent (50%) of the hours of operation of any day the center is in operation.
 - a. If the Director is not on site at the center for a portion of any day that center is in operation, the Director must be available by phone.
- b. The Director must be present in the center at least thirty (30) hours each week.
- 2. Whenever the Director of a drop-in childcare center cannot be present fifty percent (50%) of any day the center is in operation, an Assistant Director that meets one (1) of the following qualifications must be present:
 - a. At least one (1) year of experience as a qualified Early Childhood Teacher at the drop-in child care center;
 - b. Eighteen (18) months of experience as a qualified Early Childhood Teacher with children less than twelve (12) years of age and at least six (6) months experience at the drop-in child care center;
 - c. A Bachelor's, Master's, or Doctorate degree from an accredited college or university in one (1) of the human services field below:
 - (1) Child Development;

- (2) Child Psychology;
- (3) Early Childhood Education;
- (4) Early Childhood Special Education;
- (5) Educational Leadership and Administration;
- (6) Elementary Education;
- (7) Family and Human Development;
- (8) Family Studies;
- (9) Special Education; or,

d. Qualification as an Early Childhood Teacher and completion of at least half of the required coursework for Director qualifications, including one (1) of the following administration classes:

- (1) Administration Of Early Childhood Care and Education Programs; or,
- (2) Administration Human Relations for Early Childhood Professions or Introduction to Business.

B. Staff to Child Ratios

- 1. Drop-in child care centers may follow a ratio of one (1) adult for every eight (8) children for children in a mixed age group of two (2) years of age to twelve (12) years.
- 2. One (1) to two (2) children, one (1) year of age to two (2) years of age, may join the preschool age group of children for short periods of time for structured activities.

C. Health Care

- 1. For children attending a drop-in center, the parent(s)/guardian(s) of each child must submit a statement of the child's current health status or written verification of a scheduled appointment with a health care provider within thirty (30) calendar days or by the second visit, whichever is longer. The statement of the child's current health status must be signed and dated by a health care provider who has seen the child within the last twelve (12) months, or within the last six (6) months for children less than two and one-half (2 ½) years of age. Subsequent statements are not required if there have been no health changes in the child and the parent(s)/guardian(s) attest in writing to the health status of the child on an annual basis. Children attending drop-in childcare with special medical needs must have the statement from a health care provider as indicated in Section 7.702.51, A, 2, b-e.

D. Rest Time Equipment

1. Drop-in child care centers must provide mats or cots for at least fifty percent (50%) of the licensed capacity of the center.

E. Play-Equipment and Materials

1. Drop-in child care centers must provide indoor gross motor equipment, including, but not limited to, an indoor climbing structure, an open area for indoor, and must provide gross activities at least two (2) times during each six (6) hour period of time.

F. Building Site- Toddler Program

1. A toddler program located in a drop-in child care center licensed for five (5) or fewer toddlers may be separated from the rest of the center by a five (5) foot wall.
2. Drop-in child care centers must provide a minimum of one (1) sink and one (1) toilet for each twenty (20) or fewer children.
3. Toilet facilities are not required to be located in the toddler classroom for drop-in child care centers licensed for ten (10) or fewer toddlers.

7.702.102 PART-DAY PROGRAMS

A. Safe Sleep Environment

1. Supervised tummy time must be offered to infants one (1) month of age or older at least two (2) times per day for part day programs for short periods (3-5 minutes) and increase the amount of time as the infant shows they enjoy the activity. If the infant falls asleep during tummy time, immediately place him/her on their back in approved sleeping equipment.

B. Gross Motor Activities

1. Daily gross motor activities, with or without equipment or materials, must be provided outdoors, or indoors during inclement weather. Activities do not have to occur all at once.
 - a. Programs who qualify for an outdoor space hardship per Section 7.702.74, B, 1 must provide daily physical gross motor activities indoors or outdoors.
2. Daily physical gross motor activities must be provided for children toddler age and older based on the program's hours of operation:
 - a. For programs operating up to three (3) hours per day, fifteen (15) minutes of gross motor activities is required.
 - b. For programs operating between three (3) and five (5) hours per day, thirty (30) minutes of gross motor activities is required.

7.702.103 Mobile Part-Day Preschool Programs

A. Policies

1. Written schedules must be provided to parent(s)/guardian(s) and the department. Any changes to location must be provided to parent(s)/guardian(s) and the department in advance.
2. The program must have an emergency evacuation plan and location.

- a. The program must develop a plan for transporting children, specific to each mobile unit, in the case of an emergency. The plan must be approved by the Department prior to caring for children.

B. Staff Qualifications

1. There must be a large childcare center qualified Director available during operating hours. A Director can oversee multiple mobile preschool programs under the same governing body.
2. Each mobile preschool program must have a qualified Early Childhood Teacher on site.

C. Supervision

1. Children must be directly supervised when entering and exiting the mobile preschool.

D. Child Care Equipment and Materials

1. A variety of developmentally appropriate materials, equipment, and learning activities from the following categories must be available so that for any one time at least half of the children for which the program is licensed can be individually involved:

- a. Art;
- b. Blocks and accessories;
- c. Books and pictures;
- d. Imaginative play;
- e. Manipulatives;
- f. Music; and
- g. Science and math.

E. Facility Requirements

1. The mobile unit must be parked and appropriately secured prior to children arriving for care.
2. The use of handwashing sinks and toilets not located within the facility must be approved by the Colorado Department of Public Health and Environment.

3. If the mobile preschool is approved by the Colorado Department of Public Health and Environment to use a toilet located outside of the facility, there must be one (1) additional staff member, who is an Assistant Early Childhood Teacher or an Early Childhood Teacher, to properly supervise and accompany the children to the toilet facilities.
4. If the Colorado Department of Public Health and Environment approves the use of a public restroom, the restroom must not be shared with the public during the hours the preschool is in operation.
5. There must be a minimum of fifteen (15) square feet per child in the mobile classroom.
6. The mobile preschool must be capable of maintaining a draft-free temperature of a minimum of sixty-eight (68) degrees Fahrenheit.
7. The program must have safely accessible access to an outdoor area for daily planned activities, during inclement weather, an indoor space must be available for gross motor activities.
 - a. Programs who qualify for an outdoor space hardship per Section 7.702.74, B, 1 must provide daily physical gross motor activities indoors.

F. Safety

1. Space heaters must have screens, a safety overheat protection, a safety trip-over switch, and be inaccessible to children.
2. The mobile preschool must have two (2) means of emergency egress.

7.702.104 Teen Parent Programs Operated by a Public School District

- A. Infant programs affiliated with Teen Parent Programs that are operated by accredited public school systems and on school premises may substitute the following age requirements for those at Section 7.702.1, B, 3:
 1. The minimum age of infants in care is seven (7) days.
 2. Infants between the ages of seven (7) and thirteen (13) days may be accepted for care only with written approval from a health care provider and if there are no medical complications for the infant and/or teen mother.
 3. Infants fourteen (14) days of age and over may be accepted for care if there are no medical complications for the infant and/or teen mother.
 4. The maximum age of infants in care may be extended only in those situations where no teen parent toddler program exists. In this circumstance, an infant may remain in the infant program until the end of the school semester in which the infant becomes eighteen (18) months old.
- B. Infant and toddler programs affiliated with teen parent programs that are operated by accredited public school systems on school premises may substitute the following staff requirements for those at Section 7.702.45 B, C:
 1. The Director must be present in the infant program classroom or adjacent teen parent classroom at least sixty percent (60%) of any day the center is open.
 2. If the Director cannot be present sixty percent (60%) of any day, an individual who meets Assistant Director qualifications must substitute for the Director.

3. Infant staff aides must be at least fifteen (15) years of age and may be parents-to-be, parents of enrolled infants, or students enrolled in a childcare related course with the sponsoring school system.
4. Substitutes for infant program staff must be from the sponsoring school system's list of approved substitute staff members. Substitutes who do not meet minimum staff qualifications can work no more than ten (10) consecutive business days per assignment. The dates and times must be recorded and made available for review at all times.
5. Substitutes for infant program staff must hold a current Department-approved First Aid and Safety certificate that includes CPR for all ages of children.

C. Rest Time Equipment

1. Bassinets and playpens are allowed for use in a teen parent program when the teen parent(s) remain(s) on site.

7.702.105 Child Care Programs and Preschools Operated by a Public School District

- A. The administration of medical marijuana must comply with policies listed in Sections §12-255-120, 12-255-127, and 2-30-116. C.R.S.

B. Director Requirements

1. Preschool age classrooms that are operated by public school districts are not required to have a Large Center Director qualified staff member assigned to each program when they have an organizational structure that includes at least ten (10) administrative support elements from the following:
 - a. Colorado Preschool Program Coordinator;
 - b. Parent Educational Specialist;
 - c. Principal;
 - d. Health Coordinator;
 - e. Nurse;
 - f. Health Technician;
 - g. Food Service Director;
 - h. A Registered Dietitian or an individual with a Master's level or higher education in Nutrition;
 - i. Fire/Health/Safety Inspector;
 - j. Mental Health Team;
 - k. Speech Language Pathologist;
 - l. Occupational/Physical Therapist;
 - m. School Psychologist;
 - n. Family Outreach Worker;

- o. Human Resource Specialist; or,
 - p. Transportation Manager.
 - 2. The program must obtain a director who meets Large Center Director qualifications if substantial evidence has been found leading to an adverse licensing action for any of the following:
 - a. Lack of supervision;
 - b. Operating out of the approved staff member to child ratio;
 - c. Operating without sufficient qualified staff.
 - 3. Programs who have their Director privileges revoked may submit a request for consideration after a period of two (2) years from successful completion of the adverse licensing action.
- C. Substitutes
 - 1. Substitutes for Directors of part-day public school preschools may be from the sponsoring school system's list of approved substitutes. Substitutes who do not meet director qualifications must consult with a qualified director on administering the center in accordance with early childhood principles and practices and licensing rules.
 - 2. In licensed programs operated by public school districts, substitutes may be from the sponsoring school system's list of approved substitutes. Substitutes who do not meet qualifications for the position that they are substituting for can be used up to ten (10) calendar days per year. The dates and times must be recorded and made available for review at all times.
- D. Outdoor Space Requirements
 - 1. Licensed preschool programs operated by public school districts who do not meet fencing or barrier requirements in Section 7.702.74, A, 3 may use the school's perimeter fencing if they maintain a ratio of one (1) staff member to eight (8) children.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00479

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

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

on 10/08/2021

12 CCR 2509-8

CHILD CARE FACILITY LICENSING

The above-referenced rules were submitted to this office on 10/11/2021 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 20, 2021 17:00:35

A handwritten signature in blue ink, appearing to read "P. J. Weiser", is written over a horizontal line.

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency 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 Accident and Health (General) 1 - eff 10/07/2021

Effective date

10/07/2021

Expiration date

02/04/2022

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Emergency Regulation 21-E-14

CONCERNING COVERAGE AND REIMBURSEMENT FOR TRANSFER OF COVERED PERSONS BETWEEN FACILITIES AND TREATMENT OF COVERED PERSONS AT A RECEIVING FACILITY DURING THE COVID-19 RECOVERY

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Coverage and Reimbursement for Transfer of Covered Persons between Facilities and Treatment of Covered Persons at a Receiving Facility
Section 6	Severability
Section 7	Enforcement
Section 8	Effective Date
Section 9	History

Section 1 Authority

This emergency regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-108(7), 10-1-109, 10-16-109, and 10-16-708, C.R.S. Further, this emergency regulation is promulgated pursuant to the Governor's Executive Order D 2021 122, rescinding Executive Order D2020 003, as amended and extended, and ensuring that health care facilities have sufficient resources to treat COVID-19 patients.

Section 2 Scope and Purpose

The purpose of this emergency regulation is to require carriers to cover the costs of patient transfers between facilities during the state's COVID-19 recovery.

The Division of Insurance finds, pursuant to § 24-4-103(6)(a), C.R.S., that immediate adoption of this regulation is imperatively necessary for the preservation of public health, safety, or welfare as ensuring facilities have adequate resources and availability to treat COVID-19 patients is imperative to preserve the health of the citizens of Colorado. Therefore, compliance with the requirements of § 24-4-103, C.R.S., would be contrary to the public interest.

Section 3 Applicability

This regulation shall apply to all carriers offering individual, small group, large group plans, student health plans, and managed care plans subject to the insurance laws of Colorado. Carriers who are third-party administrators for self-funded plans are strongly encouraged to follow the requirements of this regulation in order to create uniform billing structures during the COVID-19 recovery.

Section 4 Definitions

- A. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.
- B. "Covered person" shall have the same meaning as found at § 10-16-102(15), C.R.S.

Section 5 Coverage and Reimbursement for Transfer of Covered Persons between Facilities and Treatment of Covered Persons at a Receiving Facility

A covered person receiving care in a hospital or freestanding emergency department who is transferred to another hospital or facility in order to ensure or preserve adequate capacity due to the ongoing COVID-19 situation is deemed to have an emergency medical condition, and all services for the transfer and treatment at the receiving facility are considered to be emergency services for purposes of C.R.S. § 10-16-704(5.5), including the in network cost sharing benefits and consumer protections against balance billing.

Section 6 Severability

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

Section 7 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 8 Effective Date

This emergency regulation shall be effective October 7, 2021.

Section 9 History

Emergency regulation effective October 7, 2021.

The Division of Insurance finds, pursuant to § 24-4-103(6)(a), C.R.S., that immediate adoption of this regulation is imperatively necessary for the preservation of public health, safety, or welfare as ensuring facilities have adequate resources and availability to treat COVID-19 patients is imperative to preserve the health of the citizens of Colorado. Therefore, compliance with the requirements of § 24-4-103, C.R.S., would be contrary to the public interest.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00647

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

Division of Insurance

on 10/07/2021

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)

The above-referenced rules were submitted to this office on 10/07/2021 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 22, 2021 11:10:51

A handwritten signature in blue ink, appearing to read 'P. J. Weiser'.

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Health Care Policy and Financing

Agency

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

CCR number

10 CCR 2505-10

Rule title

10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND
PURPOSE AND RULE HISTORY 1 - eff 10/08/2021

Effective date

10/08/2021

Expiration date

02/05/2022

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning
Qualifications of Case Managers, Sections 8.393.1.J.; 8.519.5.
and 8.603.9

Rule Number: MSB 21-08-10-D

Division / Contact / Phone: Office of Community Living / Victor Robertson /
303-866-6463

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 21-08-10-D, Revision to the Medical Assistance Rule concerning Qualifications of Case Managers, Sections 8.393.1.J.; 8.519.5. and 8.603.9
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) 8.393.1.J.; 8.519.5.; 8.603.9, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? Yes
If yes, state effective date: 10/08/2021
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.393.1.J with the proposed text beginning at 8.393.1.J.1 through the end of 8.393.1.J.3. Replace the current text at 8.519.5 with the proposed text beginning at 8.519.5 through the end of 8.519.5.B. Replace the current text at 8.603.9 with the proposed text beginning at 8.603.9.E through the end of 8.603.9.E. This rule is effective October 8, 2021.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Qualifications of Case Managers, Sections 8.393.1.J.; 8.519.5. and 8.603.9
Rule Number: MSB 21-08-10-D
Division / Contact / Phone: Office of Community Living / Victor Robertson / 303-866-6463

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The rules at 8.393.1.J.; 8.519.5.; 8.603.9 outline the education and experience qualifications for case managers in the SEP, HCBS and CCB systems. Currently there is a workforce shortage impacting the system and the department is requesting changes to the qualifications to allow for more avenues to qualify as a case manager, hoping to increase the pool of candidates.

2. An emergency rule-making is imperatively necessary

☐ to comply with state or federal law or federal regulation and/or
☒ for the preservation of public health, safety and welfare.

Explain:

Case managers complete activities which are crucial to members' access to services and supports, including eligibility assessment and support planning as well as monitoring to assure quality services and health, safety and welfare of members. A shortage in this workforce presents potential delays in enrollment and receipt of services for our most vulnerable members, increased caseloads, impacting quality of service delivery and risks to health and safety of members.

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021); Section 25.5-10-209.5, C.R.S.

Initial Review
Proposed Effective Date **10/08/21**
10/08/21

Final Adoption
Emergency Adoption

DOCUMENT #01

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning
Qualifications of Case Managers, Sections 8.393.1.J.; 8.519.5.
and 8.603.9

Rule Number: MSB 21-08-10-D

Division / Contact / Phone: Office of Community Living / Victor Robertson /
303-866-6463

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

This proposed rule will affect state Medicaid providers, including Community Centered Boards, Single Entry Points and CHCBS Case Management Providers. There is no cost associated with the proposed rule. Providers and members will benefit from an improved workforce resulting from promulgation of these rules.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The proposed rule will likely improve the ability for case management agencies to hire case managers. It is difficult to quantify the impact; however, the rules have incorporated input from stakeholders to remove barriers to recruiting qualified candidates.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

There are no anticipated costs associated with the proposed rules. The rules remove the requirement to request a waiver from the department, so there will be less administrative burden to the Case Management Agencies and the Department.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

There is possible cost of case managers being less qualified and the benefit of a larger candidate pool if the rule is adopted. The costs of inaction are members waiting for assessment/enrollment for services needed to assure health and safety, high caseloads resulting in poor quality of case management services, including monitoring for health and

DO NOT PUBLISH THIS PAGE

safety, support plan development, and service utilization. There are no identified benefits of inaction.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

No other methods have been identified.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

No other alternatives were considered; this is the method proposed by the stakeholders.

8.393 FUNCTIONS OF A SINGLE ENTRY POINT AGENCY

8.393.1.J. Qualifications of Staff

1. The SEP case manager(s) hired on or after October 8, 2021 shall meet minimum standards for HCBS case managers required in Section 8.519.5.B and shall be able to demonstrate competency in pertinent case management knowledge and skills.
- 2.. The case manager must demonstrate competency in each of the following areas:
 - a. Application of a person-centered approach to planning and practice;
 - b. Knowledge of and experience working with populations served by the SEP Agency;
 - c. Interviewing and assessment skills;
 - d. Knowledge of the policies and procedures regarding public assistance programs;
 - e. Ability to develop Support Plans and service agreements;
 - f. Knowledge of LTSS and other community resources; and
 - g. Negotiation, intervention and interpersonal communication skills.
3. The SEP Agency supervisor(s) shall meet all qualifications for case managers and have a minimum of two years of experience in the field of LTSS.

8.519 Case Management

8.519.5. Qualifications of Case Managers

- 8.519.5.A. All Home and Community-Based (HCBS) case managers must be employed by a certified Case Management Agency.
1. CMAs must maintain verification that employed case managers meet the qualifications set forth in these regulations.
- 8.519.5.B. minimum qualifications for HCBS Case Managers hired on or after October 8th, 2021 are:
1. A bachelor's degree; or
 2. Five (5) years of relevant experience in the field of LTSS, which includes Developmental Disabilities; or
 3. Some combination of education and relevant experience appropriate to the requirements of the position.
 4. Relevant experience is defined as:
 - a. Experience in one of the following areas: long-term care services and supports, gerontology, physical rehabilitation, disability services, children with special health care

needs, behavioral science, special education, public health or non-profit administration, or health/medical services, including working directly with persons with physical, intellectual or developmental disabilities, mental illness, or other vulnerable populations as appropriate to the position being filled; and,

b. Completed coursework and/or experience related to the type of administrative duties performed by case managers may qualify for up to two (2) years of required relevant experience.

8.519.5.C. Case Managers may not:

1. Be related by blood or marriage to the Client.
2. Be related by blood or marriage to any paid caregiver of the Client.
3. Be financially responsible for the Client.
4. Be the Client's legal guardian, authorized representative, or be empowered to make decisions on the Client's behalf through a power of attorney.
5. Be a provider for the Client, have an interest in, or be employed by a provider for the same Client. Case Managers employed by a Case Management Agency that is operating under an exception approved by the Centers for Medicare and Medicaid Services (CMS) in the approved waiver application are exempt from this requirement.

8.519.5.D. Case Managers must complete the Department prescribed attestation form.

8.519.5.E. Case Managers must complete and document the following trainings within 120 days from the date of hire and prior to providing case management services independently:

1. Department prescribed assessment tool;
2. Service plan development and revision;
3. Referral for services, to include Medicaid and non-Medicaid;
4. Monitoring;
5. Case documentation;
6. Level of Care determination process;
7. Notices and appeals;
8. Incident and critical incident reporting;
9. Waiver requirements and services;
10. Person-centered approaches to planning and practice;
11. Interviewing and assessment skills; and
12. Regulations and state statutes for the LTSS program.

13. Department IMS Documentation
 14. Mandatory Reporting
 15. Participant Directed Training
 16. Disability and Cultural Competency
 17. Any Case Management training required by contract
- 8.519.5.F. Case Managers must demonstrate and document competency in the following areas:
1. Knowledge and experience working with populations served by the Case Management Agency;
 2. Knowledge of the statutes, regulations, policies and procedures regarding public assistance programs and the American with Disabilities Act;
 3. Knowledge of LTSS and other community resources;
 4. Negotiation, conflict resolution, intervention, cultural and linguistic training, disability cultural competency, and interpersonal communication skills; and
 5. Knowledge of consumer direction philosophy and programs.
- 8.519.5.G. Case Managers shall attend any mandatory training required by the Department.
- 8.519.5.H. Case Manager supervisors shall meet the minimum requirements for education and/or experience for Case Managers and shall have one year of competency in pertinent case management knowledge and skills.
- 8.519.5.I. Background checks.
1. Prior to employment, all case management staff must have the following minimal background checks and screenings:
 - a. Criminal;
 - b. Medicaid or other federal health programs exclusion list;
 - c. Sex offender registry; and
 - d. Adult protective services data system.
 2. Background checks must be repeated at minimum every five (5) years with the exception of the adult protective services data system.
 3. Proof of checks and screenings must be maintained and made available.

8.603 PROGRAM APPROVAL BY THE DEPARTMENT

8.603.9 PERSONNEL AND CONTRACTOR ADMINISTRATION

- A. Community centered boards and program approved service agencies shall establish qualifications for employees and contractors (Host Home and other providers) and maintain records documenting the qualifications and training of employees and contractors who provide services pursuant to these rules and regulations.
- B. The community centered board or service agency may, in accordance with section 27-90-110, C.R.S., conduct background checks and reference checks prior to employing staff providing supports and services and contracting with Host Home and other providers.
- C. The community centered board in its role as support coordinating agency, as defined in section 8.609.1, shall have screening procedures for individual providers who are not agency employees and for other entities providing services and supports.
- D. The community centered board and program approved service agency shall have an organized program of orientation and training of sufficient scope for employees and contractors to carry out their duties and responsibilities efficiently, effectively and competently. The program shall, at a minimum, provide for:
 - 1. Extent and type of training to be provided prior to employees or contractors providing supports and services having unsupervised contact with persons receiving services;
 - 2. Training related to health, safety and services and supports to be provided within the first ninety (90) days for employees and contractors; and,
 - 3. Training specific to the individual(s) for whom the employees or contractors will be providing services and supports.
- E. Community centered boards shall ensure that individuals who are hired to fulfill the duties of case management services on or after October 8, 2021 meet the requirements in Section 8.519.5.B.
- F. All employees and contractors, not otherwise authorized by law to administer medication, who assist and/or monitor persons receiving services in the administration of medications or the filling of medication reminder systems shall have passed a competency evaluation offered by an approved training entity, as defined in 6 CCR 1011-1, Chapter 24, *et seq.*

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Long-Term Home Health and Private Duty Nursing Prior Authorization Requirements, Sections 8.520.8, 8.540.2 and 8.540.7

Rule Number: MSB 21-09-15-A

Division / Contact / Phone: Health Programs Office / Russ Zigler / 303-866-5927

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 21-09-15-A, Revision to the Medical Assistance Act Rule concerning Long-Term Home Health and Private Duty Nursing Prior Authorization Requirements
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) 8.520.8, 8.540.2 and 8.540.7, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? Yes
If yes, state effective date: 10/8/2021
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.520 with the proposed text beginning at 8.520.8.C through the end of 8.520.8.C. Replace the current text at 8.540 with the proposed text beginning at 8.540.2.A through the end of 8.540.2.A. Replace the current text at 8.540.7 with the proposed text beginning at 8.540.7 through the end of 8.540.7. This rule is effective October 8, 2021.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Long-Term Home Health and Private Duty Nursing Prior Authorization Requirements, Sections 8.520.8, 8.540.2 and 8.540.7

Rule Number: MSB 21-09-15-A

Division / Contact / Phone: Health Programs Office / Russ Zigler / 303-866-5927

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

Update the long-term home health and private duty nursing rules to resume prior authorization on a tiered schedule over the course of ten months.

2. An emergency rule-making is imperatively necessary

☐
☒

to comply with state or federal law or federal regulation and/or
for the preservation of public health, safety and welfare.

Explain:

These revisions are required to bring Department regulations in line with the Colorado State Plan. The Department otherwise risks deferral or disallowance from CMS for being out of compliance. A deferral or disallowance would impact the Department's ability to provide adequate services to members.

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021);

Initial Review

Proposed Effective Date **10/08/21**
10/08/21

Final Adoption

Emergency Adoption

DOCUMENT #02

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Act Rule concerning Long-Term Home Health and Private Duty Nursing Prior Authorization Requirements, Sections 8.520.8, 8.540.2 and 8.540.7

Rule Number: MSB 21-09-15-A

Division / Contact / Phone: Health Programs Office / Russ Zigler / 303-866-5927

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Members receiving pediatric long-term home health and private duty nursing, and the providers rendering such services, will be affected by the proposed rule. Providers will bear the cost of submitting prior authorization requests for these services.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Providers of pediatric long-term home health and private duty nursing will be required to submit prior authorization requests to continue, or initiate new, services. Prior authorization review will determine whether such services will be covered under Health First Colorado (Colorado Medicaid) moving forward.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

Implementing and enforcing this rule change could result in a reduction in Medicaid spending on pediatric long-term home health and private duty nursing over time if services authorized through the prior authorization requests are lower than current utilization. The Department anticipates that expenditure will remain in line with historical utilization trends as the suspension of the prior authorization requirements was temporary.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The probable costs of the proposed rule are implementing prior authorization requirements for pediatric long-term home health and

DO NOT PUBLISH THIS PAGE

private duty nursing. The probable benefit of the proposed rule is bringing Department practice in line with the Colorado State Plan. The probable cost of inaction is misalignment between Department rule and the Colorado State Plan. There are no probable benefits to inaction.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

There are no less costly or intrusive methods to align Department rule with the Colorado State Plan.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

There are no alternative methods for achieving the purpose of the proposed rule.

8.520 HOME HEALTH SERVICES

8.520.8 Prior Authorization

8.520.8.A. General Requirements

1. Approval of the PAR does not guarantee payment by Medicaid.
2. The client and the HHA shall meet all applicable eligibility requirements at the time services are rendered and services shall be delivered in accordance with all applicable service limitations.
3. Medicaid is always the payer of last resort and the presence of an approved or partially approved PAR does not release the agency from the requirement to only bill for Medicaid approved services to Medicare or other third party insurance prior to billing Medicaid.
 - a. Exceptions to this include Early Intervention Services documented on a child's Individualized Family Service Plan (IFSP) and the following services that are not a skilled Medicare benefit (CNA services only, OT services only, Med-box pre-pouring and routine lab draws).

8.520.8.B. Acute Home Health

1. Acute Home Health Services do not require prior authorization. This includes episodes of acute home health for long-term home health clients.
2. If a client receiving long-term Home Health Services experiences an acute care event that necessitates moving the client to an acute home health episode, the agency shall notify the Department or its Designee that the client is moving from long-term home health to acute Home Health Services.
3. If the client's acute home health needs resolve prior to 60 calendar days, the Home Health Agency shall discharge the client, or submit a PAR for long-term Home Health Services if the client is eligible.
 - a. If an acute home health client experiences a change in status (e.g. an inpatient admission), that totals 9 calendar days or less, the Home Health Agency shall resume the client's care under the current acute home health Plan of Care.
 - b. If an acute home health client experiences a change in status (e.g. an inpatient admission), that totals 10 calendar days or more, the Home Health Agency may start a new Acute Home Health episode when the client returns to the Home Health Agency.
 - c. The Home Health Agency shall inform the SEP case manager or the Medicaid fiscal agent within 10 working days of the beginning and within 10 working days of the end of the acute care episode.

8.520.8.C. Long-Term Home Health

1. Beginning November 1, 2021, providers must submit a prior authorization request (PAR) for all new long-term pediatric Home Health Services under Section 8.017.E. For members currently receiving long-term pediatric Home Health Services initiated prior to November 1, 2021, providers must submit a PAR in accordance with the following schedule:
 1. Ten percent (10%) of PARs must be submitted by November 30, 2021;
 2. An additional 10% of PARs must be submitted by December 31, 2021;
 3. An additional 10% of PARs must be submitted by January 31, 2022;
 4. An additional 10% of PARs must be submitted by February 28, 2022;
 5. An additional 10% of PARs must be submitted by March 31, 2022;
 6. An additional 10% of PARs must be submitted by April 30, 2022;
 7. An additional 10% of PARs must be submitted by May 31, 2022;
 8. An additional 10% of PARs must be submitted by June 30, 2022;
 9. An additional 10% of PARs must be submitted by July 31, 2022;
 10. The final 10% of PARs, with a total of 100% of PARs initiated prior to November 1, 2021, must be submitted by August 31, 2022.
2. When an agency accepts an HCBS waiver client to long-term Home Health Services, the Home Health Agency shall contact the client's case management agency to inform the case manager of the client's need for Home Health Services.
3. The complete formal written PAR shall include:
 - a. A completed Department-prescribed Prior Authorization Request Form, see Section 8.058;
 - b. A home health Plan of Care, which includes all clinical assessments and current clinical summaries or updates of the client. The Plan of Care shall be on the CMS-485 form, or a form that is identical in content to the CMS-485, and all sections of the form shall be completed. For clients 20 years of age or younger, all therapy services requested shall be included in the Plan of Care or addendum, which lists the specific procedures and modalities to be used and the amount, duration, frequency and goals. If extended aide units, as described in 8.520.9.B. are requested, there shall be sufficient information about services on each visit to justify the extended units. Documentation to support any PRN visits shall also be provided. If there are no nursing needs, the Plan of Care and assessments may be completed by a therapist if the client is 20 years of age or younger and is receiving home health therapy services;
 - c. Written documentation of the results of the EPSDT medical screening, or other equivalent examination results provided by the client's third-party insurance;

- d. Any other medical information which will document the medical necessity for the Home Health Services;
 - e. If applicable, written instructions from the therapist or other medical professional to support a current need when range of motion or other therapeutic exercise is the only skilled service performed on a CNA visit;
 - f. When the PAR includes a request for nursing visits solely for the purpose of pre-pouring medications, evidence that the client's pharmacy was contacted, and advised the Home Health Agency that the pharmacy will not provide medication set-ups, shall be documented; and
 - g. When a PAR includes a request for reimbursement for two aides at the same time to perform two-person transfers, documentation supporting the current need for two-person transfers, and the reason adaptive equipment cannot be used instead, shall be provided.
 - h. Long Term Home Health Services for clients 20 years of age or younger require prior authorization by the Department or its Designee using the approved utilization management tool.
4. Authorization time frames:
- a. PARs shall be submitted for, and may be approved for up to a one year period.
 - b. The Department or its Designee may initiate PAR revisions if the Plans of Care indicate significantly decreased services.
 - c. PAR revisions for increases initiated by Home Health Agencies shall be submitted and processed according to the same requirements as for new PARs, except that current written assessment information pertaining to the increase in care may be submitted in lieu of the CMS-485.
5. The PAR shall not be backdated to a date prior to the 'from' date of the CMS-485.
6. The Department or its Designee shall approve or deny according to the following guidelines for safeguarding clients:
- a. PAR Approval: If services requested are in compliance with Medicaid rules are medically necessary and appropriate for the diagnosis and treatment plan, the services are approved retroactively to the start date on the PAR form. Services may be approved retroactively for no more than 10 days prior to the PAR submission date.
 - b. PAR Denial:
 - i) The Department or its Designee shall notify Home Health Agencies in writing of denials that result from non-compliance with Medicaid rules or failure to establish medical necessity (e.g, the PAR is not consistent with the client's documented medical needs and functional capacity). Denials based on medical necessity shall be determined by a registered nurse or physician.
 - ii) When denied or reduced, services shall be approved for 60 additional days after the date on which the notice of denial is mailed to the client,

through August 31, 2022. If the denial is appealed by the member in accordance with Section 8.057, services will be maintained for the duration of the appeal until the final agency action is rendered. After August 31, 2022, services shall be approved for an additional 15 days after the date on which the notice of denial is mailed to the client. Services may be approved retroactively for no more than 10 days prior to the PAR submission date.

- c. Interim Services: Services provided during the period between the provider's submission of the PAR form to the Department or its Designee, to the final approval or denial by the Department may be approved for payment. Payment may be made retroactive to the start date on the PAR form, or up to 30 working days, whichever is shorter.

8.520.8.D. EPSDT Services

1. Home Health Services beyond those allowed in Section 8.520.5, for clients ages 0 through 20, shall be reviewed for medical necessity under the EPSDT requirement, as defined at Section 8.280.1.
2. Home Health Services beyond those in Section 8.520.5, which are provided under the Home Health benefit due to medical necessity, cannot include services that are available under other Colorado Medicaid benefits for which the client is eligible, including, but not limited to, Private Duty Nursing, Section 8.540; HCBS Personal Care, Section 8.489; Pediatric Personal Care, Section 8.535; School Health and Related Services, Section 8.290, or Outpatient Therapies, Section 8.200.3.A.6, Section 8.200.5 and Section 8.200.3.D Exceptions may be made if EPSDT Home Health Services will be more cost-effective, provided that client safety is assured. Such exceptions shall, in no way, be construed as mandating the delegation of nursing tasks.
3. PARs for EPSDT home health shall be submitted and reviewed as outlined in Section 8.520.8, including all documentation outlined in Section 8.520.8, and any other medical information which will document the medical necessity for the EPSDT Home Health Services. The Plan of Care shall include the place of service for each home health visit.

8.520.8.E. Home Health Telehealth Services

1. Home Health Telehealth services require prior authorization.
2. The Home Health Telehealth PAR shall include all of the following:
 - a. A completed enrollment form;
 - b. An order for telehealth monitoring signed and dated by the Ordering Practitioner or podiatrist;
 - c. A Plan of Care, which includes nursing and therapy assessments for clients. Telehealth monitoring shall be included on the CMS-485 form, or a form that contains identical information to the CMS-485, and all applicable forms shall be complete; and
 - d. For ongoing telehealth, the agency shall include documentation on how telehealth data has been used to manage the client's care, if the client has been using Home Health Telehealth services.

8.540 PRIVATE DUTY NURSING SERVICES

8.540.2 BENEFITS

8.540.2.A. Beginning November 1, 2021, providers must submit a prior authorization request for all new PDN services. For members currently receiving PDN services initiated prior to November 1, 2021, providers must submit a prior authorization request in accordance with the schedule provided in Section 8.540.7.G.

8.540.2.B. A pediatric client may be approved for up to 24 hours per day of PDN services if the client meets the URC medical necessity criteria. PDN for pediatric clients is limited to the hours determined medically necessary by the URC pursuant to Section 8.540.4.A, as applicable.

1. The URC shall determine the number of appropriate pediatric PDN hours by considering age, stability, need for frequent suctioning and the ability to manage the tracheostomy.
2. The URC shall consult with the Home Health Agency and the attending physician or primary care physician, to provide medical case management with the goal of resolving the problem that precipitated the need for extended PDN care of more than 16 hours.
3. The URC shall consider combinations of technologies and co-morbidities when making medical criteria determinations.

8.540.2.C. Twenty-four hour care may be approved for pediatric clients during periods when the family caregiver is unavailable due to illness, injury or absence periodically for up to 21 days in a calendar year.

8.540.2.D. Adult clients may be approved for up to 16 hours of PDN per day.

8.540.2.E. A client who is eligible and authorized to receive PDN services in the home may receive care outside the home during those hours when the client's activities of daily living take him or her away from the home. The total hours authorized shall not exceed the hours that would have been authorized if the client received all care in the home.

8.540.7 PRIOR AUTHORIZATION PROCEDURES

8.540.7.A. The Home Health Agency shall submit the initial PAR to the URC prior to the start of PDN.

8.540.7.B. The PAR shall be approved for up to six months for a new client and up to one year for ongoing care depending upon prognosis for improvement or recovery, according to the medical criteria.

8.540.7.C. The PAR information shall:

1. Be submitted on a Department PAR form. A copy of the current plan of care shall be included. For new clients admitted to PDN directly from the hospital, a copy of the transcribed verbal physician orders may be substituted for the plan of care if the client has been approved for admission to PDN.
2. Be submitted with the plan of care that:
 - a. Is on the CMS 485 form, or a form that is identical in format to the CMS 485. All sections of the form relating to nursing needs shall be completed.
 - b. Includes a signed nursing assessment, a current clinical summary or update of the client's condition and a physician's plan of treatment. A hospital discharge summary shall be included if there was a hospitalization since the last PAR.
 - c. Indicates the frequency and the number of times per day that all technology-related care is to be administered. Ranges and a typical number of hours needed per day are required. The top of the range is the number of hours ordered by the physician as medically necessary. The lower number is the amount of care that may occur due to family availability or choice, holidays or vacations or absence from the home.
 - d. Includes a process by which the client receiving services and support may continue to receive necessary care, which may include respite care, if the client's family or caregiver is unavailable due to an emergency situation or unforeseen circumstances. The family or the caregiver shall be informed of the alternative care provisions at the time the individual plan is initiated.
3. Include an explanation for the decision to use an LPN. This decision shall be at the discretion of the attending physician, the Home Health Agency and the RN responsible for supervising the LPN.
4. Cover a period of up to one year depending upon medical necessity determination.
5. Include only the services of PDN-RN and/or PDN-LPN. If any other services are included on the PAR, the URC shall return the PAR without processing it.
6. Be submitted within five working days of the change as a revision when a change in the plan of care results in an increase in hours. A revised plan of care or a copy of the physician's verbal orders for the increased hours including the effective date shall be included with the PAR form.
7. Be submitted to decrease the number of hours for which the client may be eligible when a change in the client's condition occurs which could affect the client's eligibility for PDN, or decrease the number of hours for which the client may be eligible. The agency shall

notify the URC within one working day of the change. Failure to notify the URC may result in recovery of inappropriate payments, if any, from the Home Health Agency.

8. Be submitted within five working days of the discharge or death, as a revised PAR when a client is discharged or dies prior to the end date of the PAR. The revision is to the end date and the number of service units.

8.540.7.D. The URC shall review PARs according to the following procedures:

1. Review information provided and apply the medical criteria as described herein.
2. Return an incomplete PAR to the Home Health Agency for correction within ten working days of receipt.
3. Approve the PAR, or refer the PAR to the URC physician reviewer, within 10 working days of receipt of the complete PAR.
4. Process physician review referrals and approve, partially approve, or deny the PAR within 10 working days of receipt from the nurse reviewer. The URC physician reviewer shall attempt to contact the attending physician or the primary care physician for more information prior to a denial or reduction in services.
5. Provide written notification to the client or client's designated representative and submitting party of all PAR denials and the client's appeal rights, within one working day of the decision.
6. Approve subsequent continued stay PARs that have been to physician review without referral, if the client's condition and the requested hours have not changed.
7. Notify the Department of all extraordinary PDN services approved as a result of an EPSDT screen.
8. Notify the submitting party of all PAR approvals.
9. Expedite PAR reviews in situations where adhering to the time frames above would seriously jeopardize the client's life or health.

8.540.7.E. No services shall be approved for dates of service prior to the date the URC receives a complete PAR. PAR revisions for medically necessary increased services may be approved back to the day prior to receipt by the URC if the revised PAR was received within five working days of the increase in services. Facsimiles may be accepted.

8.540.7.F. The URC nurse reviewer may attend hospital discharge planning conferences, and may conduct on site visits to each client at admission and every six months thereafter.

8.540.7.G. For members currently receiving PDN services initiated prior to November 1, 2021, providers must submit a prior authorization request (PAR) in accordance with the schedule in Sections 8.540.7.G.1-10. When denied or reduced, services shall be approved for 60 additional days after the date on which the notice of denial is mailed to the client. If the denial is appealed by the member in accordance with Section 8.057, services will be maintained for the duration of the appeal until the final agency action is rendered. After August 31, 2022, services shall be approved for an additional 15 days after the date on which the notice of denial is mailed to the client.

1. Ten percent (10%) of PARs must be submitted by November 30, 2021;

2. An additional 10% of PARs must be submitted by December 31, 2021;
3. An additional 10% of PARs must be submitted by January 31, 2022;
4. An additional 10% of PARs must be submitted by February 28, 2022;
5. An additional 10% of PARs must be submitted by March 31, 2022;
6. An additional 10% of PARs must be submitted by April 30, 2022;
7. An additional 10% of PARs must be submitted by May 31, 2022;
8. An additional 10% of PARs must be submitted by June 30, 2022;
9. An additional 10% of PARs must be submitted by July 31, 2022;
10. The final 10% of PARs, with a total of 100% of PARs initiated prior to November 1, 2021, must be submitted by August 31, 2022.



COLORADO

Department of Health Care
Policy & Financing

Medical Services Board

OCTOBER 2021 EMERGENCY JUSTIFICATION FOR MEDICAL ASSISTANCE RULES ADOPTED AT THE OCTOBER 8, 2021 EMERGENCY MEDICAL SERVICES BOARD MEETING

MSB 21-08-10-D, Revision to the Medical Assistance Rule concerning Qualifications of Case Managers, Sections 8.393.1.J.; 8.519.5. and 8.603.9

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The rules at 8.393.1.J.; 8.519.5.; 8.603.9 outline the education and experience qualifications for case managers in the SEP, HCBS and CCB systems. Currently there is a workforce shortage impacting the system and the department is requesting changes to the qualifications to allow for more avenues to qualify as a case manager, hoping to increase the pool of candidates.

Case managers complete activities which are crucial to members' access to services and supports, including eligibility assessment and support planning as well as monitoring to assure quality services and health, safety and welfare of members. A shortage in this workforce presents potential delays in enrollment and receipt of services for our most vulnerable members, increased caseloads, impacting quality of service delivery and risks to health and safety of members. This rule is imperatively necessary for the preservation of public health, safety, and welfare.

MSB 21-09-15-A, Revision to the Medical Assistance Act Rule concerning Long-Term Home Health and Private Duty Nursing Prior Authorization Requirements, Sections 8.520.8, 8.540.2 and 8.540.7

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. Update the long-term home health and private duty nursing rules to resume prior authorization on a tiered schedule over the course of ten months. These revisions are required to bring Department regulations in line with the Colorado State Plan. The Department otherwise risks deferral or disallowance from CMS for being out of compliance. A deferral or disallowance would impact the Department's ability to provide adequate services to members. Rule-making is imperatively necessary for the preservation of public health, safety, and welfare.



PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00648

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

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

on 10/08/2021

10 CCR 2505-10

MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY

The above-referenced rules were submitted to this office on 10/08/2021 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 20, 2021 17:09:29

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Emergency Rules Adopted

Department

Department of Human Services

Agency

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-5

Rule title

12 CCR 2509-5 RESOURCES, REIMBURSEMENT, REPORTING, AND PROVIDER
REQUIREMENTS 1 - eff 11/01/2021

Effective date

11/01/2021

Expiration date

02/05/2022

7.406.1

- OO.** A child/youth is placed at the IDD facility, as defined in 7.424.13, with the approval of the State Department. The approved placement period is the duration of treatment, as stated in the most recent approval letter from the State Department, and thirty (30) days after the completion of treatment/ discharge date.

7.424 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES FACILITIES (IDD FACILITIES) AND ACUTE RESIDENTIAL FACILITIES

7.424.1 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES FACILITIES

The state department shall contract with licensed Colorado residential facilities to provide short-term stabilization, treatment, and services to children/youth identified with intellectual and developmental disabilities, and who are experiencing acute and severe behaviors.

7.424.11 REFERRAL AND ELIGIBILITY

- A. The county department of human/social services shall make the referral to the State Department using the state approved application.
- B. The State Department shall determine whether referrals meet eligibility requirements for services in the IDD facility.
- C. A primary indicator for placement in the IDD facility is an intellectual and/or developmental disability or an autism spectrum disorder. "Intellectual and developmental disability" means a disability that manifests before the person reaches twenty-two years of age, that constitutes a substantial disability to the affected person, and that is attributable to developmental disability or related conditions, which include cerebral palsy, epilepsy, autism, or other neurological conditions when those conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with developmental disability.
- D. Other indicators for placement may include but are not limited to:
 - 1. The child/youth is currently experiencing acute and severe behaviors, which may include but are not limited to: high levels of aggression and/or self-harming behaviors, emotional distress, impulsive behaviors, and/or other emotional, behavioral, or psychological issues; and,
 - 2. Previous placements have been unsuccessful or alternative placements, specifically within the state of Colorado, are not available for the child/youth.
- E. Child/youth who meet criteria for a mental health hold or detainment by law enforcement are not appropriate for admission.

7.424.12 APPEALS PROCESS FOR DENIED ELIGIBILITY

- A. A county department of human/social services may submit a request for an appeal of denied initial or continued eligibility to the Division of Child Welfare 24 hour Appeal Panel within fifteen (15) business days of the denial.
- B. Decisions on appeals shall be communicated to the county department of human/social services no later than seven (7) business days of receipt of the request.

- C. If the county department of human/social services is aggrieved by the decision of the Child Welfare 24 hour Appeal Panel, the county department of human/social services may request an administrative hearing pursuant to 7.701.13.d.4.a.
- D. Decisions by the administrative law judge are considered final and are not subject to further judicial review.
- E. While the continuing eligibility of a child/youth is under appeal, the child/youth may remain in placement at the IDD facility. If the appeal is denied, the county department of human/social services may be responsible for the costs incurred for continuing the placement of the child/youth after thirty (30) days beyond the discharge date.

7.424.313 ADMISSION TO THE IDD FACILITY

- A. The State Department, in collaboration with the IDD facility, shall determine if and/or when a referred child/youth shall be admitted to the IDD facility.
- B. Upon acceptance of the child/youth into the IDD facility, the State Department shall issue an approval letter to include the date of admission, which shall be determined in collaboration with the county department of human/social services and the IDD facility and shall be approved by the State Department.
- C. In the event that there is a waitlist for admission to the IDD facility, the county department of human/social services shall place the eligible and approved child/youth on the agreed upon admission date or forfeit admission, which may result in the child/youth returning to the IDD facility waitlist.
- D. Children/youth in the care or custody of county human/social services departments shall be prioritized for admission into the IDD facility.
- E. Children/youth who have previously been discharged from the facility shall be prioritized for re-admission, according to the needs of the child/youth.

7.424.414 EMERGENCY ADMISSION

The State Department may hold open up to three (3) beds at the IDD facility to be used for emergency placements. Criteria for emergency admission may include but are not limited to:

- A. The child/youth is on the waitlist and experiences an unexpected crisis; or,
- B. The child/youth is determined, by the county department of human/social services, to be unsafe in their current setting; or,
- C. The child/youth is to be discharged from a more restricted setting, including but not limited to a hospital or detention setting; or,
- D. The child/youth experiences an imminent placement disruption unrelated to the child's/youth's status or situation; or,
- E. The child/youth is unexpectedly discharged from current placement.

7.424.15 DISCHARGE

- A. The duration of treatment at the IDD facility shall be determined at the time of admission by the State Department in collaboration with the IDD facility, county department of human/social services, child/youth, family of child/youth, and the child's/youth's permanency team.

- B. Criteria for determining duration of treatment at the IDD facility may include but are not limited to the assessment of the child's/youth's needs, goals of the child/youth, goals of the family (when applicable), expected time to achieve stabilization, criteria for transition, transition needs, and plan for permanency.
- C. Within fourteen (14) calendar days of admission, the State Department shall issue an approval letter to include the duration of the child's/youth's treatment and the expected date by which the child/youth will be discharged from the IDD facility.
- D. The duration of treatment shall be reviewed by the State Department, the IDD facility, and the county department of human/social services, in collaboration with the child/youth, family of the child/youth (when applicable), and the child's/youth's permanency team, no more than every thirty (30) days after the date of admission and may be subject to change based upon the progress and needs of the child/youth.
- E. In the event the State Department determines a change to the duration of treatment, a revised approval letter will be issued.
- F. Criteria for discharge
 - 1. The child/youth has met the goals and objectives in the individual child's/youth's plan, as determined by the IDD facility, in consultation with the state department and the county department of human/social services; or,
 - 2. The child's behavior has become such that significant safety issues for themselves and/or others at the facility and the treatment team at the facility can no longer effectively provide treatment for the child and the child can no longer be safely maintained in the facility without a higher level of intervention. The facility will consult with the state department and the placing authority to develop an ongoing plan for the child; or,
 - 3. A viable placement option in a lower level of care is identified and available; or,
 - 4. The child's/youth's family is ready and able to care for the child/youth; and,
 - 5. A transition plan is in place to include identified services to support the placement option or family in caring for the child/youth.
- G. The county department of human/social services retains the right to remove the child/youth from the program any time prior to the discharge date specified in the most recent approval letter.

7.424.16 COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES RESPONSIBILITIES

- A. The county department of human/social services shall participate in initial and ongoing monthly staffings, treatment planning, and discharge planning for each child/youth placed at the IDD facility by the county department of human/social services.
- B. Permanency planning shall occur in accordance with 7.301.2.

7.424.17 REIMBURSEMENT

When the child/youth is placed by a county department of human/ social services the State Department shall reimburse one hundred percent (100%) of the placement costs, up to thirty (30) days beyond the discharge date as defined in the most recent approval letter.

7.424.818 QUALITY ASSURANCE

The licensee that holds the IDD facility contract is subject to the rules and regulations found at 7.701, 7.705, 7.706, 7.714, and 7.719.

7.424.2 ACUTE RESIDENTIAL FACILITIES

The state department shall contract with licensed providers for the delivery of services to children and youth whose behavioral or mental health needs require services and treatment in a residential facility.

7.424.21 REFERRAL AND ELIGIBILITY

- A. The county department of human/social services shall make the referral to the state department using the state approved application.
- B. The state department shall determine whether referrals meet eligibility requirements for services in the acute residential facilities.
- C. The primary indicators for placement in an acute residential program are:
 - 1. A serious emotional disturbance, includes, with respect to a child, any child who has a serious emotional disorder, a serious behavioral disorder, or a serious mental disorder.
 - 2. An intellectual and/or developmental disability or an autism spectrum disorder.
“intellectual and developmental disability” means a disability that manifests before the person reaches twenty-two years of age, that constitutes a substantial disability to the affected person, and that is attributable to an intellectual and developmental disability or related conditions, including prader-willi syndrome, cerebral palsy, epilepsy, autism, or other neurological conditions when the condition or conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual and developmental disability.
- D. Other indicators for placement may include but are not limited to:
 - 1. The child/youth is currently experiencing acute and severe behaviors, which may include but are not limited to: high levels of aggression and/or self-harming behaviors, emotional distress, impulsive behaviors, and/or other emotional, behavioral, or psychological issues; and,
 - 2. The child/youth is exhibiting intensive behaviors that have not been manageable in lower-levels of care or existing facilities in colorado or has met discharge criteria from hospitalization and alternative placements, specifically within the state of colorado, are not available for the child/youth.
- E. Children/youth who meet criteria for detainment by law enforcement are not appropriate for admission.
- F. To be eligible for admission to a qualified residential treatment program (qrtp) the child must be determined to be appropriate for placement in a qrtp through the independent assessment process by a qualified individual in accordance with 19-1-115(4)(e)(i), c.r.s.
- G. To be eligible for admission to a psychiatric residential treatment facility (prtf) the child must be certified to need prtf level of care by an independent team in accordance with 10 ccr 2505-10 § 8.765.4.a.

7.424.22 appeals process for denied eligibility

- A. A county department of human/social services may submit a request for an appeal of denied initial or continued eligibility to the division of child welfare 24 hour appeal panel within fifteen (15) business days of the denial.
- B. Decisions on appeals shall be communicated to the county department of human/social services no later than seven (7) business days of receipt of the request.
- C. If the county department of human/social services is aggrieved by the decision of the child welfare 24 hour appeal panel, the county department of human/social services may request an administrative hearing pursuant to 7.701.13.d.4.a.
- D. Decisions by the administrative law judge are considered final and are not subject to further judicial review.
- E. While the continuing eligibility of a child/youth is under appeal, the child/youth may remain in placement at the acute residential facility. If the appeal is denied, the county department of human/social services may be responsible for the costs incurred for continuing the placement of the child/youth after thirty (30) days beyond the discharge date.

7.424.23 ADMISSION TO AN ACUTE RESIDENTIAL FACILITY

- A. The state department, in consultation with the acute residential facilities, shall determine if and/or when a referred child/youth who has been deemed eligible for the program(s) shall be admitted to an acute residential facility. Admission of a child shall be in keeping with the stated purpose of the child care facility and shall be limited to those children for whom the facility is qualified by staff, program, equipment, and needs of children already in residence to provide care deemed necessary. Care must be provided in the least restrictive, most appropriate setting in order to meet the child's needs.
- B. Upon acceptance of the child/youth into the acute residential facility, the state department shall issue an approval letter to include the date of admission, which shall be determined in collaboration with the county department of human/social services and the acute residential facility, and shall be approved by the state department.
- C. In the event that there is a waitlist for admission to the acute residential facility, the county department of human/social services shall place the eligible and approved child/youth on the agreed upon admission date or forfeit admission, which may result in the child/youth returning to the acute residential facility waitlist.

7.424.24 DISCHARGE

- A. The eligible period of placement at the acute residential facility shall be determined at the time of admission by the state department in collaboration with the acute residential facility, county department of human/social services, child/youth, family of child/youth, and the child's/youth's permanency team.
- B. Criteria for determining the eligibility period of placement at the acute residential facility may include but are not limited to the assessment of the child's/youth's needs, goals of the child/youth, goals of the family (when applicable), expected time to achieve stabilization, criteria for transition, transition needs, and plan for permanency.
- C. Within fourteen (14) calendar days of admission, the state department shall issue an approval letter to include the duration of the child's/youth's treatment and the expected date by which the child/youth will be discharged from the acute residential facility.
- D. The duration of treatment shall be reviewed by the state department, the acute residential facility, and the county department of human/social services, in collaboration with the child/youth, family of the child/youth (when applicable), and the child's/youth's permanency team, no more than

every thirty (30) days after the date of admission and may be subject to change based upon the progress and needs of the child/youth.

- E. In the event the state department determines a change to the duration of treatment, a revised approval letter will be issued.
- F. Criteria for discharge
 1. The child/youth has met the goals and objectives in the individual child's/youth's plan, as determined by the acute residential facility, in consultation with the state department and the county department of human/social services; or,
 2. The child's behavior has become such that it presents significant safety issues for themselves and/or others at the facility, and the treatment team at the facility can no longer effectively provide treatment for the child, and the child can no longer be safely maintained in the facility without a higher level of intervention. The facility will consult with the state department and the placing authority to develop an ongoing plan for the child; or,
 3. A viable placement option in a lower level of care is identified and available; or,
 4. The child's/youth's family is ready and able to care for the child/youth; and,
 5. A transition plan is in place to include identified services to support the placement option or family in caring for the child/youth.
- G. The facility, county department of human/social services, child's permanency team, placement option, and acute residential program administrator shall participate in discharge planning to ensure continuity of care and appropriate transition planning.
- H. The county department of human/social services retains the right to remove the child/youth from the program any time prior to the discharge date specified in the most recent approval letter.

7.424.25 COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES RESPONSIBILITIES

- A. The county department of human/social services shall participate in initial and ongoing monthly staffings, treatment planning, and discharge planning for each child/youth placed at the acute residential facility by the county department of human/social services.
- B. Permanency planning shall occur in accordance with 7.301.2.

7.424.26 REIMBURSEMENT

When the child/youth is placed at the acute residential facility, the state department shall reimburse the provider one hundred percent (100%) of the placement costs, up to thirty (30) days beyond the discharge date as defined in the most recent approval letter. The department will not reimburse for costs incurred when a county department of human services continues the placement of a child or youth at the acute residential facility after the end of the approved placement period. County departments of human services MUST CONTRACT DIRECTLY WITH THE FACILITY BY COMPLETING AN SS-23A.

7.424.27 QUALITY ASSURANCE

A licensee that holds an acute residential facility contract is subject to the rules and regulations found at 7.701, 7.705, 7.706, 7.714, and 7.719.

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements		
CDHS Tracking #:	20-08-11-01		
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381	
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us	

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. ☒ Board ☐ Executive Director

b. ☐ Regular ☒ Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

<input type="checkbox"/> AG Initial Review	<input checked="" type="checkbox"/> Initial Board Reading	<input type="checkbox"/> AG 2 nd Review	<input type="checkbox"/> Second Board Reading / Adoption
--	---	--	--

This package contains the following types of rules: *(check all that apply)*

Number	
11	Amended Rules
34	New Rules
	Repealed Rules
	Reviewed Rules

What month is being requested for this rule to first go before the State Board?	October 2021
---	--------------

What date is being requested for this rule to be effective?	November 2021
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ **Date:** _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimate 1st Board 10/21 2nd 11/21 Effective Date 11/21
d Dates: _____ Board _____

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. 1500 Char max

The proposed rule changes and additions in Resources, Reimbursement, Reporting, and Provider Requirements support legislation passed in the Spring of 2021. SB 21-137 declared that CDHS should provide resources to providers to address the emergency need for increased placement for children and youth with acute and severe behavioral or mental health needs. The legislation requires CDHS to develop a program to provide emergency resources to licensed providers to help remove barriers such providers face in serving children and youth whose behavioral or mental health needs require services and treatment in a residential child care facility. As a result, CDHS will contract with two residential providers, a qualified residential treatment program (Q RTP) and a psychiatric residential treatment facility (P RTF), for 17 acute residential (AR) beds. Similar to the rules promulgated to guide county departments on placement in the Intellectual and Developmental Disabilities Residential Child Care Facility (IDD RCCF), rules will need to be established for eligibility criteria, referral procedures, admissions, and discharges for counties that desire to utilize the AR beds.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | to comply with state/federal law and/or |
| <input checked="" type="checkbox"/> | to preserve public health, safety and welfare |

Justification for emergency:

SB 21-137 passed into law on June 28, 2021. The bill declared that there is an emergency need for increased placements for children and youth with behavioral and mental health needs. The State Department will contract with residential providers to meet this need. The State Department must assure a smooth transition and provide support and resources to the providers that will be contracted pursuant to the bill. These rules will provide regulatory enforcement of quality assurance for the providers to guarantee effective, safe and clinically appropriate care. These rules will provide regulatory enforcement of referral, admission, discharge, and reimbursement processes for county departments to be able to refer clients to the programs.

State Board Authority for Rule:

Code	Description
26-1-107(5)(b), C.R.S. (2020)	State Board to promulgate rules for programs administered and services provided by the state department
26-1-109(1), C.R.S. (2020)	State department rules to coordinate with federal programs

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
26-6-106(1)(a), C.R.S. (2020)	State Department to promulgate rules for child care facility licensing
27-60-113(3), C.R.S. (2021), https://advance.lexis.com/documentpage/?pdmfid=1000516&crd=64324fef-ba81-4f21-af0b-618d736586c8&config=014FJAAyNGJkY2Y4Zi1mNjgyLTRkN2YtYmE4OS03NTYzNzYzOTg0OGEKAFBvZENhdGFsb2d592qv2Kywlf8caKqYROP5&pddocfullpath=/shared/document/statutes-legislation/urn:contentItem:63G9-WD73-GXJ9-32NX-00008-00&pdcontentcomponentid=234176&pdteaserkey=sr0&pdtab=allpods&ecomp=_ss_kkk&earg=sr0&prid=00cd1dbb-80c8-4542-9140-aab38da7f103	State Department may promulgate rules regarding Acute Residential programs for placement, quality assurance, admissions, discharge planning, appropriate length of stay, an appeals process for children and youth who are determined ineligible for the program, and compliance with federal law, including the Family Fist Prevention Services Act

Does the rule incorporate material by reference?		Yes		X	No
Does this rule repeat language found in statute?		Yes		X	No
If yes, please explain.					

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

County Departments will have additional resources for placement. County Departments will have access to placements funding by the state instead of the county. The facilities contracted under these programs will be required to comply with the regulations regarding state oversight of admission, eligibility, and discharge. Children and families will have additional options for treatment in residential settings. Hospitals, Community Centered Boards, and other referring entities will have options for assisting families with out of home placement.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

The COVID-19 pandemic has led to an emergency need for increased residential care for children and youth with acute behavioral health needs. County Departments and other stakeholders for children in need of out of home care experience significant challenges with finding appropriate placement for children with acute needs, as there is a shortage of available beds and a gap in the level of services available to meet the intensive behavioral health needs of youth throughout the system. Hospitals report delayed discharges for children with the most acute needs, as they are often unable to access appropriate step down accommodations. Hospitals report staffing shortages that result in challenges to provide adequate and optimal care to both the psychiatric and the COVID youth populations. This situation has reportedly created a strain on their resources and they have concerns that care of COVID patients may be compromised if the situation is not alleviated. In addition, the existing IDD Program regularly has a waitlist, as the program's capacity is insufficient to meet the number of children requiring placement.

The passage of SB 21-137 will allow for 17 beds to serve children, from the child welfare system and those referred by parents and supporting agencies, who have acute mental health and behavioral needs.

It is anticipated that the total of 17 beds for the programs contracted pursuant to SB 21-137 will serve 32-38 children annually. The children served would otherwise have been in an environment less appropriate for their needs, have been on extended and unwarranted hospital stays, or been placed out of state.

This rule making packet will support regulatory enforcement of the quality assurance of the AR facilities to guarantee effective, safe, and clinically appropriate care for these children. This rule making packet will provide for regulatory enforcement of the referral, eligibility, admission, and discharge process. The State Department is responsible for admission and duration of stay at the programs, so the regulator procedures will improve access to needed out of home placement for children in Colorado.

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources.

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

The AR Programs are funded through a onetime federal appropriation. Rule implementation will not have state fiscal impact.

County Fiscal Impact:

County Departments will experience fiscal savings due to the reimbursement for these beds being paid by the State Department.

Federal Fiscal Impact

None known.

Other Fiscal Impact (such as providers, local governments, etc.)

The providers contracted to perform services for the AR programs will have a higher cost per client due to increased staffing ratio, frequency of clinical intervention, and supplemental services.. This higher cost of service will be supported by a rate greater than that of the base license rate without the contract.

Other referring entities, such as parents, hospitals, and family support services may have reduced fiscal impact due to the cost of services to children at other programs being funded by these programs.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

The distribution of beds was determined through analysis of the following data sets:

- Data from the Division of Child Welfare regarding the child welfare system involved children placed out of the state of Colorado.
- Data from Health Care Policy and Financing regarding Medicaid member children placed out of the state of Colorado.
- Data from Children's Hospital of Colorado regarding children with extended discharge delays.

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

This data informed which program types were necessary and how beds should be distributed. This data also informed eligibility criteria for the program, by identifying patterns of which populations, demographics, diagnoses, and acute behaviors were factors for which children are underserved.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative.

No other alternatives available at this time.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Public Comment No / Detail
7.406.1.OO	The referred citation has moved.	A child/youth is placed at the IDD facility, as defined in 7.424.5, with the approval of the State Department. The approved placement period is the duration of treatment, as stated in the most recent approval letter from the State Department, and thirty (30) days after the completion of treatment/ discharge date.	A child/youth is placed at the IDD facility, as defined in 7.424.13, with the approval of the State Department. The approved placement period is the duration of treatment, as stated in the most recent approval letter from the State Department, and thirty (30) days after the completion of treatment/ discharge date.	
7.424	Regulation Update	Current heading only describes the Intellectual and Developmental Disabilities Facility.	New heading describes Intellectual and Developmental Disabilities Facilities and Acute Residential Facilities.	
7.424	Numbering Update		Numbering change to 7.424.1 due to addition of	

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

			new rules, moving of definition.	
7.424.1	Numbering Update		Numbering change to 7.424.11	
7.424.2	Numbering Update		Numbering change to 7.424.12	
7.424.3	Numbering Update		Numbering change to 7.424.13	
7.424.4	Numbering Update		Numbering change to 7.424.14	
7.424.5	Numbering Update		Numbering change to 7.424.15	
7.424.6	Numbering Update		Numbering change to 7.424.16	
7.424.7	Numbering Update		Numbering change to 7.424.17	
7.424.8	Numbering Update		Numbering change to 7.424.18	
7.424.2	Regulation Addition	None	Adds language to establish that the Department will contract with providers for Acute Residential care.	
7.424.21.A	Regulation Addition	None	Adds language to clarify the process for a county department of human/social services to refer a child/youth for admission into an Acute Residential Facility.	
7.424.21.B	Regulation Addition	None	Adds language to clarify that the Department will determine when a child/youth referred to an	

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

			Acute Residential Facility meets eligibility criteria.	
7.424.21.C.1	Regulation Addition	None	Adds language to clarify that a primary indicator for placement in an Acute Residential Facility is a serious emotional disturbance and defines a serious emotional disturbance.	
7.424.21.C.2	Regulation Addition	None	Adds language to clarify that a primary indicator for placement in an Acute Residential Facility is an IDD and defines an IDD.	
7.424.21.D.1	Regulation Addition	None	Adds language to clarify other indicators for placement in an Acute Residential Facility.	
7.424.21.D.2	Regulation Addition	None	Adds language to clarify other indicators for placement in an Acute Residential Facility.	
7.424.21.E	Regulation Addition	None	Adds language to clarify that youth who meet criteria for detainment by law enforcement are not appropriate for admission.	
7.424.21.F	Regulation Addition	None	Adds language to clarify that children who are referred to a Q RTP must be appropriate for	

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

			QRTF placement as identified in the individual assessment.	
7.424.21.G	Regulation Addition	None	Adds language to clarify that children who are referred to a PRTF must be certified as needing PRTF level of care.	
7.424.22.A	Regulation addition	None	Adds language to clarify that an appeal for denied eligibility may be submitted to the 24-hour Appeal Panel.	
7.424.22.B	Regulation addition	None	Adds language to clarify when decisions on appeals for denied eligibility will be communicated.	
7.424.22.C	Regulation addition	None	Adds language to clarify that a county department of human/social services may request a hearing if aggrieved by the decision of the 24-hour Appeal Panel.	
7.424.22.D	Regulation addition	None	Adds language to clarify that decisions by the Administrative Law Judge are final.	
7.424.22.E	Regulation addition	None	Adds language to clarify that while the eligibility of a youth is under appeal, the youth	

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

			may remain in the Acute Residential Facility and that, in the event of a denied appeal, the county department of human/social services may be responsible for the cost of continuing the placement beyond the date of the reimbursement period.	
7.424.23.A	Regulation addition	None	Adds language to clarify how the Department will make decisions for admitting youth to an Acute Residential Facility.	
7.424.23.B	Regulation addition	None	Adds language to clarify that the Department will issue an approval letter upon admitting a youth to an Acute Residential Facility.	
7.424.23.C	Regulation addition	None	Adds language to clarify when youth on the waitlist for an Acute Residential will be placed.	
7.424.24.A	Regulation addition	None	Adds language to clarify how the Department will determine the duration of treatment for a youth admitted to an Acute Residential	

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

			Facility.	
7.424.24.B	Regulation addition	None	Adds language to clarify the criteria for determining the duration of treatment for a youth admitted to an Acute Residential Facility.	
7.424.24.C	Regulation addition	None	Adds language to clarify that the Department will issue an approval letter to include the duration of treatment and an expected date the youth will discharge from an Acute Residential Facility.	
7.424.24.D	Regulation addition	None	Adds language to clarify that the duration of treatment will be reviewed no less than every 30 days.	
7.424.24.E	Regulation addition	None	Adds language to clarify that a revised approval letter will be issued by the Department upon a change to the duration of treatment.	
7.424.24.F.1	Regulation addition	None	Adds language to determine criteria for discharge from an Acute Residential Facility.	

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

7.424.24.F.2	Regulation addition	None	Adds language to determine criteria for discharge from an Acute Residential Facility.	
7.424.24.F.3	Regulation addition	None	Adds language to determine criteria for discharge from an Acute Residential Facility.	
7.424.24.F.4	Regulation addition	None	Adds language to determine criteria for discharge from an Acute Residential Facility.	
7.424.24.F.5	Regulation addition	None	Adds language to determine criteria for discharge from an Acute Residential Facility.	
7.424.24.G	Regulation addition	None	Adds language to clarify the parties that must participate in discharge planning.	
7.424.24.H	Regulation addition	None	Adds language to clarify that a county department of human/social services retains the right to remove a youth from an Acute Residential Facility at any point prior to the established discharge date.	
7.424.25.A	Regulation addition	None	Adds language to clarify the	

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

			responsibilities of the county department of human/social services for when a youth in their custody is placed at an Acute Residential Facility.	
7.424.25.B	Regulation addition	None	Adds language to clarify the responsibilities of the county department of human/social services for when a youth in their custody is placed at an Acute Residential Facility.	
7.424.26	Regulation addition	None	Adds language to clarify when the Department will reimburse the provider directly and when the county will be responsible for payment.	
7.424.27	Regulation addition	None	Adds language to require the licensee that holds the contract for an Acute Residential Facility to follow relevant Volume 7 rules and regulations.	

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

The framework for these rules was developed in 2019 by a diverse group of stakeholders (county departments, child placement agencies, residential child care facilities, CDHS, CDPHE, OBH, HCPF, and foster parents) to provide guidance for access to the state contracted IDD residential child care facility. That package underwent extensive public stakeholder review. The rules proposed in this packet are nearly identical to the rules approved in 2019, with some minor changes to reflect that the new services will be for a broader population rather than only for youth with intellectual and developmental disabilities. The current draft rules are proposed under the emergency criteria, so broad stakeholder feedback has not been obtained. However, the draft has been reviewed and is approved by OBH and HCPF, and is awaiting input from SubPAC.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

County departments, CDHS, OBH, Children's Hospital of Colorado, and HCPF

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

☒ Yes ☐ No

If yes, who was contacted and what was their input?

HCPF has been contacted regarding the needs and traits of children placed out of state to assess what barriers are present to serving these children in Colorado. OBH provided input regarding the acuity of children with significant mental health and behavioral issues and provisions to be considered in developing programming that could serve this population.

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

☒ Yes ☐ No

Name of Sub-PAC	Child Welfare Sub-PAC
Date presented	9/2/21
What issues were raised?	<ol style="list-style-type: none"> 1) Children placed at QRTPs are required to have an independent assessment indicating that QRTP level of care is appropriate. The committee recommended this requirement be applied to any QRTP contracted under SB 21-137 and impacted by this rule set. 2) Children placed at PRTFs are required to have medical necessity for PRTF level of care. The committee recommended this requirement be applied to any

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

	PRTF contracted under SB 21-137 and impacted by this rule set. The committee agreed unanimously to vote in favor of the packet provided these rules were updated accordingly.		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	all		
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

☐ Yes ☒ No

Date presented	<i>Scheduled for October 7, 2021.</i>		
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
If not presented, explain why.			

Other Comments

☐ Yes ☒ No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

Title of Proposed Rule:	Resources, Reimbursement, Reporting, and Provider Requirements	
CDHS Tracking #:	20-08-11-01	
Office, Division, & Program:	Rule Author:	Phone: 720-660-0381
OCYF, DCW	Shawn Bross	Email: shawn.bross@state.co.us

7.406.1

- OO.** A child/youth is placed at the IDD facility, as defined in 7.424.513, with the approval of the State Department. The approved placement period is the duration of treatment, as stated in the most recent approval letter from the State Department, and thirty (30) days after the completion of treatment/ discharge date.

7.424 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES FACILITIES (IDD FACILITIES) AND ACUTE RESIDENTIAL FACILITIES

~~The State Department shall contract with a licensed Colorado residential child care facility to provide short-term stabilization, treatment, and services to children/youth identified with intellectual and developmental disabilities, and who are experiencing acute and severe behaviors.~~

7.424.1 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES FACILITIES

~~THE STATE DEPARTMENT SHALL CONTRACT WITH LICENSED COLORADO RESIDENTIAL FACILITIES TO PROVIDE SHORT-TERM STABILIZATION, TREATMENT, AND SERVICES TO CHILDREN/YOUTH IDENTIFIED WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AND WHO ARE EXPERIENCING ACUTE AND SEVERE BEHAVIORS.~~

7.424.11 REFERRAL AND ELIGIBILITY

- A. The county department of human/social services shall make the referral to the State Department using the state approved application.
- B. The State Department shall determine whether referrals meet eligibility requirements for services in the IDD facility.
- C. A primary indicator for placement in the IDD facility is an intellectual and/or developmental disability or an autism spectrum disorder. "Intellectual and developmental disability" means a disability that manifests before the person reaches twenty-two years of age, that constitutes a substantial disability to the affected person, and that is attributable to developmental disability or related conditions, which include cerebral palsy, epilepsy, autism, or other neurological conditions when those conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with developmental disability.
- D. Other indicators for placement may include but are not limited to:
1. The child/youth is currently experiencing acute and severe behaviors, which may include but are not limited to: high levels of aggression and/or self-harming behaviors, emotional distress, impulsive behaviors, and/or other emotional, behavioral, or psychological issues; and,
 2. Previous placements have been unsuccessful or alternative placements, specifically within the state of Colorado, are not available for the child/youth.
- E. Child/youth who meet criteria for a mental health hold or detainment by law enforcement are not appropriate for admission.

7.424.212 APPEALS PROCESS FOR DENIED ELIGIBILITY

- A. A county department of human/social services may submit a request for an appeal of denied initial or continued eligibility to the Division of Child Welfare 24 hour Appeal Panel within fifteen (15) business days of the denial.
- B. Decisions on appeals shall be communicated to the county department of human/social services no later than seven (7) business days of receipt of the request.
- C. If the county department of human/social services is aggrieved by the decision of the Child Welfare 24 hour Appeal Panel, the county department of human/social services may request an administrative hearing pursuant to 7.701.13.d.4.a.
- D. Decisions by the administrative law judge are considered final and are not subject to further judicial review.
- E. While the continuing eligibility of a child/youth is under appeal, the child/youth may remain in placement at the IDD facility. If the appeal is denied, the county department of human/social services may be responsible for the costs incurred for continuing the placement of the child/youth after thirty (30) days beyond the discharge date.

7.424.313 ADMISSION TO THE IDD FACILITY

- A. The State Department, in collaboration with the IDD facility, shall determine if and/or when a referred child/youth shall be admitted to the IDD facility.
- B. Upon acceptance of the child/youth into the IDD facility, the State Department shall issue an approval letter to include the date of admission, which shall be determined in collaboration with the county department of human/social services and the IDD facility and shall be approved by the State Department.
- C. In the event that there is a waitlist for admission to the IDD facility, the county department of human/social services shall place the eligible and approved child/youth on the agreed upon admission date or forfeit admission, which may result in the child/youth returning to the IDD facility waitlist.
- D. Children/youth in the care or custody of county human/social services departments shall be prioritized for admission into the IDD facility.
- E. Children/youth who have previously been discharged from the facility shall be prioritized for re-admission, according to the needs of the child/youth.

7.424.414 EMERGENCY ADMISSION

The State Department may hold open up to three (3) beds at the IDD facility to be used for emergency placements. Criteria for emergency admission may include but are not limited to:

- A. The child/youth is on the waitlist and experiences an unexpected crisis; or,
- B. The child/youth is determined, by the county department of human/social services, to be unsafe in their current setting; or,
- C. The child/youth is to be discharged from a more restricted setting, including but not limited to a hospital or detention setting; or,
- D. The child/youth experiences an imminent placement disruption unrelated to the child's/youth's status or situation; or,
- E. The child/youth is unexpectedly discharged from current placement.

7.424.515 DISCHARGE

- A. The duration of treatment at the IDD facility shall be determined at the time of admission by the State Department in collaboration with the IDD facility, county department of human/social services, child/youth, family of child/youth, and the child's/youth's permanency team.
- B. Criteria for determining duration of treatment at the IDD facility may include but are not limited to the assessment of the child's/youth's needs, goals of the child/youth, goals of the family (when applicable), expected time to achieve stabilization, criteria for transition, transition needs, and plan for permanency.
- C. Within fourteen (14) calendar days of admission, the State Department shall issue an approval letter to include the duration of the child's/youth's treatment and the expected date by which the child/youth will be discharged from the IDD facility.
- D. The duration of treatment shall be reviewed by the State Department, the IDD facility, and the county department of human/social services, in collaboration with the child/youth, family of the child/youth (when applicable), and the child's/youth's permanency team, no more than every thirty (30) days after the date of admission and may be subject to change based upon the progress and needs of the child/youth.
- E. In the event the State Department determines a change to the duration of treatment, a revised approval letter will be issued.
- F. Criteria for discharge
 - 1. The child/youth has met the goals and objectives in the individual child's/youth's plan, as determined by the IDD facility, in consultation with the state department and the county department of human/social services; or,
 - 2. The child's behavior has become such that significant safety issues for themselves and/or others at the facility and the treatment team at the facility can no longer effectively provide treatment for the child and the child can no longer be safely maintained in the facility without a higher level of intervention. The facility will consult with the state department and the placing authority to develop an ongoing plan for the child; or,
 - 3. A viable placement option in a lower level of care is identified and available; or,
 - 4. The child's/youth's family is ready and able to care for the child/youth; and,
 - 5. A transition plan is in place to include identified services to support the placement option or family in caring for the child/youth.
- G. The county department of human/social services retains the right to remove the child/youth from the program any time prior to the discharge date specified in the most recent approval letter.

7.424.616 COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES RESPONSIBILITIES

- A. The county department of human/social services shall participate in initial and ongoing monthly staffings, treatment planning, and discharge planning for each child/youth placed at the IDD facility by the county department of human/social services.
- B. Permanency planning shall occur in accordance with 7.301.2.

7.424.717 REIMBURSEMENT

When the child/youth is placed by a county department of human/ social services the State Department shall reimburse one hundred percent (100%) of the placement costs, up to thirty (30) days beyond the discharge date as defined in the most recent approval letter.

7.424.818 QUALITY ASSURANCE

The licensee that holds the IDD facility contract is subject to the rules and regulations found at 7.701, 7.705, 7.706, 7.714, and 7.719.

7.424.2 ACUTE RESIDENTIAL FACILITIES

THE STATE DEPARTMENT SHALL CONTRACT WITH LICENSED PROVIDERS FOR THE DELIVERY OF SERVICES TO CHILDREN AND YOUTH WHOSE BEHAVIORAL OR MENTAL HEALTH NEEDS REQUIRE SERVICES AND TREATMENT IN A RESIDENTIAL FACILITY.

7.424.21 REFERRAL AND ELIGIBILITY

- A. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES SHALL MAKE THE REFERRAL TO THE STATE DEPARTMENT USING THE STATE APPROVED APPLICATION.
- B. THE STATE DEPARTMENT SHALL DETERMINE WHETHER REFERRALS MEET ELIGIBILITY REQUIREMENTS FOR SERVICES IN THE ACUTE RESIDENTIAL FACILITIES.
- C. THE PRIMARY INDICATORS FOR PLACEMENT IN AN ACUTE RESIDENTIAL PROGRAM ARE:
 - 1. A SERIOUS EMOTIONAL DISTURBANCE, INCLUDES, WITH RESPECT TO A CHILD, ANY CHILD WHO HAS A SERIOUS EMOTIONAL DISORDER, A SERIOUS BEHAVIORAL DISORDER, OR A SERIOUS MENTAL DISORDER.
 - 2. AN INTELLECTUAL AND/OR DEVELOPMENTAL DISABILITY OR AN AUTISM SPECTRUM DISORDER. "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" MEANS A DISABILITY THAT MANIFESTS BEFORE THE PERSON REACHES TWENTY-TWO YEARS OF AGE, THAT CONSTITUTES A SUBSTANTIAL DISABILITY TO THE AFFECTED PERSON, AND THAT IS ATTRIBUTABLE TO AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY OR RELATED CONDITIONS, INCLUDING PRADER-WILLI SYNDROME, CEREBRAL PALSY, EPILEPSY, AUTISM, OR OTHER NEUROLOGICAL CONDITIONS WHEN THE CONDITION OR CONDITIONS RESULT IN IMPAIRMENT OF GENERAL INTELLECTUAL FUNCTIONING OR ADAPTIVE BEHAVIOR SIMILAR TO THAT OF A PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY.
- D. OTHER INDICATORS FOR PLACEMENT MAY INCLUDE BUT ARE NOT LIMITED TO:
 - 1. THE CHILD/YOUTH IS CURRENTLY EXPERIENCING ACUTE AND SEVERE BEHAVIORS, WHICH MAY INCLUDE BUT ARE NOT LIMITED TO: HIGH LEVELS OF AGGRESSION AND/OR SELF-HARMING BEHAVIORS, EMOTIONAL DISTRESS, IMPULSIVE BEHAVIORS, AND/OR OTHER EMOTIONAL, BEHAVIORAL, OR PSYCHOLOGICAL ISSUES; AND,
 - 2. THE CHILD/YOUTH IS EXHIBITING INTENSIVE BEHAVIORS THAT HAVE NOT BEEN MANAGEABLE IN LOWER-LEVELS OF CARE OR EXISTING FACILITIES IN COLORADO OR HAS MET DISCHARGE CRITERIA FROM HOSPITALIZATION AND ALTERNATIVE PLACEMENTS, SPECIFICALLY WITHIN THE STATE OF COLORADO, ARE NOT AVAILABLE FOR THE CHILD/YOUTH.

- E. CHILDREN/YOUTH WHO MEET CRITERIA FOR DETAINMENT BY LAW ENFORCEMENT ARE NOT APPROPRIATE FOR ADMISSION.
- F. TO BE ELIGIBLE FOR ADMISSION TO A QUALIFIED RESIDENTIAL TREATMENT PROGRAM (QRTP) THE CHILD MUST BE DETERMINED TO BE APPROPRIATE FOR PLACEMENT IN A QRTP THROUGH THE INDEPENDENT ASSESSMENT PROCESS BY A QUALIFIED INDIVIDUAL IN ACCORDANCE WITH 19-1-115(4)(e)(I), C.R.S.
- G. TO BE ELIGIBLE FOR ADMISSION TO A PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) THE CHILD MUST BE CERTIFIED TO NEED PRTF LEVEL OF CARE BY AN INDEPENDENT TEAM IN ACCORDANCE WITH 10 CCR 2505-10 § 8.765.4.A.

7.424.22 APPEALS PROCESS FOR DENIED ELIGIBILITY

- A. A COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MAY SUBMIT A REQUEST FOR AN APPEAL OF DENIED INITIAL OR CONTINUED ELIGIBILITY TO THE DIVISION OF CHILD WELFARE 24 HOUR APPEAL PANEL WITHIN FIFTEEN (15) BUSINESS DAYS OF THE DENIAL.
- B. DECISIONS ON APPEALS SHALL BE COMMUNICATED TO THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES NO LATER THAN SEVEN (7) BUSINESS DAYS OF RECEIPT OF THE REQUEST.
- C. IF THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES IS AGGRIEVED BY THE DECISION OF THE CHILD WELFARE 24 HOUR APPEAL PANEL, THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MAY REQUEST AN ADMINISTRATIVE HEARING PURSUANT TO 7.701.13.D.4.A.
- D. DECISIONS BY THE ADMINISTRATIVE LAW JUDGE ARE CONSIDERED FINAL AND ARE NOT SUBJECT TO FURTHER JUDICIAL REVIEW.
- E. WHILE THE CONTINUING ELIGIBILITY OF A CHILD/YOUTH IS UNDER APPEAL, THE CHILD/YOUTH MAY REMAIN IN PLACEMENT AT THE ACUTE RESIDENTIAL FACILITY. IF THE APPEAL IS DENIED, THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES MAY BE RESPONSIBLE FOR THE COSTS INCURRED FOR CONTINUING THE PLACEMENT OF THE CHILD/YOUTH AFTER THIRTY (30) DAYS BEYOND THE DISCHARGE DATE.

7.424.23 ADMISSION TO AN ACUTE RESIDENTIAL FACILITY

- A. THE STATE DEPARTMENT, IN CONSULTATION WITH THE ACUTE RESIDENTIAL FACILITIES, SHALL DETERMINE IF AND/OR WHEN A REFERRED CHILD/YOUTH WHO HAS BEEN DEEMED ELIGIBLE FOR THE PROGRAM(S) SHALL BE ADMITTED TO AN ACUTE RESIDENTIAL FACILITY. ADMISSION OF A CHILD SHALL BE IN KEEPING WITH THE STATED PURPOSE OF THE CHILD CARE FACILITY AND SHALL BE LIMITED TO THOSE CHILDREN FOR WHOM THE FACILITY IS QUALIFIED BY STAFF, PROGRAM, EQUIPMENT, AND NEEDS OF CHILDREN ALREADY IN RESIDENCE TO PROVIDE CARE DEEMED NECESSARY. CARE MUST BE PROVIDED IN THE LEAST RESTRICTIVE, MOST APPROPRIATE SETTING IN ORDER TO MEET THE CHILD'S NEEDS.
- B. UPON ACCEPTANCE OF THE CHILD/YOUTH INTO THE ACUTE RESIDENTIAL FACILITY, THE STATE DEPARTMENT SHALL ISSUE AN APPROVAL LETTER TO INCLUDE THE DATE OF ADMISSION, WHICH SHALL BE DETERMINED IN COLLABORATION WITH THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES AND THE ACUTE RESIDENTIAL FACILITY, AND SHALL BE APPROVED BY THE STATE DEPARTMENT.
- C. IN THE EVENT THAT THERE IS A WAITLIST FOR ADMISSION TO THE ACUTE RESIDENTIAL FACILITY, THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES SHALL PLACE THE ELIGIBLE AND APPROVED CHILD/YOUTH ON THE AGREED UPON ADMISSION DATE OR

FORFEIT ADMISSION, WHICH MAY RESULT IN THE CHILD/YOUTH RETURNING TO THE ACUTE RESIDENTIAL FACILITY WAITLIST.

7.424.24 DISCHARGE

- A. THE ELIGIBLE PERIOD OF PLACEMENT AT THE ACUTE RESIDENTIAL FACILITY SHALL BE DETERMINED AT THE TIME OF ADMISSION BY THE STATE DEPARTMENT IN COLLABORATION WITH THE ACUTE RESIDENTIAL FACILITY, COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES, CHILD/YOUTH, FAMILY OF CHILD/YOUTH, AND THE CHILD'S/YOUTH'S PERMANENCY TEAM.
- B. CRITERIA FOR DETERMINING THE ELIGIBILITY PERIOD OF PLACEMENT AT THE ACUTE RESIDENTIAL FACILITY MAY INCLUDE BUT ARE NOT LIMITED TO THE ASSESSMENT OF THE CHILD'S/YOUTH'S NEEDS, GOALS OF THE CHILD/YOUTH, GOALS OF THE FAMILY (WHEN APPLICABLE), EXPECTED TIME TO ACHIEVE STABILIZATION, CRITERIA FOR TRANSITION, TRANSITION NEEDS, AND PLAN FOR PERMANENCY.
- C. WITHIN FOURTEEN (14) CALENDAR DAYS OF ADMISSION, THE STATE DEPARTMENT SHALL ISSUE AN APPROVAL LETTER TO INCLUDE THE DURATION OF THE CHILD'S/YOUTH'S TREATMENT AND THE EXPECTED DATE BY WHICH THE CHILD/YOUTH WILL BE DISCHARGED FROM THE ACUTE RESIDENTIAL FACILITY.
- D. THE DURATION OF TREATMENT SHALL BE REVIEWED BY THE STATE DEPARTMENT, THE ACUTE RESIDENTIAL FACILITY, AND THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES, IN COLLABORATION WITH THE CHILD/YOUTH, FAMILY OF THE CHILD/YOUTH (WHEN APPLICABLE), AND THE CHILD'S/YOUTH'S PERMANENCY TEAM, NO MORE THAN EVERY THIRTY (30) DAYS AFTER THE DATE OF ADMISSION AND MAY BE SUBJECT TO CHANGE BASED UPON THE PROGRESS AND NEEDS OF THE CHILD/YOUTH.
- E. IN THE EVENT THE STATE DEPARTMENT DETERMINES A CHANGE TO THE DURATION OF TREATMENT, A REVISED APPROVAL LETTER WILL BE ISSUED.
- F. CRITERIA FOR DISCHARGE
 - 1. THE CHILD/YOUTH HAS MET THE GOALS AND OBJECTIVES IN THE INDIVIDUAL CHILD'S/YOUTH'S PLAN, AS DETERMINED BY THE ACUTE RESIDENTIAL FACILITY, IN CONSULTATION WITH THE STATE DEPARTMENT AND THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES; OR,
 - 2. THE CHILD'S BEHAVIOR HAS BECOME SUCH THAT IT PRESENTS SIGNIFICANT SAFETY ISSUES FOR THEMSELVES AND/OR OTHERS AT THE FACILITY, ~~AND~~ THE TREATMENT TEAM AT THE FACILITY CAN NO LONGER EFFECTIVELY PROVIDE TREATMENT FOR THE CHILD, AND THE CHILD CAN NO LONGER BE SAFELY MAINTAINED IN THE FACILITY WITHOUT A HIGHER LEVEL OF INTERVENTION. THE FACILITY WILL CONSULT WITH THE STATE DEPARTMENT AND THE PLACING AUTHORITY TO DEVELOP AN ONGOING PLAN FOR THE CHILD; OR,
 - 3. A VIABLE PLACEMENT OPTION IN A LOWER LEVEL OF CARE IS IDENTIFIED AND AVAILABLE; OR,
 - 4. THE CHILD'S/YOUTH'S FAMILY IS READY AND ABLE TO CARE FOR THE CHILD/YOUTH; AND,
 - 5. A TRANSITION PLAN IS IN PLACE TO INCLUDE IDENTIFIED SERVICES TO SUPPORT THE PLACEMENT OPTION OR FAMILY IN CARING FOR THE CHILD/YOUTH.

- G. THE FACILITY, COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES, CHILD'S PERMANENCY TEAM, PLACEMENT OPTION, AND ACUTE RESIDENTIAL PROGRAM ADMINISTRATOR SHALL PARTICIPATE IN DISCHARGE PLANNING TO ENSURE CONTINUITY OF CARE AND APPROPRIATE TRANSITION PLANNING.
- H. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES RETAINS THE RIGHT TO REMOVE THE CHILD/YOUTH FROM THE PROGRAM ANY TIME PRIOR TO THE DISCHARGE DATE SPECIFIED IN THE MOST RECENT APPROVAL LETTER.

7.424.25 COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES RESPONSIBILITIES

- A. THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES SHALL PARTICIPATE IN INITIAL AND ONGOING MONTHLY STAFFINGS, TREATMENT PLANNING, AND DISCHARGE PLANNING FOR EACH CHILD/YOUTH PLACED AT THE ACUTE RESIDENTIAL FACILITY BY THE COUNTY DEPARTMENT OF HUMAN/SOCIAL SERVICES.
- B. PERMANENCY PLANNING SHALL OCCUR IN ACCORDANCE WITH 7.301.2.

7.424.26 REIMBURSEMENT

WHEN THE CHILD/YOUTH IS PLACED AT THE ACUTE RESIDENTIAL FACILITY, THE STATE DEPARTMENT SHALL REIMBURSE THE PROVIDER ONE HUNDRED PERCENT (100%) OF THE PLACEMENT COSTS, UP TO THIRTY (30) DAYS BEYOND THE DISCHARGE DATE AS DEFINED IN THE MOST RECENT APPROVAL LETTER. THE DEPARTMENT WILL NOT REIMBURSE FOR COSTS INCURRED WHEN A COUNTY DEPARTMENT OF HUMAN SERVICES CONTINUES THE PLACEMENT OF A CHILD OR YOUTH AT THE ACUTE RESIDENTIAL FACILITY AFTER THE END OF THE APPROVED PLACEMENT PERIOD. COUNTY DEPARTMENTS OF HUMAN SERVICES MUST CONTRACT DIRECTLY WITH THE FACILITY BY COMPLETING AN SS-23A.

7.424.27 QUALITY ASSURANCE

A LICENSEE THAT HOLDS AN ACUTE RESIDENTIAL FACILITY CONTRACT IS SUBJECT TO THE RULES AND REGULATIONS FOUND AT 7.701, 7.705, 7.706, 7.714, AND 7.719.

PHILIP J. WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2021-00658

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

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

on 10/08/2021

12 CCR 2509-5

RESOURCES, REIMBURSEMENT, REPORTING, AND PROVIDER REQUIREMENTS

The above-referenced rules were submitted to this office on 10/13/2021 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 20, 2021 17:07:49

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/27/2021

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)



COLORADO

Water Quality
Control Commission

Department of Public Health & Environment

NOTICE OF PUBLIC INFORMATIONAL HEARING BEFORE THE COLORADO WATER QUALITY CONTROL COMMISSION

SUBJECT:

Routine review of the commission's current regulation titled:

“Pretreatment Regulations”, Regulation #63 (5 CCR 1002-63).

PURPOSE OF HEARING:

This hearing is to fulfill State statutory requirements for triennial review of control regulations.

SCHEDULE OF IMPORTANT DATES:

Written comments due	12/1/2021	Additional submittal information below
Public Hearing	12/13/2021 9:00 a.m.	Remote Via Zoom Or Sabin Cleere Conference Room Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246

PROCEDURAL MATTERS:

The commission encourages input from interested persons, either in writing prior to the hearing or orally at the hearing. Interested persons should provide their opinions or recommendations as to whether the foregoing regulation should be continued in its current form, repealed, or changed, and if so, in what respect.

The commission will receive all written submittals electronically. Submittals must be provided as PDF documents and may be emailed to cdphe.wgcc@state.co.us, provided via an FTP site, or otherwise conveyed to the commission office so as to be received no later than the date shown above. Written comments will be available to the public on the commission’s web site.

Any suggested changes deemed by the commission to require further action will be proposed as regulatory changes for subsequent public rulemaking. Recommendations for changes should be concise and supported by reference to the evidence that would be offered if the commission moved forward to formally consider the recommended regulatory amendments.



At this informational hearing the commission does not desire to hear the full evidence that would be presented at a rulemaking hearing that would follow. The commission requests only the information needed to determine whether or not to propose a regulatory change. Oral public comment will be accepted at the hearing.

AUTHORITY FOR PUBLIC HEARING:

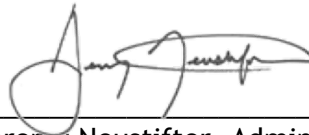
The provisions of 25-8-202(1)(f) C.R.S. and section 21.5 B of the "Procedural Rules" (5 CCR 1002-21) provide the authority for this hearing.

PARTY STATUS:

This is not a rulemaking hearing; therefore, party status provisions of 25-8-101 et. seq., and 24-4-101 et. seq., C.R.S. do not apply. Party status requests shall not be considered by the commission.

Dated this 27th day of October 2021 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

A handwritten signature in black ink, appearing to read 'Jeremy Neustifter', is written over a horizontal line.

Jeremy Neustifter, Administrator

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/27/2021

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)



COLORADO

Water Quality Control Commission

Department of Public Health & Environment

NOTICE OF PUBLIC ADMINISTRATIVE ACTION HEARING BEFORE THE COLORADO WATER QUALITY CONTROL COMMISSION

SUBJECT:

At the date, time and location listed below, the Water Quality Control Commission will hold a public Administrative Action Hearing to consider approval of an extension to the expiration date of Interim Guidance for Implementation of Discharger Specific Variances Provisions, Commission Policy 13-1.

SCHEDULE OF IMPORTANT DATES:

Written Comments due	12/1/2021	Additional submittal information below
Public Administrative Action Hearing	12/13/2021 9:00 a.m.	Remote Via Zoom Or Sabin Cleere Conference Room Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246

PROCEDURAL MATTERS:

The commission encourages input from interested persons, either in writing prior to the hearing or orally at the hearing. Interested persons should provide their opinions or recommendations regarding the proposed extension.

The commission will receive all written submittals electronically. Submittals must be provided as PDF documents and may be emailed to cdphe.wqcc@state.co.us, provided via an FTP site, on a CD or flash drive, or otherwise conveyed to the commission office to be received no later than the due date. Written comments will be available to the public on the commission's website.

AUTHORITY FOR PUBLIC HEARING:

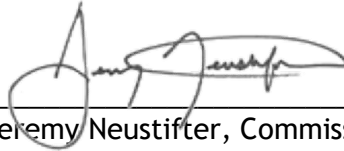
The provisions of 25-8-202(1)(g), (h), (i), (o) and (2) C.R.S. and Section 21.5 B of the "Procedural Rules", Regulation #21 (5 CCR 1002-21) provide the authority for this hearing.

PARTY STATUS:

This is not a rulemaking hearing; therefore, party status provisions of 25-8-101 et. seq., and 24-4-101 et. seq., C.R.S. do not apply. Party status requests shall not be considered by the commission.

Dated this 27th day of October, 2021 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

A handwritten signature in black ink, appearing to read "Jeremy Neustifter", is written over a horizontal line.

Jeremy Neustifter, Commission Administrator

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/27/2021

Department

Department of Public Health and Environment

Agency

Water Quality Control Commission (1002 Series)



COLORADO

Water Quality Control Commission

Department of Public Health & Environment

NOTICE OF PUBLIC ADMINISTRATIVE ACTION HEARING BEFORE THE COLORADO WATER QUALITY CONTROL COMMISSION

SUBJECT:

At the date, time and location listed below, the Water Quality Control Commission will hold a public Administrative Action Hearing to consider approval of an extension to the expiration date of Human Health-Based Water Quality Criteria and Standards, Commission Policy 96-2.

SCHEDULE OF IMPORTANT DATES:

Written Comments due	12/1/2021	Additional submittal information below
Public Administrative Action Hearing	12/13/2021 9:00 a.m.	Remote Via Zoom Or Sabin Cleere Conference Room Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246

PROCEDURAL MATTERS:

The commission encourages input from interested persons, either in writing prior to the hearing or orally at the hearing. Interested persons should provide their opinions or recommendations regarding the proposed extension.

The commission will receive all written submittals electronically. Submittals must be provided as PDF documents and may be emailed to cdphe.wqcc@state.co.us, provided via an FTP site, on a CD or flash drive, or otherwise conveyed to the commission office to be received no later than the due date. Written comments will be available to the public on the commission's website.

AUTHORITY FOR PUBLIC HEARING:

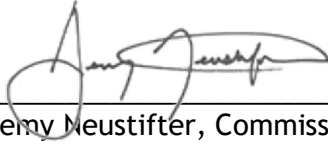
The provisions of 25-8-202(1)(g), (h), (i), (o) and (2) C.R.S. and Section 21.5 B of the "Procedural Rules", Regulation #21 (5 CCR 1002-21) provide the authority for this hearing.

PARTY STATUS:

This is not a rulemaking hearing; therefore, party status provisions of 25-8-101 et. seq., and 24-4-101 et. seq., C.R.S. do not apply. Party status requests shall not be considered by the commission.

Dated this 27th day of October, 2021 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

A handwritten signature in black ink, appearing to read "Jeremy Neustifter", is written over a horizontal line.

Jeremy Neustifter, Commission Administrator

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 10/28/2021

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

1570 Grant Street
Denver, CO 80203

Public Notice: Medicaid Statewide Managed Care System

October 26, 2021

30 Day Comment Period: Medicaid Statewide Managed Care System

The Department of Health Care Policy & Financing has opened a 30-day public comment period to collect feedback on the revised Medicaid Statewide Managed Care System rule. The comment period will run from Oct. 25, 2021 through Nov. 24, 2021. Existing rules regarding Medicaid managed care programs are being revised to reflect the changes for Phase II of the Accountable Care Collaborative.

To view the draft Medicaid Statewide Managed Care System rule revision and to submit comments through the electronic form, you may visit the [Medicaid Statewide Managed Care System webpage](#).

All comments received related to the rule revisions during this public comment period will be reviewed by the Department to assist in the determination of what further revisions, if any, to incorporate into these documents prior to rulemaking.

For questions, contact hcpf_acc@state.co.us.



Departmental Regulatory Agendas

Department

Department of Education

2021-22 Regulatory Agendas for State Board of Education and Division of Capital Construction

State Board of Education Regulatory Agenda

Basis for Adoption	Purpose	Rule	SBE Votes to Notice	Info Item on Board Agenda	Hearing Date	Tentative Adopt Date
H.B. 21-1161	Special request to reconsider process	1 CCR 301-1 Rules for Administration of Statewide Accountability Measures	June 2021	June 2021	Aug 2021	Aug 2021
S.B. 21-268 (2021 School Finance Act)	Update deadlines for the CDE-40 forms	1 CCR 301-14 Rules for Administration of the Public School Transportation Fund	Aug 2021	Aug 2021	Oct 2021	Oct 2021
Federal regulations for the operation of transportation vehicles	Update to match federal regulations	1 CCR 301-26 Rules for the Operation, Maintenance and Inspection of School Transportation Vehicles	Aug 2021	Aug 2021	Oct 2021	Oct 2021
H.B. 21-1133	Promulgate new rules concerning individualized seizure action plans, including training and seizure care guidelines	NEW 1 CCR 301-112	Aug 2021	Aug 2021	Oct 2021	Oct 2021
S.B. 21-058; S.B. 21-268 (2021 School Finance Act); S.B. 21-185; S.B. 21-017	Adjustments to approval of alternative principal programs; adjustments to causes for revocation or suspension of license; adjustment to requirements for adjunct instructor authorization; promulgate new rules	1 CCR 301-37 Rules for Administration of the Educator Licensing Act	N/A	October 2021	Nov 2021	Nov 2021

2021-22 Regulatory Agendas for State Board of Education and Division of Capital Construction

Basis for Adoption	Purpose	Rule	SBE Votes to Notice	Info Item on Board Agenda	Hearing Date	Tentative Adopt Date
	defining standards of unethical behavior					
S.B. 21-185	Promulgate new rules concerning the Educator Recruitment and Retention Program	NEW 1 CCR 301-113	N/A	Oct 2021	Nov 2021	Nov 2021
S.B. 21-106	Adjust requirements for Innovative Learning Pilot Program	1 CCR 301-110 Rules for Administration of the High School Innovative Learning Pilot Program	Sept 2021	Sept 2021	Nov 2021	Nov 2021
S.B. 21-056	Adjust rule language concerning administration of cannabis-based medicine by school personnel	1 CCR 301-68 Rules for Administration of Medications	Oct 2021	Oct 2021	Jan 2022	Jan 2022
21-268 (2021 School Finance Act)	Adjustments to requirements for Expelled and At-Risk Student Services Grant Program	1 CCR 301-43 Rules for the Administration of Educational Alternatives for Expelled Students	Oct 2021	Oct 2021	Jan 2022	Jan 2022
Federal guidance	Adjustments made based on guidance from OCR related to disability status on enrollment forms	1 CCR 301-88 Standards for Charter Schools and Charter School Authorizers	Nov 2021	Nov 2021	Jan 2022	Jan 2022
Federal guidance	Adjustments made based on guidance from OCR related to disability status on enrollment forms	1 CCR 301-8 Rules for the Administration of the Exceptional Children's Educational Act	Jan 2022	Jan 2022	March 2022	March 2022

2021-22 Regulatory Agendas for State Board of Education and Division of Capital Construction

Basis for Adoption	Purpose	Rule	SBE Votes to Notice	Info Item on Board Agenda	Hearing Date	Tentative Adopt Date
	Adjustments related to educational interpreters Other clean ups as necessary					
S.B. 21-185	Promulgate new rules concerning state and federal reporting requirements for students enrolled in the TREP program	NEW 1 CCR 301-114	Jan 2022	Jan 2022	March 2022	March 2022
H.B. 19-1418; HB 20-1214	Adjust requirements for full-day kindergarten funding; adjust alternative count day language; general rule clean-up	1 CCR 301-39 Rules for Administration of the Public School Finance Act	March 2022	March 2022	May 2022	May 2022

2021-22 Regulatory Agendas for State Board of Education and Division of Capital Construction

Division of Capital Construction Regulatory Agenda

Basis for Adoption	Purpose	Rule	Notice Date	Hearing Date	Tentative Adopt Date
SB 21-216	Adjust priorities and use of grant funds in line with new statutory changes	1 CCR 303-3 Building Excellent Schools Today Grant Program	July 2021	Sept 2021	Sept 2021

Departmental Regulatory Agendas

Department

Department of Law

PHIL WEISER
Attorney General
NATALIE HANLON LEH
Chief Deputy Attorney General
ERIC R. OLSON
Solicitor General
ERIC T. MEYER
Chief Operating Officer



RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

STATE OF COLORADO
DEPARTMENT OF LAW

DEPARTMENT OF LAW
CY 2022 REGULATORY AGENDA

Pursuant to section 2-7-203(2)(a)(IV), C.R.S., this document contains the Colorado Department of Law's regulatory agenda for calendar year ("CY") 2021 and details new rules or revisions to existing rules expected to be proposed in CY 2022.

I. PEACE OFFICERS STANDARDS AND TRAINING (P.O.S.T.)

A. Rule 1

Proposed Rule Amendments and Purpose:

- a. Expand and update the definition of "Disqualifying Incident," including:
 - Conviction for the use of unlawful physical force or failure to intervene or being found by an administrative law judge, by a hearing officer, by an internal investigation or civilly liable for the same;
 - Intentional failure to activate a body worn camera or dash camera or tampering with the same with intent to conceal unlawful or inappropriate actions;
 - Providing inaccurate data for the database created in section 24-31-303(1)(r), C.R.S.;
 - Violating the requirements of section 18-8-805, C.R.S. related to the prohibited use or direction of administration of ketamine; and
- b. Addition of Definitions for Records Management System and Termination for Cause.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 1 was adopted on September 24, 2021, with an effective date of November 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

B. Rule 5

Proposed Rule Amendments and Purpose:

- a. Rename "Non-revocation Hearings" to "Show Cause Hearings;" and

- b. Add an appeal process for fines or other administrative sanctions administered by the Attorney General, as well as cleaning up, modifying, streamlining, and more clearly identifying the different types of POST involved hearings and their processes.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 5 was adopted on March 26, 2021, with an effective date of May 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

C. Rule 5

Proposed Rule Amendments and Purpose:

- a. Distinguish between a show cause hearing related to criminal convictions and an administrative hearing for actions against certification;
- b. Include suspension or voluntary surrender as an option for disciplinary action; and
- c. Ensure rules mirror the hearings process as outlined in section 24-4-105, C.R.S.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 5 was adopted on September 24, 2021, with an effective date of November 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

D. Rule 7

Proposed Rule Amendments and Purpose:

- a. Add that the process outlined in Rule 7 also applies to a peace officer seeking review of the peace officer's status in the database created per section 24-31-303(1)(r), C.R.S.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 7 was adopted on September 24, 2021, with an effective date of November 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

E. Rule 8

Proposed Rule Amendments and Purpose:

- a. Provide the ability to seek exemption from certificate denial or reinstatement of a certificate via written submission, and the process accompanying such petition.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 8 was adopted on March 26, 2021, with an effective date of May 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

F. Rule 9

Proposed Rule Amendments and Purpose:

- a. Correctly identify the types of revocations described in Rule 1 for which a copy of court conviction or agreement constitutes prima facie evidence of conviction; and
- b. Replace disqualifying incident with more specific language, i.e., “denial or revocation for conviction of a misdemeanor offense as described in subsection (1.5) of Part 305, Article 31, Title 24.”

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 9 was adopted on March 26, 2021, with an effective date of May 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

G. Rule 9

Proposed Rule Amendments and Purpose:

- a. Changing the title from Revocation of Certification to Actions on Certification;
- b. Include ability for a certificate holder to voluntarily surrender a certificate;

- c. Include suspension as a possible disciplinary action; and
- d. Apply Rule 5 Hearings procedures to Rule 9.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 9 was adopted on September 24, 2021, with an effective date of November 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

H. Rule 10

Proposed Rule Amendments and Purpose:

- a. Remove a strikethrough that was inadvertently left during a prior rulemaking.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 10 was adopted on September 24, 2021, with an effective date of November 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

I. Rule 17

Proposed Rule Amendments and Purpose:

- a. Add Part E, identifying that upon failure to comply with Rule 17, certificate holders and/or agencies may incur fines or other administrative sanctions as described in Rule 31.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 17 was adopted on March 26, 2021, with an effective date of May 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

J. Rule 17

Proposed Rule Amendments and Purpose:

- a. Creates a process for the Certificate Holder and the Law Enforcement Agency to report to POST various disqualifying incidents as required by statute; and
- b. Addition that failure to adhere to the reporting requirements could result in fines or other sanctions.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 17 was adopted on September 24, 2021, with an effective date of November 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

K. Rule 21

Proposed Rule Amendments and Purpose:

- a. Replace “the Board” with POST for consistency with other rules;
- b. Add “refresher” to the list of types of academies comprising continuing academies;
- c. Designate the start date for the three (3) year period referenced in the rule;
- d. Clarify the submission requirements that a continuing academy director must meet;
- e. Reintroduce text inadvertently removed from the rule during the last rulemaking session in August 2020;
- f. Re-designate college academies and private occupational school academies as “all academies not based at a law enforcement agency;”
- g. Require existing academies to petition the POST Board to renew their authority to operate an academy every five (5) years;
- h. Require entities interested in creating a new POST-approved academy to receive approval from the full POST Board;
- i. Require the academy director of a proposed new academy to contact POST at least twelve (12), rather than six (6), months prior to the anticipated start date of the new academy, and specify that completing the new academy approval process includes approval of site safety plans, lesson plans, and other associated documents;
- j. Require training sites to be clearly marked as law enforcement training sites, and require written permission prior to providing online/remote training;
- k. Supplement the list of academic and skills lesson information to include the date the lesson plan was prepared and the date of last revision, if applicable, and the name and title of the lesson plan’s author, and name and title of the person approving the lesson plan;
- l. Provide that daily schedules are to be submitted on the form provided by POST;
- m. Require academies to report injuries less severe than death, gunshot wounds or serious bodily injury caused by training activities, and other injuries to any person unaffiliated with an

academy, in order to allow POST to track injury trends statewide to promote safe training environments; and

- n. Require trainee files to include trainee current contact information and a signed and dated acknowledgement of privacy and appeal rights form.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 21 was adopted on March 26, 2021, with an effective date of May 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

L. Rule 21

Proposed Rule Amendments and Purpose:

- a. Require training sites to have reasonable access to restroom facilities;
- b. More specificity as to what is required in Lesson Plans including a list of all source materials, performance rubrics, safety plan control measures, and comprehensive content information;
- c. Require that lesson plans are written to allow any instructor to effectively teach the course; and
- d. Require Academies to maintain a record of tests, including written test results and copies of associated rubrics.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 21 was adopted on September 24, 2021, with an effective date of November 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

M. Rule 28

Proposed Rule Amendments and Purpose:

- a. Provide that failure to complete training may result not only in suspension or revocation of certification;
- b. Provide that an agency or individual found not compliant with training requirements may face an administrative sanction; and
- c. Replace “post” with “POST” to promote consistency throughout the rules.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 28 was adopted on March 26, 2021, with an effective date of May 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

N. Rule 31

Proposed Rule Amendments and Purpose:

A new rule, Rule 31 – Administrative Sanctions, to provide for the assessment of administrative fines or other sanctions by the POST Board or the Attorney General, where applicable for violations of Title 24, Article 31, Part 3.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 31 was adopted on March 26, 2021, with an effective date of May 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, that will be affected by this proposed rulemaking; community organizations and stakeholder organizations.

O. Rule 32

Proposed Rule Amendments and Purpose:

A new rule, Rule 32 – POST Records Management System, implementing the creation of a database containing decertification information, as required in SB 20-217.

- a. Lists the information that will be contained in the POST database created per section 24-31-303(1)(r), C.R.S.; and
- b. Allows a Peace Officer to seek review of the information contained in the database through the procedures listed in Rule 7.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

Rule 32 was adopted on September 24, 2021, with an effective date of November 15, 2021.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, that will be affected by this proposed rulemaking; community organizations and stakeholder organizations.

P. Rule Modifications Anticipated in Subsequent Calendar Years

Proposed Rule Amendments and Purpose:

Update existing rules to include definitions and to perform general clean up.

Statutory Basis:

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

Contemplated Schedule for Adoption:

December 2021 POST Board Meeting, with an effective date of January 30, 2022.

Listing of Persons and Parties Affected:

Peace officers, including those applying for certification and those currently employed as certified peace officers, law enforcement agencies and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

At this time, the POST Board does not anticipate promulgating or amending any rules during calendar year 2022. However, if the General Assembly passes new laws impacting the POST's Board's authority during the 2022 Legislative Session, the POST Board will promulgate any necessary rules to effectively implement.

II. CONSUMER CREDIT UNIT

A. Income Share Agreement ("ISA") Rulemaking: Colorado Uniform Consumer Credit Code ("UCCC") and Colorado Student Loan Equity Act ("SLEA")

Proposed Rule Amendments and Purpose:

In response to questions concerning the regulatory treatment of the relatively new financial product called an Income Share Agreement ("ISA"), the UCCC Administrator anticipates issuing rules regarding the application of the UCCC and SLEA to ISAs, creditors making ISAs, and ISA servicers. Rules will address: the applicability of and required information for disclosure and compliance with the Truth in Lending Act; methods for complying with Regulation Z; maximum finance charges; right to prepay and rebates; licensure and registration requirements; prohibitions against false, misleading, or deceptive statement or representation; prohibition against assignment of earnings; the definition of private education loan and student loan servicer; necessary protections for consumers entering into ISAs; and areas that need clarification to aid creditors or servicers in their efforts to comply with Colorado law.

Statutory Basis:

§ 5-6-104(1)(e), (2), (5), C.R.S.

Contemplated Schedule for Adoption:

Rules are anticipated to be adopted and/or repealed by July 2022.

Listing of Persons and Parties Affected:

Creditors making ISAs and ISA servicers that may be affected by the anticipated rulemaking.

B. Rulemaking Setting Fees under the Colorado Student Loan Equity Act (“SLEA”) for Private Education Lenders

Proposed Rule Amendments and Purpose:

The UCCC Administrator issued emergency rules under the SLEA to implement the private education lender registration fees required pursuant section 5-20-203, C.R.S. The Administrator plans to issue permanent rules implementing this requirement.

Statutory Basis:

§ 5-20-203, C.R.S.

Contemplated Schedule for Adoption:

Rules are anticipated to be adopted and/or repealed by February 2022.

Listing of Persons and Parties Affected:

Private education lenders as defined by the SLEA.

III. CONSUMER PROTECTION

Proposed Rule Amendments and Purpose:

A. Investigative Hearing Rules

Proposed rules have been promulgated to manage and guide procedures for Investigative hearings conducted by the Attorney General, pursuant to the Colorado Consumer Protection Act (“CCPA”), C.R.S. § 6-1-108(1), and the Colorado Antitrust Act, C.R.S. § 6-4-110(1)(b). The rules address the format for investigative hearings, who may conduct and attend investigative hearings, the process for taking a hearing of designated representatives of entities such as corporation or partnerships, the recording of investigative hearings, the procedures to apply in investigative hearings, and the confidential nature of investigative hearings.

Statutory Basis:

§§ 6-1-108(1), 6-4-110(1)(b);

Contemplated Schedule for Adoption:

Proposed rules were adopted on September 23, 2021 and filed with the Secretary of State with an anticipated effective date of November 14, 2021.

Listing of Persons and Parties Affected:

Persons subject to the CCPA and the Colorado Antitrust Act, including individuals and entities who are the targets of investigations, and those with relevant knowledge, who receive subpoenas from the Department to answer questions at investigative hearings.

B. Colorado Privacy Act Mandatory Rulemaking

Proposed Rule and Purpose:

The Colorado Privacy Act (“CPA”) mandates that the Attorney General promulgate new rules that detail the technical specifications for one or more universal opt-out tools. These tools will allow Colorado residents to automatically communicate their choice to opt out of the processing of personal data to controllers that Coloradans interact with online or in the digital space. The Attorney General will engage with individual Coloradans, stakeholders, experts, advocacy groups, and other members of the public before and during the rulemaking process to ensure this new technology conforms to the CPA’s requirements.

Statutory Basis:

§ 6-1-1313(2), C.R.S.

Contemplated Schedule for Adoption:

Rulemaking is anticipated to begin in 2022 and the rules will be adopted the same year.

Listing of Persons and Parties Affected:

Private and public entities subject to the Colorado Privacy Act that process the personal data of Colorado residents for the purposes of targeted advertising or the sale of personal data; Colorado residents and consumers.

C. Colorado Privacy Act Permissive Rulemaking

Proposed Rules and Purpose:

The CPA authorizes the Attorney General to promulgate rules for the purpose of carrying out the CPA. The Attorney General will adopt rules clarifying and providing further detail to certain CPA provisions. The rules will ensure the fair and efficient implementation and enforcement of the CPA. The rules will also provide guidance on CPA provisions including but not limited to defined terms, individual rights, controller obligations, and Attorney General enforcement. The Attorney General will seek input from individual Coloradans, stakeholders, experts, advocacy groups, and other members of the public before and during the rulemaking process.

Statutory Basis:

§ 6-1-1313(1), C.R.S.

Contemplated Schedule for Adoption:

Rulemaking is anticipated to begin in 2022 and many of the rules will be adopted the same year. Some rulemaking may potentially carry into later years.

Listing of Persons and Parties Affected:

Private and public entities subject to the Colorado Privacy Act that process the personal data of Colorado residents for the purposes of targeted advertising or the sale of personal data; Colorado residents and consumers.

D. Data Breach Notification Rulemaking

Proposed Rules and Purpose:

Proposed rules to require reporting entities to use the Department's online form to submit data breach notices and requiring reporting entities to submit certain pieces of information in their data breach notices to the Department.

Statutory Basis:

The CCPA gives the Attorney General authority to adopt rules necessary to the implementation of Article 1 of the CCPA. § 6-1-108(1), C.R.S. The Attorney General is authorized to promulgate rules to carry out the Data Breach Notification Statute as the law is codified in Part 7 of Article 1 of the CCPA. § 6-1-716, C.R.S.

Contemplated Schedule for Adoption:

Proposed rules are anticipated to be adopted by April 2022 or later.

Listing of Persons and Parties Affected:

Companies, organizations, and entities that experience a data breach as defined in state law that affects over five hundred Colorado residents; Colorado consumers and advocacy organizations.

This list provides a brief summary of all permanent and temporary rules actually adopted since the previous departmental regulatory agenda was filed pursuant to 2-7-202(6)(f), C.R.S.

1. Consumer Credit Unit

Colorado Fair Debt Collection Practices Act ("CFDPCA"): Rule adopted May 7, 2021 and effective June 30, 2021. The adopted rule amended existing rules under the CFDPCA to provide clarity, increase consistency with similar federal requirements, and update and modernize requirements.

Colorado Student Loan Equity Act ("CSLEA"): Emergency Rule adopted July 30, 2021. The emergency rule was needed to establish registration fees pursuant to section 5-20-203, C.R.S. after the Governor signed the CSLEA into law on June 29, 2021. It was imperatively necessary to set fees prior to the statutory registration date, September 1, 2021 and to meet these legislative charges and responsibilities in order to preserve the public health, safety, and welfare of the State of Colorado.

Departmental Regulatory Agendas

Department

Department of Personnel and Administration

2022

Regulatory Agenda

Jan. 1, 2022 – Dec. 31, 2022



COLORADO

Executive Director's Office

Department of Personnel & Administration

Overview

The Colorado Department of Personnel & Administration submits the following 2022 Regulatory Agenda (DRA) in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, executive-branch agencies must file a Departmental Regulatory Agenda (DORA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2021 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

The following constitutes the Department of Personnel & Administration's Regulatory Agenda for 2022 and is provided in accordance with Colo. Rev. Stat. §2-7-203(4):

Schedule	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>
<i>Anticipated hearing or adoption date</i>			<i>If only a part of a CCR is repealed, it should be classified as "revised"</i>			<i>Categories of stakeholders, not individual stakeholders</i>
March 2022	1 CCR 104-3	Admin. Courts Procedural Rules for Workers' Comp. Hearings	Revised	24-4-103	Implement changes to Workers' Compensation Rules to streamline procedures for workers' compensation hearings	Beneficiaries of Worker's Comp., State agencies, risk managers, employers, workers compensation bar, translators
July 2022	1 CCR 103-2	Capitol Complex Parking Rules	Revised	24-82-103	Changes to Parking rules pursuant to the State's COVID-19 response and elimination of Central Collections	State agencies, State employee parking tenants, collection agencies

Schedule	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>
November 2021	4CCR 801-1	Personnel Director's Procedures	Revised	Article XII, CO Constitution, 24-50-11	Update Chapters 5- Time off, and 11- Benefit Plans	State employees, State personnel professionals, employment bar, employee partner groups
January 2022	4CCR 801-1	Personnel Director's Procedures	Revised	Article XII, CO Constitution, 24-50-11	Update Chapters 1-5, Organization, Jobs, Compensation, Employment status, and Time off	State employees, State personnel professionals, employment bar, employee partner groups
March 2022	4CCR 801-1	Personnel Director's Procedures	Revised	Article XII, CO Constitution, 24-50-11	Update Ch. 6 - Performance, Ch. 7 - Separations and, Ch.10 - Personal Svcs. Agreements	State employees, State personnel professionals, employment bar, employee partner groups
August 2022	4CCR 801-1	Personnel Director's Procedures/ Personnel Board Rules (Joint)	Revised	Article XII, CO Constitution, 24-33.5-701	Update Chapter 4 - Employment and Status, and Administrative cleanup	State employees, State personnel professionals, employment bar, employee partner groups

Schedule	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>
May 2022	1 CCR 101-1	Colorado Fiscal Rules	Revised	24-30-202(13)	Update rules related to contracts, travel, and other sections	State agencies, travel partners, fiscal and procurement professionals
December 2022	1 CCR 101-9	Procurement Rules	Revised	24-102-101	Implement anticipated legislation concerning implantation of the 2020 Disparity Study	Minority- and woman-owned businesses, current and past vendors, chambers of commerce, state agencies

Departmental Regulatory Agendas

Department

Department of Local Affairs

2022

Regulatory Agenda



COLORADO

Department of Local Affairs

Overview

The Colorado Department of Local Affairs (DOLA) submits the following 2021 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department’s “Regulatory Efficiencies Reviews” during 2022 (which are denoted as such in the “purpose” column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department’s web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its “SMART Act” hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

The following constitutes DOLA’s Regulatory Agenda for 2022 and is provided in accordance with Colo. Rev. Stat. §2-7-203(4):

Schedule (Month, Year)	Rule Number and Title	Division/ Board/ Program	New rule or revision?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? (X if yes)	Purpose	Stakeholders <i>Recommend including proposed stakeholder outreach</i>	Anticipated Hearing Date
July 2021	8 CCR 1302-14. Non-Residential And Residential Factory-Built Structures; Sellers Of Manufactured Homes; Manufactured Home	Division of Housing - Building Codes & Standards Section	Revision	C.R.S. 24-32- 3305(1)	No	To implement House Bill 21-1019 concerning modifications to the regulations of factory-built structures.	Stakeholders include the industry (Rocky Mountain Home Association, factories, sellers, installers) as well as local jurisdictions (Colorado Counties Inc, Colorado Municipal League,	The State Housing Board held a rulemaking hearing on July 13 th and adopted the proposed

	Installations; And Hotels, Motels, And Multi-Family Structures In Those Areas Of The State Where No Standards Exist						Counties and Commissioners Acting Together), and other state agencies (DORA, CEO). Stakeholder meetings held through the Technical Advisory Committee (TAC) were held on May 18 th , June 9 th , June 17 th , and June 24 th .	rules as amended that same day to be effective September 14, 2021.
October 2021	8 CCR 1302-15. Mobile Home Park Act Dispute Resolution & Enforcement Program	Division of Housing - Mobile Home Park Oversight Program	Revision	C.R.S. 38-12-1104(2)(j)	No	To set the 2022 mobile home park registration fee, and implement and clarify the Mobile Home Park Act and Program, Title 38, Article 12, Parts 2 and 11, C.R.S.	Mobile home park management and owners, mobile home owner tenants living in mobile home parks, local jurisdictions, landlord-tenant attorneys, and housing nonprofits.	Hearing held 10/5/2021, rules adopted 10/11/2021, pending OAG.
May 2022	8 CCR 1302-14. Non-Residential And Residential Factory-Built Structures; Sellers Of Manufactured Homes; Manufactured Home Installations; And Hotels, Motels, And Multi-Family Structures In Those Areas Of The State	Division of Housing - Building Codes & Standards Section	Revision	C.R.S. 24-32-3305(1)	No	Revisit all rules to determine if any need to be amended or repealed and to also potentially address, but not limit to, the following topic areas: update the energy code, panel construction, alternative construction, installation of multi-family units, accessibility standards, codes for affordable housing	Stakeholders include the industry (Rocky Mountain Home Association, factories, sellers, installers) as well as local jurisdictions (Colorado Counties Inc, Colorado Municipal League, Counties and Commissioners Acting Together), and other state agencies (DORA). Stakeholder meetings held through the	May 10, 2022, before the State Housing Board.

	Where No Standards Exist					projects, recognize wildfire mitigation areas throughout Colorado, and tiny homes.	Technical Advisory Committee (TAC) are planned for November, December, January, February, and March.	
June, 2022	8 CCR 1307-1	Division of Local Government	Revision	C.R.S. 33-1-112.5(3)	No	The purpose of these rule changes is to clarify program information and amend references and update language based on passage of SB21-245. None of these rule changes impact the program statute 33-1-112.5.	All Colorado Sheriff's Offices, All Colorado Search and Rescue programs, Colorado Search and Rescue Association	June 2022

The Department has very few regulatory rules. As a result, all Divisions within the Department annually complete and internal review of all rules. Each Division maintains a statement on its website that comments to any rule will be accepted on an on-going basis.

Departmental Regulatory Agendas

Department

Department of Corrections

2022

Regulatory Agenda Report



COLORADO

Department of Corrections

Overview

The Colorado Department of Corrections submits the following 2021-22 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colorado Revised Statute 2-7-203(4). Pursuant to state law, annually on November 1, executive branch agencies must file a Departmental Regulatory Agenda containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous Departmental Regulatory Agenda was filed.

The Departmental Regulatory Agenda also includes, pursuant to Colorado Revised Statute 24-4-103.3, rules to be reviewed as part of the Department “Regulatory Efficiency Reviews” during 2021-22 (which are denoted in the “purpose” column). The Departmental Regulatory Agenda is to be filed with the Legislative Council staff for distribution to Committee(s) of reference, posted on the department’s website, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its Departmental Regulatory Agenda as a part of its “Smart Act” hearing and presentation pursuant to the Colorado Revised Statute 2-7-203(2)(a)(III)(A).

The following constitutes Colorado Department of Corrections Departmental Regulatory Agenda for 2021-22 and is provided in accordance with Colorado Revised Statute 24-7-203(2)(a)(IV):

Schedule Month, Year	Rule Number and Title	Division/ Board/ Program	New rule, revision, or repeal	Statutory or Other Basis	Purpose	Stakeholders
June 2021	No administrative regulation change required. Resources made available.	Human Resources	N/A - in compliance	HB 21-1015, Security Protections Criminal Justice Personnel	Public safety employees may request from local government to have personal information on the internet removed.	DOC staff
October 2021	No policy or procedure established yet.	Clinical Services, Behavioral Health, Mental Health	Task Force/Working Group established; still in the planning stage. Pilot facility will be LVCF. Information received from Mind Source, Brain Injury Alliance of Colorado, University of Denver.	SB 21-138, Improve Brain Injury Support In Criminal Justice System	To increase awareness of and training surrounding brain injuries for criminal justice professionals, expand screening and identification for people in the criminal justice system who have been identified as having a significant brain injury, and integrate the Colorado brain injury model more broadly throughout the criminal justice system.	Offenders, Clinical Staff, Community, Behavioral Health, Division of Adult Parole.
June 2021	AR 550-10 , Assisting Offenders Applying for Colorado State ID's, Replacement Social Security Cards, and Birth Certificates	Prison Operations, Offender Services	AR 550-10 (current practice)	SB 21-153, Department of Corrections Offender Identification Assistance Program	Upon release from a correctional facility, the offender's identification documents, including a state-issued identification card.	Department of Revenue, offenders, community, Re-Entry.

June 2021	No administrative regulation change required.	Communications/Telephone Services	N/A	HB 21-1201, Transparency Telecommunications Correctional Facilities	Communications service providers who provide penal communications services to correctional facilities to maintain data related to the services provided to those facilities. Establish a maximum per-minute rate for in-state debit, prepaid, and collect calls to or from facilities.	Department of Regulatory Agencies, Offenders, Constituents.
September 2021	AR 550-13 , SNP, AR 250-15 , Community Corrections, AR 250-22 , ISP, AR 250-29 , Earned/Early Parole, AR 550-07 , Assisting Offenders Applying for Disability and/or Medicaid Benefits AR 550-08 , Pre Parole Planning	Prison Operations, Clinical and Correctional Services, Community Corrections, Adult Parole, Planning and Analysis, Legal Services, New department under Parole = Transitional Services/Benefit Acquisition Unit	<i>All Revised</i> AR 250-15 , Community Corrections AR 250-22 Intensive Supervision Program for Inmates AR 250-29 , Earned/Early Parole AR 550-07 , Assisting Offenders Applying for Disability and/or Medicaid Benefits AR 550-08 , Pre Parole Planning AR 550-13 , Special Needs Parole	SB 21-146, Improve Prison Release Outcomes	1) Changes the eligibility criteria for inmates who are eligible for special needs parole 2) Competency Evaluator - Incompetent to proceed creates public defender parole liaison. 3) Ensure that any inmate who is 65 years of age or older and is being released from prison is enrolled in Medicare or health insurance. 4) New offense of unauthorized absence all youthful offender system (YOS) staff to be trained in the first 45 days. 5) YOS study	State Public Defender, Parole Board, Offenders, Prison Operations Clinical and Correctional Services, Adult Parole, Planning and Analysis.

July 2021	AR 700-12 , Birth Control, Pregnancy and AR 650-xx , Mother Bonding Program (NEW).	Clinical and Correctional Services	AR 700-12 being reviewed and revised currently, AR 650-xx (NEW) sent to Denver Complex Management team and IGs office for review.	SB 21-193, Protection Of Pregnant People In Perinatal Period	<p>1. Prohibition against the use of restraints on pregnant inmates in the custody of correctional facilities and private contract prisons.</p> <p>2. Provide each pregnant person, during the person's pregnancy and through the person's postpartum period, with access to:</p> <p>1) perinatal health-care providers with perinatal experience; and</p> <p>2) healthy foods and information on nutrition, recommended activity levels, safety measures, and supplies, including menstrual products, and breast pumps.</p> <p>3) provide counseling and treatment for pregnant people.</p> <p>4) develop administrative policies to identify and offer opportunities for postpartum persons to maintain contact with the person's newborn</p>	Department of Health, Clinical and Correctional Services, Female offenders, community, offender families.
-----------	--	------------------------------------	---	--	---	---

					child to promote bonding, including enhanced visitation policies, access to prison nursery programs, and breastfeeding support.	
September 2021	AR 650-08 , JYACAP	Prison Operations, Offender Services, YOS	AR 650-08 , JYACAP (revised)	HB 21-1209, Parole Eligibility For Youthful Offenders	Expand program eligibility to adults serving a sentence for a felony that was committed when the person was under 21 years of age.	Offenders, Community, YOS,
June 2021	None, no use of ketamine	Clinical and Correctional Services	N/A - in compliance	HB 21-1251, Appropriate Use Of Chemical Restraints On A Person	Prohibits a peace officer from using, directing, or unduly influencing the use of ketamine upon another person and from compelling, directing, or unduly influencing an EMS provider to administer ketamine.	Emergency medical practice advisory council, Department of Public Health, peace officers.
June 2021	None	Facility Management	N/A	HB 21-1286, Energy Performance For Buildings	Owners of certain large buildings, on an annual basis, to collect and report to the Colorado energy office the covered building's energy use.	Public utilities, Colorado Energy Office, Public Utilities Commission.

June 2021	No administrative regulation change required. DPS responsible for implementation	None	N/A	SB 21-012, Former Inmates With Fire Service Experience	Requires the division of fire prevention and control to develop materials to increase awareness of wildland fire career opportunities for persons who acquired experience in wildland fire services through the inmate disaster relief program.	Department of Public Safety
October 2021	No policy or procedure established yet.	Prison Operations, YOS, Education	New AR in process	SB 21-192, Housing Mentors In Youthful Offender Facility	Permits youthful offenders to be housed in a youthful offender facility with inmates 25 years of age or older who are participating in a mentoring program.	Offenders, Offender Services
July 2021	AR 450-09 , Offender Disaster Relief Crews	Correctional Industries	AR 450-09 revised	SB 21-258, Wildfire Risk Mitigation	Supporting wildfire mitigation workforce development including the engagement of conservation corps and the department of corrections state wildland inmate fire teams.	Department of Natural Resources, Forest Service, CI offenders.

Departmental Regulatory Agendas

Department

Department of Revenue



COLORADO
Department of Revenue

Colorado Department of Revenue

2022 Regulatory Agenda

(January 1, 2022 - December 31, 2022)

For optimal printing, please ensure "printer properties" and "page setup" are set up for: legal-sized paper, "fit to page", and landscape.



COLORADO
Department of Revenue

Taxation Division 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	(ex: 1 CCR 201-1, Rule #101)		(ex: 2-3-401, C.R.S.)	X if yes	(Purpose for the change, ex: legislation)		
Jan.	1 CCR 201-2, Special Rule 9A, Apportionment of Income for Electricity Producers	New	§ 39-21-112(1) and 39-22-303.6, C.R.S.		Permit certain commodity swaps used by energy companies to be included in receipts the receipts factors	Electricity Producers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-2, Rule 39-22-303.6-1, Apportionment and Allocation Definitions	Revision	§ 39-21-112(1), 39-22-301, 39-22-303, and 39-22-303.6, C. R.S.		Add language that explains that hedging transactions are excluded from receipts except as provided in Special Rule 7A and Special Rule 9A	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-2, Rule 39-22-303.6-7, Sales Other Than Sales of Tangible Personal Property	Revision	§ 39-21-112(1), 39-22-301, 39-22-303, and 39-22-303.6, C. R.S.		Add language that explains that hedging transactions are excluded from receipts except as provided in Special Rule 7A and Special Rule 9A	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV, Applicability	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.1.(a), Business and Nonbusiness Income Defined	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.1.(b), Trade or Business	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.1.(c), Application of Definitions	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.1.(d), Proration of Deductions	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.2.(a), Definitions	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.2.(b)(1), Appointment	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.2.(b)(2), Combined Report	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.2.(b)(3), Allocation	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.2.(c), Consistency and Uniformity in Reporting	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.3.(a), Taxable in Another State	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.3.(b), When a Corporation is "Subject to" a Tax	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021

Taxation Division 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	(ex: 1 CCR 201-1, Rule #101)		(ex: 2-3-401, C.R.S.)	X if yes	(Purpose for the change, ex: legislation)		
Jan.	1 CCR 201-3, Reg IV.3.(c), When a State Has Jurisdiction to Subject a Taxpayer to a Net Income Tax	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.9, Apportionment Formula	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.15.(a), Sales Factor	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.15.(b), Sales Factor: Denominator	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.15.(c), Sales Factor: Numerator	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.16.(a), Sales of Tangible Personal Property in this State	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.16.(b), Sales of Tangible Personal Property to United States Government in this State	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.17, Sales Other than Sales of Tangible Personal Property in this State	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-3, Reg IV.18.(c), Special Rules: Sales Factor	Repeal	§ 39-21-112(1) and 24-60-1301, C.R.S.	X	Repeal the rule because it applied to tax years prior to January 1, 2009	Corporate Income Taxpayers, Tax Practitioners	November 3, 2021
Jan.	1 CCR 201-13 Rule 39-30-105.1, Enterprise Zone Business Facility Employee Credits	New	§39-21-112(1), 39-30-105.1, and 39-30-108(1), C.R.S.		Clarify the calculation of enterprise zone business facility employee credits.	Enterprise Zone Businesses and Administrators	November 30, 2021
Jan.	1 CCR 201-2, Rule 39-22-119, Child Care Expenses Tax Credit	Revision	§ 39-21-112(1) and 39-22-119, C.R.S.	X	Repeal parts of the rule that are duplicative of statute, explain that the child care expenses tax credit must be adjusted if the federal credit on which it is based is adjusted, and to clarify the proper apportionment of the credit allowed to part-year Colorado residents	All Taxpayers, Tax Practitioners	November 30, 2021
Jan.	1 CCR 201-2, Rule 39-22-119.5, Low-Income Child Care Expenses Tax Credit	New	§ 39-21-112(1) and 39-22-119.5, C.R.S.		Describe the proper apportionment of the low-income child care expenses tax credit allowed to part-year Colorado residents	All Taxpayers, Tax Practitioners	November 30, 2021
Jan.	1 CCR 201-2, Rule 39-22-120, TABOR Credits and Subtractions Subject to Excess	Repeal	§ 39-21-112(1), 39-21-113, 39-22-120, and 39-22-627 C.R.S.	X	Repeal this rule because its provisions are either obsolete or duplicative with statute	All Taxpayers, Tax Practitioners	November 30, 2021

Taxation Division 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	(ex: 1 CCR 201-1, Rule #101)		(ex: 2-3-401, C.R.S.)	X if yes	(Purpose for the change, ex: legislation)		
Jan.	1 CCR 201-2, Rule 39-22-123, Earned Income Credit	Repeal	§ 39-21-112(1), 39-21-113, 39-22-123, and 39-22-123.5, C. R.S.	X	Repeal the rule because it is obsolete	All Taxpayers, Tax Practitioners	November 30, 2022
Jan.	1 CCR 201-2, Rule 39-22-123.5, Earned Income Tax Credit	New	§ 39-21-112(1), 39-21-113, 39-22-123, and 39-22-123.5, C. R.S.		Clarify the availability and calculation of the earned income tax credit	All Taxpayers, Tax Practitioners	November 30, 2022
Jan.	1 CCR 201-2, Rule 39-22-129, Child Tax Credit	New	§ 39-21-112(1) and 39-22-129, C.R.S.		Clarify that the child tax credit must be adjusted if the federal credit on which it is based is adjusted, and to describe the proper apportionment of the child tax credit allowed to part-year Colorado residents	All Taxpayers, Tax Practitioners	November 30, 2022
Jan.	1 CCR 201-2, Rule 39-22-627, Temporary Adjustment of Income Tax Rates	Revision	§ 39-21-112(1), 39-22-104(1.7), 39-22-301(1)(d), and 39-22-627, C.R.S.		Adjust the Colorado income tax rate for 2021 in accordance with section 39-22-627, C.R.S.	All Taxpayers, Tax Practitioners	November 30, 2022
Jan.	1 CCR 201-2, Rule 39-22-2003, State Sales Tax Refund	New	§ 39-21-112(1), 39-22-2001, 39-22-2002, and 39-22-2003, C.R.S.		Publish the amount of any state sales tax refund when there are sufficient excess state revenues under the Taxpayer's Bill of Rights (TABOR)	All Taxpayers, Tax Practitioners	November 30, 2022
Jan.	1 CCR 201-4, Rule 39-26-717, Medical Material, Equipment, and Drugs	Revision	§ 39-21-112(1) and 39-26-717, C.R.S.		Remove the requirement that a "prosthetic device" be dispensed pursuant to a prescription order	All Retail Businesses, Medical Retailers, All Taxpayers, and Tax Practitioners	November 30, 2022
Jan.	1 CCR 201-7, Rule 39-28.6-102, Manufacturer's List Price	New	§ 39-21-112(1), 39-28.6-102(5), and 39-28.6-103, C.R.S.		Provide clarification on the definition of manufacturer's list price	Nicotine Products Distributors	November 30, 2022
Jan.	1 CCR 201-7, Rule 39-28.6-107, Distributor's Service Fee	New	§ 39-21-112(1) and 39-28.6-103, C.R.S.		Clarify conditions under which a distributor is eligible to retain a service fee from the tax they remit	Nicotine Products Distributors	November 30, 2022
Jan.	1 CCR 201-2 Rule 39-22-504-1, Colorado Net Operating Losses	Revision	§ 39-21-112(1) and 39-22-504, C.R.S.		Repeal current rule and update to clarify the application of the net operating loss deduction for individuals, estates, and trusts	Income Taxpayers, Tax Practitioners	November 30, 2022
Jan.	1 CCR 201-2 Rule 39-22-504-2, C Corporation Net Operating Loss	Revision	§ 39-21-112(1) and 39-22-504, C.R.S.	X	Repeal current rule and update to clarify the application of the net operating loss deduction for C corporations	Corporate Income Taxpayers, Tax Practitioners	November 30, 2022
Mar.	1 CCR 201-1 Rule 39-21-119.5, Mandatory Electronic Filing of Returns	New	§ 39-21-112(1) and 39-21-119.5, C.R.S.		Clarify electronic filing and payment requirements, penalties imposed for failure to comply therewith, and waivers therefrom	All Taxpayers, Tax Practitioners	June 30, 2022
Mar.	1 CCR 201-1 Special Rule 1, Electronic Funds Transfer	Repeal	§ 39-21-112(1) and 39-21-119.5, C.R.S.		Repeal the rule because section 39-21-119.5, C.R.S., Rule 39-21-119.5	All Taxpayers, Tax Practitioners	June 30, 2022
Mar.	1 CCR 201-1 Rule 39-21-105.5-2, Electronic Notices	New	§ 39-21-112(1) and 39-21-105.5, C.R.S.		Create a procedures that allow taxpayers to voluntarily elect to receive notices from the Department by electronic means	All Taxpayers, Tax Practitioners	April 31, 2022

Taxation Division 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	(ex: 1 CCR 201-1, Rule #101)		(ex: 2-3-401, C.R.S.)	X if yes	(Purpose for the change, ex: legislation)		
Jan.	1 CCR 201-4, Rule 39-26-102(5.7), Mainframe Computer Access Defined	New	§ 39-21-112(1), 39-26-102(5.7), and 39-26-122, C.R.S.		Interpret the statutory definition of "mainframe computer access" and more particularly, to distinguish it from the electronic delivery of computer software	All Taxpayers, Tax Practitioners	March 15, 2022
Jan.	1 CCR 201-4, Rule 39-26-104-8, Mainframe Computer Access	New	§ 39-21-112(1), 39-26-104(1)(a) and (3) (a), and 39-26-122, C.R.S.		Explain the imposition of sales tax on mainframe computer access	All Taxpayers, Tax Practitioners	March 15, 2022
Jan.	1 CCR 201-16, Gasoline and Special Fuels Tax	New	§ 39-21-112(1), 39-27-101, 39-27-102, 39-27-102.5, 39-27-103, 39-27-104, 39-27-105, C.R.S.		Create several new rules to implement HB21-1322 and SB21-260	All Gasoline and Special Fuel Tax Distributors	August 3, 2022
Jul.	1 CCR 201-20, Rule 43-4-218, Retail Delivery Fees	New	§ 39-21-112(1), 43-4-218, 24-38.5-303, 25-7.5-103, 43-4-805, 43-4-1203, and 43-4-1303, C.R.S.		To provide clarification on the application and administration of the retail delivery fees	All Taxpayers, All Retailers, Tax Practitioners	July 7, 2022
Apr.	1 CCR 201-10, Rule 39-29-102(3) (a), Definition of "Gross Income" for Severance Tax on Oil and Gas	Revision	§ 39-21-112(1), 39-29-102(3)(a), and 39-29-102(7), C.R.S.	T	Conform the rule to changes made in HB21-1312	All Oil and Gas Companies	September 15, 2022
Apr.	1 CCR 201-13 Rule 39-30-106, Enterprise Zone Machinery and Machine Tools Sales Tax Exemption	New	§ 39-21-112(1), 39-30-106, and 39-30-108(1), C.R.S.		Clarify the expansion of the sales tax exemption for machinery and machine tools used exclusively in an enterprise zone to include only those activities related directly to the mining of natural resources	Enterprise Zone Businesses and Administrators, Mining Businesses, Oil and Gas Businesses	September 15, 2022
Jan.	1 CCR 201-20, Rule 43-4-217, Road Usage Fee	New	§ 39-21-112(1) and 43-4-217, C.R.S.		Create a new rule to implement SB21-260 that created the road usage fee	All Gasoline Distributors	August 3, 2022
Jan.	1 CCR 201-20, Rule 43-4-805, Bridge and Tunnel Impact Fee	New	§ 39-21-112(1) and 43-4-805, C.R.S.		Create a new rule to implement SB21-260 that created the bridge and tunnel fee	All Gasoline Distributors	August 3, 2022
Jan.	1 CCR 201-2, Rule 39-22-604, Wage Withholding	Revision	§ 39-21-112(1), 39-21-119(3), 39-22-103(11) and 39-22-604, C.R.S.		Revising the rule based on changes made to the federal W-4 form	All Taxpayers, All Businesses, Tax Practitioners, Payroll Companies	February 2, 2022
Apr.	1 CCR 201-20, Rule 43-4-1303, Per Ride Fees	New	§ 39-21-112(1) and 43-4-1303, C.R.S.		Create a new rule to implement SB21-260 that created per ride fees	All Transportation Network Companies, All Taxpayers, Tax Practitioners	December 1, 2022
May	1 CCR 201-2, Rule 39-22-522, Conservation Easement Credit	Revision	§ 39-21-112(1), 39-21-113, 39-22-522, and 39-22-522.5, C.R.S.		Conform the rule to changes made in HB21-1233	All Taxpayers, Tax Practitioners	October 19, 2022

Taxation Division 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	(ex: 1 CCR 201-1, Rule #101)		(ex: 2-3-401, C.R.S.)	X if yes	(Purpose for the change, ex: legislation)		
Jun.	1 CCR 201-2 Rule 39-22-303(10), Foreign Source Income	Revision	§ 39-21-112(1) and 39-22-303(10), C.R.S.	X	Prescribe rules for the determination of foreign source income considered in the calculation of Colorado corporate income tax	Corporate Income Taxpayers, Tax Practitioners	December 15, 2022
Jun.	1 CCR 201-2 Rule 39-22-304(3)(j), Corporate Subtraction for Section 78 Dividend	New	§ 39-21-112(1) and 39-22-304(3)(j), C.R.S.		Clarify the application of section 39-22-304(3) (j), C.R.S., regarding the subtraction from federal taxable income of amounts treated as dividends pursuant section 78 of the Internal Revenue Code	Corporate Income Taxpayers, Tax Practitioners	December 15, 2022
Aug.	1 CCR 201-2, Rule 39-22-104(4) (i), 529 Deduction	New	§ 39-21-112(1) and 39-22-104, C. R.S.		Create a new rule to implement HB21-1311	All Taxpayers, Tax Practitioners	November 1, 2022
Apr.	1 CCR 201-4, Rule 39-26-102(23), Short Term Leases	Revision	§ 39-21-112(1), 39-26-102(23), and 39-26-713, C. R.S.		Review rules around requesting permission to collect sales tax pursuant to section 39-26-713(1)(a), C.R.S.	All Taxpayers, Tax Practitioners	May 18, 2022
Apr.	1 CCR 201-4, Rule 39-26-713-1, Short Term Leases	Revision	§ 39-21-112(1), 39-26-102(23), and 39-26-713, C. R.S.		Review rules around requesting permission to collect sales tax pursuant to section 39-26-713(1)(a), C.R.S.	All Taxpayers, Tax Practitioners	May 18, 2022

Liquor Enforcement Division 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	(ex: 1 CCR 201-1, Rule #101)		(ex: 2-3-401, C.R.S.)	X if yes	(Purpose for the change, ex: legislation)		
May	1 CCR 203-2; Regulation 900; Conduct of Establishment.	Revision	§44-3-202, C.R.S.	x	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Stakeholder List	November 2022
May	1 CCR 203-2; Regulation 901; Public Consumption of Alcohol Beverages.	Revision	§44-3-202, C.R.S.	x	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Stakeholder List	November 2022
May	1 CCR 203-2; Regulation 902;	Revision	§44-3-202, C.R.S.	x	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Stakeholder List	November 2022
May	1 CCR 203-2; Regulation 904;	Revision	§44-3-202, C.R.S.	x	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Stakeholder List	November 2022
May	1 CCR 203-2; Regulation 905;	Revision	§44-3-202, C.R.S.	x	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Stakeholder List	November 2022
May	1 CCR 203-2; Regulation 906; Container Size.	Revision	§44-3-202, C.R.S.	x	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Stakeholder List	November 2022
May	1 CCR 203-2; Regulation 908; Automatic and Electronic Dispensing Systems.	Revision	§44-3-202, C.R.S.	x	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Stakeholder List	November 2022
May	1 CCR 203-2; Regulation 910; Consumption Prohibited.	Revision	§44-3-202, C.R.S.	x	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Stakeholder List	November 2022
May	1 CCR 203-2; Regulation 506; Fees.	Revision	§44-3-202, C.R.S.		Regulation is always in "open" status as fees must be adjusted on an annual basis to meet requirements of legislation and reflect direct/indirect costs of the Division	LED Stakeholder List	November 2022
May	1 CCR 203-2; Regulation 47-322	Revision	§44-3-202, C.R.S.		The division agreed to continue engagement regarding this rule after work was done on it in the previous rulemaking year.	LED Stakeholder List	November 2022
May	1 CCR 203-2; Regulation 47-422; Arts License	Revision	§44-3-202, C.R.S.		Discussion of issues stakeholders brought during the 2021 rulemaking session.	LED Stakeholder List	November 2022
May	1 CCR 203-2; Regulation 47-313; Tastings	Revision	§44-3-202, C.R.S.		Discussion of issues stakeholders brought during the 2021 rulemaking session.	LED Stakeholder List	November 2022

Liquor Enforcement Division 2022 Regulatory Agenda - Tobacco Rules

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	(ex: 1 CCR 201-1, Rule #101)		(ex: 2-3-401, C.R.S.)	X if yes	(Purpose for the change, ex: legislation)		
May	1 CCR 203-1; Rule 7-100; Definitions.	Revision	§44-7-104(5), C.R.S.	x	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Stakeholder List	November 2022

Liquor Enforcement Division 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
<i>month</i>	<i>(ex: 1 CCR 201-1, Rule #101)</i>		<i>(ex: 2-3-401, C.R.S.)</i>	<i>X if yes</i>	<i>(Purpose for the change, ex: legislation)</i>		
May	1 CCR 203-1; Rule 7-200; Petitions for Statements of Position and Declaratory Orders	Revision	§44-7-104(5), C.R.S.	x	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	LED Stakeholder List	November 2022
May	1 CCR 203-1; Rule 7-300; Large-Operators	Revision	§44-7-104(5), C.R.S.		The Division is issuing a corrective rule filing to align rule with statute.	LED Stakeholder List	November 2022
May	1 CCR 203-1; Rule 7-500; Fees	Revision	§44-7-104(5), C.R.S.		The Division is issuing a corrective rule filing to align rule with statute.	LED Stakeholder List	November 2022
May	1 CCR 203-1; Rule 7-601; Penalties	Revision	§44-7-104(5), C.R.S.		As a response to OLLS review, the Division will issue a corrective filing to this rule to correct a typo in a maximum fee amount. A new subsection to include penalties for a fifth violation in a 24-month period for the sale of loose-cigarettes to align rule with statute will be included for our 2022 agenda.	LED Stakeholder List	November 2022
May	1 CCR 203-1; Rule 7-800; Smuggling	Revision	§44-7-104(5), C.R.S.		The Division agreed to continue engagement regarding this rule after work was done on it in the previous rulemaking year.	LED Stakeholder List	November 2022

Division of Motor Vehicles 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in 52-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per 52-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to 52-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	(ex: 1 CCR 201-1, Rule #101)		(ex: 2-3-401, C.R.S.)	X if yes	(Purpose for the change, ex: legislation)		
Jul.	1 CCR 204-10, Rule 12	Revision	42-1-204, C.R.S., Part 18 of Article 4 of Title 42, and Part 21 of Article 4 of Title 42, C.R.S.	x	Regulatory Review	Tow carriers, law enforcement, lienholders	September 2022
Aug.	1 CCR 204-10, Rule 16	Revision	42-1-102(41.5), 42-1-204, 42-3-207, 42-3-208 and 42-3-301, C.R.S.	x	Regulatory Review	Nonprofits	September 2022
Sep.	1 CCR 204-10, Rule 28	Revision	39-26-113, 39-26-704(1), 42-1-102(58), 42-1-102(66), 42-1-102(93.5), 42-1-102(112), 42-1-204, 42-3-104(1) through (4), 42-3-105, 42-3-201, 42-3-202, 42-3-301, 42-3-304(1)(a) and (b) and (3)(b) and (c), 42-6-104, 42-6-106, and 42-6-137, C.R.S.	x	Regulatory Review	Governmental entities, dealers, County Clerk and Recorders	October 2022
Oct.	1 CCR 204-10, Rule 30	Revision	42-1-204, 42-3-107(11) and 42-3-107 (12) CRS.	x	Regulatory Review	Rental companies, County Clerk and Recorders	November 2022
Nov.	1 CCR 204-10, Rule 44	Revision	42-1-204 and 42-3-112, C.R.S.	x	Regulatory Review	County Clerk and Recorders	December 2022
Dec.	1 CCR 204-10, Rule 45	Revision	42-1-204, and 42-3-214 C.R.S.	x	Regulatory Review	Alumni Associations	January 2022
Jan.	1 CCR 204-10, Rule 48	Revision	42-1-102(22), 42-1-204, 42-3-116, and 42-3-304, C.R.S.	x	Regulatory Review	Dealers, AID	February 2022
Jan.	1 CCR 204-1, Rule 2	Revision	42-4-301 through 42-4-414	x	Regulatory Review	The general public, dealerships, repair industry, gas emissions stations, CDPHE, Regional Air Quality Committee, Envirotest, and the county DMV offices	March 2022
Jan.	1 CCR 204-30, Rule 14	Revision	42-1-206(3.7)(b) and 42-1-206(f), C.R.S.	x	Regulatory Review	Colorado Citizens, Colorado Interactive	March 2022
Apr.	1 CCR 204-30, Rule 8	Revision	24-4-103, 104 and 105; 42-1-102 (43.5); 42-1-204; 42-1-211; 42-1-222; 42-2-105.5; 42-2-106; 42-2-111; 42-2-601, 602, 603, and 604, C.R.S.	x	Regulatory Review	Colorado Residents, Certified Commercial Driving School (CCDS)	May 2022
Mar.	1 CCR 204-30, Rule 9	Revision	24-4-103; 24-4-104; 42-1-102(43.5); 42-1-102(55); 42-1-102(58); 42-1-204; 42-2-103; 42-2-106 and 42-2-111; 42-4-1502, C.R.S. (2016)	x	Regulatory Review	DTE, Motorcycle Safety Foundation (MSF), Colorado residents	April 2022

Motor Vehicle Dealer Board 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	(ex: 1 CCR 201-1, Rule #101)		(ex: 2-3-401, C.R.S.)	X if yes	(Purpose for the change, ex: legislation)		
Mar.	1 CCR 205-1, Regulation 44-20-121(7)(c)	Revision	§§44-20-104, 44-20- 121(7)(c), C.R.S.	X	To review language to add child support obligation status in determining unfitness of financial character or record of Motor Vehicle Salespersons and Motor Vehicle Dealers.	Powersports Vehicle Dealers, and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	March 2022
May	1 CCR 205-1, Regulation 44-20-118(6)	Revision	§§44-20-104, 44-20- 118(6), C.R.S.	X	To review language to add electronic transmission of documents for Service of Process for Motor Vehicle Dealers' and Licensees.	Motor Vehicle Dealers and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	May 2022
Aug.	1 CCR 205-1, Regulation 44-20-104(3)(k)	Revision	§§44-20-104, 44-20- 104(3)(k), C.R.S.	X	To review the criteria related to the competency examination of all first-time applicants for a Motor Vehicle Dealer's license, Motor Vehicle Salesperson's license, Used Motor Vehicle Dealer's license, Wholesale Motor Vehicle Auction Dealer's license, or Wholesaler's license.	Motor Vehicle Dealers and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	August 2022
Mar.	1 CCR 205-2, Regulation 44-20-420(6)(c)	Revision	§§44-20-404, 44-20- 420(6)(c), C.R.S.	X	To review language to add child support obligation status in determining unfitness of financial character or record of Powersports Vehicle Salespersons and Powersports Vehicle Dealers.	Powersports Vehicle Dealers, and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	March 2022
May	1 CCR 205-2, Regulation 44-20-417(6)	Revision	§§44-20-404, 44-20- 417(6), C.R.S.	X	To review language to add electronic transmission of documents for Service of Process for Powersports Vehicle Dealers' and Licensees.	Powersports Vehicle Dealers, and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	May 2022
Aug.	1 CCR 205-2, Regulation 44-20-404(1)(k)	Revision	§§44-20-404, 44-20- 404(1)(k), C.R.S.	X	To review the criteria related to the competency examination of all first-time applicants for a Wholesaler's license, Powersports Vehicle Dealer's license, Used Powersports Vehicle Dealer's license, or Powersports Vehicle Salesperson's license.	Powersports Vehicle Dealers, and the Organizations representing New and Used Motor Vehicle Dealers and New and Used Powersports Vehicle Dealers	August 2022

Colorado Lottery 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
<i>month</i>	<i>(ex: 1 CCR 201-1, Rule #101)</i>		<i>(ex: 2-3-401, C.R.S.)</i>	<i>X if yes</i>	<i>(Purpose for the change, ex: legislation)</i>		
Mar.	1 CCR 206-1 Rule 14.C Multi-State Jackpot Game Mega Millions Game®	Revision	44-40-101, 44-40-109 (1) (a) and (2), and 44-40-113 and 44-40-114	X if yes	Update according to anticipated game changes, awaiting details from MUSL group.	LOT Stakeholders List	Mar 2022
Mar.	1 CCR 206-1 Rule 14.D Multi-State Jackpot Game Mega Millions Megaplier®	Revision	44-40-101, 44-40-109 (1) (a) and (2), and 44-40-113	X if yes	Update according to anticipated game changes, awaiting details from MUSL group.	LOT Stakeholders List	Mar 2022
May	1 CCR 206-1 Licensing General Rules and Regulations	Revision	44-40-107 and 44-40-109(1)(a) and (2)	X if yes	Add Licensee and Commission Bonus verbiage removed from Rules 5, 10 and 14 in CY 19.	LOT Stakeholders List	May 2022
	LOT Stakeholders List:	The standard LOT stakeholder list includes one (1) representative from PGCC (Problem Gaming Coalition of Colorado), one (1) Chain Retailer, one (1) Independent Retailer, one (1) representative from GOCO (Great Outdoors Colorado), two (2) Players, two (2) representatives from CPW (Colorado Parks and Wildlife), and one (1) representative from CTF (Conservation Trust Fund).					

Division of Gaming - Rules Promulgated by Gaming Commission 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	(ex: 1 CCR 201-1, Rule #101)		(ex: 2-3-401, C.R.S.)	X if yes	(Purpose for the change, ex: legislation)		
Dec.	Rule 20 Commission Hearings and Practice	Revision	§44-302, 521, 522, and 526, C.R.S.	X	The Review of the Rule will determine if any changes are necessary.	Limited Gaming Licensees, Div. of Gaming Employees, Gaming Commission	October 20, 2022
Dec.	Rule 4 Rights and Duties of Licensees	Revision	§44-30-201, C.R.S., 44-30-203, C.R.S., 44-30-301, C.R.S., and 44-30-502, C.R.S., 44-30-510, C.R.S., 44-30-528, C.R.S., and 44-30-833, C.R.S.	X	The Review of the Rule will determine if any changes are necessary.	Limited Gaming Licensees, Div. of Gaming Employees	October 20, 2022
Dec.	1 CCR 210-4 Enforcement of the Prohibited Use of Electronic Benefits Transfer Cards at Certain Locations	Revision	§26-2-104, ET SEQ., C.R.S., 12-47.1-103 (15), C.R.S., 12-60-102 (14), C.R.S., 12-60-102 (26), C.R.S., 12-46-103 (3), C.R.S., 12-47-103 (14), C.R.S., 12-43.3-104 (3), C.R.S., AND 12-43.4-103 (4), C.R.S.	X	The Review of the Rule will determine if any changes are necessary.	DOR Executive Director's office, Division of Gaming, Liquor and Tobacco Enforcement Division, Marijuana Enforcement Division, Racing Division, EBT Card Holders, Colorado Department of Human Services	October 20, 2022
Dec.	1 CCR 210-1 Gambling Payment Intercept	Revision	§44-33-101, et seq, C.R.S.	X	The Review of the Rule will determine if any changes are necessary.	DOR Executive Director's office, Limited Gaming Licensees, Div. of Gaming Employees, gaming patrons,	October 20, 2022

Colorado Racing Commission 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

- (a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;
- (b) The statutory or other basis for adoption of the proposed rules;
- (c) The purpose of the proposed rules;
- (d) The contemplated schedule for adoption of the rules;
- (e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
<i>month</i>	<i>(ex: 1 CCR 201-1, Rule #101)</i>		<i>(ex: 2-3-401, C.R.S.)</i>	<i>X if yes</i>	<i>(Purpose for the change, ex: legislation)</i>		
Oct.	1 CCR 208-1, Chapter 5, Veterinary Practices		Broad rulemaking authority is granted in §44-32-501(2)(a), C.R.S., to the Colorado Racing Commission.	X	Madatory Rule Review	All	

PLEASE NOTE: As part of the 2021 Consolidated Appropriations Act, the United States Congress passed the Horseracing Integrity and Safety Act (HISA). When HISA goes into effect on July 1, 2022, it will divest a significant portion of regulatory authority from state racing commissions with regard to medication standards and racetrack safety which will invalidate all rules contained in the Colorado Racing Commission Rules, 1 CCR 208-1, that the HISA Authority has overridden with its own federal rulebooks and programs. As of the date of this submission, the HISA Authority has not released any draft rules to the Division, nor is it required to until April 1, 2022. At this time, the Division anticipates a significant overhaul of the Colorado Racing Commission Rules in 2022 to eliminate unnecessary rules and adapt the rulebook to any required federal standards, however it is impossible at this time to identify specific rules.

Hearings Division 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
<i>month</i>	<i>(ex: 1 CCR 201-1, Rule #101)</i>		<i>(ex: 2-3-401, C.R.S.)</i>	<i>X if yes</i>	<i>(Purpose for the change, ex: legislation)</i>		
Jun.	1 CCR 211-1 Rules 1-4	Revision	24-4-101 et seq.	X	Mandatory rule review and updating rule for current work processes	Public; Attorney Generals appearing in front of us; DOR sections and divisions we do hearings for	
Jun.	1 CCR 211-1 Add Rules	New	24-4-101 et. seq.	X	The purpose is to put in rule our processes and expectations for parties in cases for the regulatory (non-dmv) cases	Public; Attorney Generals appearing in front of us; DOR sections and divisions we do hearings for except DMV	

Marijuana Enforcement Division 2022 Regulatory Agenda

The Colorado Department of Revenue (CDOR) submits the following 2021 Regulatory Agenda (Agenda) in fulfillment of the statutory requirements set forth in §2-7-202(6), 2-7-203, and 24-4-103.3(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file their Agenda.

Per §2-7-202(6), C.R.S., the Agenda must contain:

(a) A list of new rules or revisions to existing rules that the department expects to propose in the next calendar year;

(b) The statutory or other basis for adoption of the proposed rules;

(c) The purpose of the proposed rules;

(d) The contemplated schedule for adoption of the rules;

(e) An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The Agenda is to be filed with Legislative Council Staff for distribution to committee(s) of reference, posted on CDOR's website, and submitted to the State Library, the Colorado Department of Regulatory Agencies, and the Secretary of State for publication in the Colorado Register.

CDOR must also present its Agenda as part of its "SMART Act" presentation pursuant to §2-7-203(2)(a), C.R.S.

CDOR works with several boards and commissions that promulgate rules; for ease of use for the consumer, those rules are included in CDOR's Agenda.

The Agenda covers Calendar Year 2022 (CY22).

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
month	(ex: 1 CCR 201-1, Rule #101)		(ex: 2-3-401, C.R.S.)	X if yes	(Purpose for the change, ex: legislation)		
Aug.	1 CCR 212-3 Rule 3-1100 Series - Accelerator Program Operations	Revision	s 44-10-202(1)(c), 44-10-203(2)(aa), 44-10-310(2), and 44-10-311(2), C.R.S.	x	Review pursuant to §24-4-103.3, C.R.S., Mandatory Review of Rules.	MED Stakeholder list	Fall 2021
Aug.	1 CCR 212-3 Rule 3-615 - Regulated Marijuana Delivery Permits	Revision	44-10-202(1), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(2)(h), 44-10-203(2)(n), 44-10-203(2)(dd), C.R.S.		revision	MED Stakeholder list	Fall 2021
Aug.	1 CCR 212-3 Rule 2-220 - Initial Application Requirements for Regulated Marijuana Businesses	Revision	44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(1)(j), 44-10-203(2)(a), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-301, 44-10-305, 44-10-307, 44-10-308, 44-10-309, 44-10-310, 44-10-311, 44-10-312, 44-10-313, and 44-10-316, C.R.S.		Revision	MED Stakeholder list	Fall 2021

Departmental Regulatory Agendas

Department

Department of State



2022 Departmental Regulatory Agenda
Office of the Secretary of State
October 27, 2021

To: The Staff of Legislative Council

Re: Colorado Department of State – 2022 Departmental Regulatory Agenda

The Colorado Secretary of State submits the following 2022 Departmental Regulatory Agenda for the Department of State to the General Assembly in accordance with state laws concerning legislative oversight of principal departments.¹

Contents:

DEPARTMENT REGULATORY AGENDA.....	2
SUMMARY OF RULES ADOPTED AFTER NOVEMBER 1, 2020	7
PUBLICATION AND AVAILABILITY TO THE PUBLIC	9

¹ Section 2-7-203(4), C.R.S.

DEPARTMENT REGULATORY AGENDA

Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-1: Elections	<p>The Secretary of State may commence rulemaking to consider amendments to the Election Rules necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of and to answer questions arising under Colorado elections law¹ • Implement amendments to Colorado laws adopted during the Second Regular Session of the 73rd General Assembly • Respond to comments from the Office of Legislative Legal Services • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. <p>Potential proposed amendments include:</p> <ul style="list-style-type: none"> • Rules related to Ranked Choice elections as required by HB 21-1071 • Rules related to Multilingual Ballot Access as required by HB 21-1011 	<p>Section 1-1-107(2)(a), C.R.S.; HB 21-1071; HB 21-1011</p> <p>Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.</p>	<p>HB 21-1071 must be effective no later than December 31, 2022.</p> <p>HB 21-1011 must be effective by October, 2022.</p> <p>For all others, TBD; the Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act</p>	<p>Positively affect:</p> <ul style="list-style-type: none"> • Current and potential Colorado residents • Colorado County Clerks and Records • Candidates for office in Colorado • Local Governments in Colorado
8 CCR 1505-2: Bingo and Raffles Games	<p>The Secretary of State does not anticipate rulemaking regarding the Rules Concerning Bingo and Raffles Games: however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of Colorado bingo and raffles law² • Implement amendments to Colorado laws adopted during the Second Regular Session of the 73rd General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. 			

¹ Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 (“HAVA”), P.L. No. 107-252.

² Article XVIII, Section 2 of the Colorado Constitution and Article 21, Part 6 of Title 24 of the Colorado Revised Statutes.

2022 Departmental Regulatory Agenda

Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-3: Rules Governing General Policies and Administration	<p>The Secretary does not anticipate rulemaking regarding the Rules Governing General Policies and Administration; however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of and to answer questions arising under Colorado State Administrative Procedure Act³ and State Emblems and Symbols laws⁴ • Implement amendments to Colorado laws adopted during the Second Regular Session of the 73rd General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. 			
8 CCR 1505-6: Rules Concerning Campaign and Political Finance	<p>The Secretary may propose amendments to the Rules Concerning Campaign and Political Finance as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of and to answer questions arising under Colorado campaign finance law⁵ • Implement amendments to Colorado laws adopted during the Second Regular Session of the 73rd General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. 	<p>Section 45-111.5(1), C.R.S.</p> <p>Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.</p>	TBD; the Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act	<p>Positively affect:</p> <ul style="list-style-type: none"> • Current and potential Colorado residents • Colorado County Clerks and Records • Political subdivisions • Officeholders • Candidates for office in Colorado • Party organizations in Colorado • Candidate or issue organizations and committees in Colorado

³ Article 4 of Title 24, C.R.S.

⁴ Article 80, Part 9, of Title 24, C.R.S.

⁵ Article 45 of Title 1, C.R.S., and Article XXVIII of the Colorado Constitution.

2022 Departmental Regulatory Agenda

Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-7: UCC Filing Office Rules	<p>The Secretary of State does not anticipate rulemaking regarding the UCC Filing Office Rules; however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of Colorado’s Uniform Commercial Code⁶ • Implement amendments to Colorado laws adopted during the Second Regular Session of the 73rd General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. 			
8 CCR 1505-8: Rules Concerning Lobbyist Regulation	<p>The Secretary of State may propose amendments to the Rules Concerning Lobbyist Regulation necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of and to answer questions arising under Colorado laws regarding lobbyist regulation⁷ • Implement amendments to Colorado laws adopted during the Second Regular Session of the 73rd General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. 	<p>Section 24-6-305(2)(b), C.R.S.</p> <p>Depending on the subject matter of unanticipated rulemaking, additional statutory and constitutional authority may apply.</p>	TBD; the Secretary of State will commence rulemaking as necessary in a timely manner and in accordance with the State Administrative Procedure Act	<p>Positively affect:</p> <ul style="list-style-type: none"> • Current and potential Colorado residents • Registered lobbyists • Colorado legislators and other elected officials • Colorado rulemaking bodies
8 CCR 1505-9: Rules for the Administration of the Colorado Charitable Solicitations Act	<p>The Secretary does not anticipate rulemaking regarding the Rules for the Administration of the Colorado Charitable Solicitations Act⁸ : however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of and to answer questions arising under the Colorado Charitable Solicitations Act • Implement amendments to Colorado laws adopted during the Second Regular Session of the 73rd General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. 			

⁶ Article 9 of Title 4, C.R.S.

⁷ Part 3 of Article 6 of Title 24, C.R.S.

⁸ Article 16 of Title 6, C.R.S.

2022 Departmental Regulatory Agenda

Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-10: Rules Concerning the Electronic Recording Technology Grant Program	<p>The Secretary of State repealed these rules on March 2, 2020, and reserves the code for any future Electronic Recording Technology (ERT) Board rulemaking.</p> <p>In 2015, the Secretary of State reviewed the Electronic Recording Technology Grant Program rules and determined that the rules are obsolete and inoperative. Additionally, Senate Bill 16-115 amendments to section 30-10-424, C.R.S., repealed the Secretary of State’s authority to promulgate rules necessary for the administration of section 30-10-421, C.R.S.</p>		These rules were repealed effective March 2, 2020.	None
8 CCR 1505-11: Notary Program Rules	<p>The Secretary of State does not anticipate rulemaking regarding the Notary Program Rules; however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of the Colorado Revised Uniform Law on Notarial Acts (RULONA)⁹ • Amend previously adopted Notary rules in response to comments from OLLS • Implement amendments to Colorado laws adopted during the Second Regular Session of the 73rd General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. 			
8 CCR 1505-12: Public Records Pursuant to the Colorado Open Records Act (CORA)	<p>The Secretary does not anticipate rulemaking regarding the Rules Concerning Public Records Pursuant to the Colorado Open Records Act (CORA); however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement of the Colorado Open Records Act¹⁰ • Implement amendments to Colorado laws adopted during the Second Regular Session of the 73rd General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. 			

⁹ Article 21, Part 5 of Title 24, C.R.S.

2022 Departmental Regulatory Agenda

Rule number and title	New or revised rules that the department expects to propose in the next calendar year and the purpose of the rules	Statutory or other basis for adopting those rules	Contemplated schedule for adopting the rules	Persons or parties that may be positively or negatively affected by the rules
8 CCR 1505-14: Rules Concerning Conflict of Interest Disclosures	<p>The Secretary does not anticipate rulemaking regarding the Rules Concerning Conflict of Interest Disclosures; however, the Secretary may commence rulemaking as necessary to:</p> <ul style="list-style-type: none"> • Improve the administration and enforcement Colorado standards of conduct law¹¹ • Implement amendments to Colorado laws adopted during the Second Regular Session of the 73rd General Assembly • Issue, amend, or repeal a rule in accordance with a petition for rulemaking submitted under section 24-4-103(7), C.R.S. 			

¹⁰ Article 72 of Title 24, C.R.S.

¹¹ Article 18 of Title 24, C.R.S.

SUMMARY OF RULES ADOPTED AFTER NOVEMBER 1, 2020:

Rule Number & Title	CCR Tracking Number	Type	Adopted	Effective	Summary
8 CCR 1505-1: Elections	2020-00906	Administrative Change	11/30/2021	11/12/2021	An administrative filing by the Secretary of State for removal of agency temporary/emergency rule, adopted 07/15/2020 and filed under tracking number 2020-00478, that expired 11/12/2020.
	2021-00086	Administrative Change	01/02/2021	01/02/2021	An administrative filing by the Secretary of State for removal of agency temporary/emergency rule, adopted 09/04/2020 and filed under tracking number 2020-00684, that expired 01/02/2021.
	2021-00378	Temporary	6/17/2021	6/17/2021	The Secretary adopted amendments to the Colorado Secretary of State Elections Rules. The rules are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado laws regarding voting systems.
	2021-00399	Permanent	8/26/2021	10/15/2021	The Secretary adopted permanent rule revisions necessary to: implement Senate Bills 21-188 and 21-250; update petition review rules, and watcher and canvass rules; remove references to Direct Recording Electronic (DRE) voting devices and Voter Verifiable Paper Audit Trail (VVPAT) equipment because those systems are no longer in use in the State of Colorado; eliminate obsolete provisions; organize existing rules for clarity; simplify the language of existing rules; and ensure consistency with Department rulemaking standards. Additionally, the Secretary permanently adopted the voting system emergency rules that were temporarily adopted on 6/17/2021.
8 CCR 1505-2: Rules Concerning Bingo and Raffles Games	2021-00431	Permanent	9/07/2021	11/1/2021	The Secretary adopted amendments to the bingo and raffles games rules to improve the administration and enforcement of Colorado bingo and raffles laws. Specifically, the Secretary proposes permanent rule revisions necessary to: implement changes made by Senate Bill 21-055 concerning collection of state debts; update rules concerning closing a bingo game, opening a new pull tab deal during progressive bingo, suspending progressive pull tab operations, and authorizing prepackaged games for playing progressive raffles; eliminate obsolete provisions; organize existing rules for clarity; simplify the language of existing rules; and ensure consistency with Department rulemaking standards. Please see the following website for more details related to this rulemaking: https://www.sos.state.co.us/pubs/rule_making/hearings/2021/BingoRulesHearing20210824.html

2022 Departmental Regulatory Agenda

8 CCR 1505-8: Rules Concerning Lobbyist Regulation	2020-00150	Temporary	03/01/2021	03/01/2021	The Secretary temporarily adopted rule revisions necessary to facilitate implementation of Sections 44.2(4)(b)(III) and 48(4)(b)(III) of Article V of the Colorado Constitution concerning the new congressional and state redistricting commissions and to organize existing rules for clarity. The Secretary simultaneously issued a notice of rulemaking to consider permanent adoption of the rules.
	2020-00333	Temporary	05/28/2021	05/28/2021	The Secretary adopted amendments to the Colorado Secretary of State rules concerning lobbyist regulation. The rules are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado laws regarding lobbyist regulation. Specifically, the Secretary temporarily adopted updated rules for lobbying redistricting commissions to facilitate implementation of Sections 44.2(4)(b)(III) and 48(4)(b)(III) of Article V of the Colorado Constitution. These rules were effective immediately and replace the rules temporarily adopted on March 1, 2021. [The Secretary simultaneously adopted on a permanent basis under tracking number 2021-00151.]
	2020-00151	Permanent	05/28/2021	07/30/2021	The Secretary adopted amendments to the Colorado Secretary of State rules concerning lobbyist regulation. The rules are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado laws regarding lobbyist regulation. Specifically, the Secretary permanently adopted updated rules for lobbying redistricting commissions to facilitate implementation of Sections 44.2(4)(b)(III) and 48(4)(b)(III) of Article V of the Colorado Constitution. [The Secretary simultaneously adopted on a temporary basis under tracking number 2021-00333.]
8 CCR 1505-9: Rules for the Administration of the Colorado Charitable Solicitations Act	2020-00907	Administrative filing	11/30/2020	11/12/2020	This was is an administrative filing by the Secretary of State for removal of agency temporary/emergency rule, adopted 07/15/2020 and filed under tracking number 2020-00479, that expired 11/12/2020.

2022 Departmental Regulatory Agenda

8 CCR 1505-10: Rules Concerning the Electronic Recording Technology Grant Program	2021-00066	Permanent	03/02/2021	4/30/2021	The Secretary repealed the Rules Concerning the Electronic Recording Technology Grant Program in accordance with Senate Bill 16-115 amendments to section 30-10-424, C.R.S., that repealed the Secretary of State's authority to promulgate rules necessary for the administration of section 30-10-421, C.R.S.
8 CCR 1505-11: Notary Program Rules	2020-00816	Temporary	10/15/2020	10/15/2020	The Secretary of State readopted temporary Rule 5 to continue the rules until permanent rules are established.
	2020-00819	Permanent	12/01/2020	1/30/2021	The Secretary adopted amendments to the Colorado Secretary of State Notary Program Rules in order to ensure the uniform and proper administration, implementation, and enforcement of the Revised Uniform Law on Notarial Acts (RULONA) and legislation recently passed by the Colorado General Assembly; Senate Bill 20-096 concerning remote notarization.
	2020-00932	Temporary	12/01/2020	12/31/2020	The Secretary adopted amendments to the Colorado Secretary of State Notary Program Rules in order to ensure the uniform and proper administration, implementation, and enforcement of the Revised Uniform Law on Notarial Acts (RULONA) and legislation recently passed by the Colorado General Assembly; Senate Bill 20-096 concerning remote notarization. The new and amended rules are temporarily effective 12/31/2020. [The Secretary simultaneously adopted on a permanent basis under tracking number 2020-00819.]

PUBLICATION AND AVAILABILITY TO THE PUBLIC

On November 1, 2021, the Secretary of State will post this document on the Department's website at: <https://www.coloradosos.gov/pubs/newsRoom/SMART-Act/FY22-23/index.html>. The document will also be available at http://www.coloradosos.gov/pubs/rule_making/regulatoryAgendas.html and <https://www.coloradosos.gov/pubs/newsRoom/SMART-Act/index.html>. Additionally, the Secretary of State filed this agenda for publication in the November 10, 2021, Colorado Register.

Departmental Regulatory Agendas

Department

Department of Higher Education



COLORADO
Department of
Higher Education

Jared Polis
Governor

Dr. Angie Paccione
Executive Director

October 29, 2021

Natalie Mullis, Director,
Legislative Council
Colorado General Assembly
State Capitol, Room 029
Denver, CO 80203

Ms. Mullis:

Pursuant to Colorado Revised Statutes 2-7-203(4), the Colorado Department of Higher Education respectfully submits the following regulatory agenda, which includes items for the Division of Private Occupational Schools, the Colorado Opportunity Scholarship Initiative, and the State Historical Society.

2022 REGULATORY AGENDA of the COLORADO DEPARTMENT OF HIGHER EDUCATION

Title/Description Proposed Rule	Basis and/or Statutory Authority	Purpose of Proposed Rule	Estimated Schedule for Rule-Making	Parties Potentially Affected
State Historical Society				
None				

Title/Description Proposed Rule	Basis and/or Statutory Authority	Purpose of Proposed Rule	Estimated Schedule for Rule-Making	Parties Potentially Affected
Division of Private Occupational Schools				
REVISE: 8CCR 1504-1, sections I.U through XI.D	C.R.S. § 23-64-101 et seq.; and specifically, C.R.S. § 23-64-108(1)(i).	Clarify definitions, requirements, and correct typos. Update definitions to ensure that the terms with multiple uses or new	1/25/2022	Owners & Operators of Private Occupational Schools will understand the terms as applied to Colorado's Act and Rules; the Division of Private Occupational Schools and all



Title/Description Proposed Rule	Basis and/or Statutory Authority	Purpose of Proposed Rule	Estimated Schedule for Rule-Making	Parties Potentially Affected
to include definitions for terms that require clarity.		meanings are clearly defined.		other stakeholders will benefit from clarity as our rules protect members of the general public (including students and residents of Colorado). There is no fiscal impact.
Clarification to Rules regarding Annual Filings and recordkeeping.	C.R.S. § 23-64-101 et seq.; and specifically, C.R.S. § 23-64-108(1)(i).	Clarify the expectation of schools maintaining student records in electronic format.	1/25/2022	Owners & Operators of Private Occupational Schools
NEW: Rules to clarify changes made to statute in 2021 Legislative Session regarding programmatic accreditation for construction schools as outlined in C.R.S. § 23-64-104 2(a) and (b); C.R.S. § 23-64-112(1)(t); C.R.S. § 23-64-123(1)(l)	C.R.S. § 23-64-101 et seq.; and specifically, C.R.S. § 23-64-108(1)(i).	Clarify rules regarding Exemptions, Minimum Standards and Deceptive Sales and Trade in response to the changes in statute.	1/25/2022	Owners & Operators of Private Occupational Schools
Colorado Opportunity Scholarship Initiative				
None				



Departmental Regulatory Agendas

Department

Department of Agriculture

2022

DRAFT Regulatory Agenda

January 1, 2022-December 31, 2022



COLORADO
Department of Agriculture

Overview

The Colorado Department of Agriculture submits the following 2022 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department’s “Regulatory Efficiencies Reviews” during 2022 (which are denoted as such in the “purpose” column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department’s web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its “SMART Act” hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

The following constitutes the Department of Agriculture’s Regulatory Agenda for 2022 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Anticipated Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>	Part of Mandatory Rule Review
2/9/2022	8 CCR 1202-15	“Rules and Regulations Pertaining to the Administration and Enforcement of the Pet Animal Care and Facilities Act”	Revision	Title 35, Article 80	Clarify statutory regulations regarding disclosure rules for pet stores, and shelter and rescue requirements related to vet care and behavior	Licensees and pet animal associations	No

Anticipated Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>	Part of Mandatory Rule Review
4/13/2022	8 CCR 1202-10	“Rules Pertaining to the Administration and Enforcement of the Colorado Egg Law”	Revision	Title 35, Article 21	Implement regulations related to statutory requirements for the sale of cage-free eggs	Licensees, egg producers, Colorado Egg Producers, Rocky Mountain Farmers Union, Farm Bureau	No
4/13/2022	8 CCR 1203-13	“Quarantine for Late Blight”	Revision	Title 35, Article 4	Update inspection and holding requirements for imported seed potatoes	Potato industry, Colorado Potato Administrative Committee, CSU	No
4/20/2022	8 CCR 1205-7	“Rules for the Implementation of the Ranch to Plate Act”	New Rule	Title 25, Article 4	To implement Senate Bill 21-079 by identifying brand inspection requirements for animal shares	Brand inspection staff, cattle producers, Colorado Cattlemen’s Association, Colorado Livestock Association	No
6/8/2022	8 CCR 1202-15	“Rules and Regulations Pertaining to the Administration and Enforcement of the Pet Animal Care and Facilities Act”	Revision	Title 35, Article 80	Implement new regulations requiring facilities to draft and follow protocols to promote disease control and treatment to pet animals in Colorado (DCAT Plan)	Licensees and pet animal associations	No
6/8/2020	8 CCR 1203-23	“Rules Pertaining to the Administration and Enforcement of the Industrial Hemp Regulatory Program Act”	Revision	Title 35, Article 1	Aligning to the USDA Federal Rule	Hemp growers, hemp processors, hemp associations, counties and municipalities, CSU	No

Anticipated Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>	Part of Mandatory Rule Review
8/10/2022	8 CCR 1202-17	“Rules Pertaining to the Administration and Enforcement of the Produce Safety Act”	Revision	Title 35, Article 77	Adjust the minimum threshold of gross sales for produce farms that will be subject to the Produce Safety Rule based on a federal index	Produce Farms, Colorado Fruit and Vegetable Growers Association, Rocky Mountain Farmers Union, Farm Bureau	No

REGULATORY EFFICIENCY REVIEWS							
Anticipated Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>	Part of Mandatory Rule Review
4/13/2022	8 CCR 1201-17	“Concerning the Prevention of Disease in Alternative Livestock”	Revision	Title 35, Article 50	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Colorado Elk Breeders Association, alternative livestock producers	Yes
4/13/2022	8 CCR 1202-6	Rules for Commercial Feed Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S.	Revision	Title 35, Article 60	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Licensees	Yes
4/13/2022	8 CCR 1202-7	Rules for Pet Food Under the Colorado Feed Law, Sections 35-60-101 through 115, C.R.S.	Revision	Title 35, Article 60	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Licensees	Yes
6/8/2022	8 CCR 1201-16	“Control and Eradication of Scrapie in Sheep and Goats”	Revision	Title 35, Article 50	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Colorado Wool Growers Association, Colorado Livestock Association, livestock producers	Yes
6/8/2022	8 CCR 1202-4	“Fertilizers and Soil Conditioners”	Revision	Title 35, Article 12	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Licensees	Yes
10/12/2022	8 CCR 1201-19	“Livestock Disease Control”	Revision	Title 35, Article 50	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Colorado Cattlemen’s Association, Colorado Livestock Association, livestock producers	Yes
	8 CCR 1203-13	“Quarantine for Late Blight”	Revision	Title 35, Article 4	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Potato industry, Colorado Potato Administrative Committee, CSU	Yes

Anticipated Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>	Part of Mandatory Rule Review
	8 CCR 1203-21	“Quarantine Imposed Against All Life Stages of the Japanese Beetle (<i>Popillia Japonica</i>) and Hosts or Possible Carriers of Japanese Beetle Pursuant to the Colorado Pest Control Act”	Revision	Title 35, Article 4	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Colorado Nursery & Greenhouse Association, pest control districts, home owners, CSU, other states	Yes
	8 CCR 1203-23	“Rules Pertaining to the Administration and Enforcement of the Industrial Hemp Regulatory Program Act”	Revision	Title 35, Article 61	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Hemp growers, hemp processors, hemp associations, counties and municipalities, CSU	Yes
	8 CCR 1203-26	“The Use of Pesticides in the Cultivation of Retail Marijuana”	Revision	Title 24, Article 20	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Marijuana industry, pesticide applicators, Department of Regulatory Agencies Marijuana Enforcement Division, industry association, the public	Yes
	8 CCR 1205-4	“Rules Pertaining to the Feedlot Certification Act”	Revision	Title 35, Article 53.5	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Feedlot owners and operators, livestock industry	Yes

Anticipated Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>	Part of Mandatory Rule Review
	8 CCR 1206-2	“Rules Pertaining to the Administration and Enforcement of the Colorado Noxious Weed Act”	Revision	Title 35, Article 5.5	Changes may be proposed as a result of the Department’s Regulatory Efficiency Review Process	Local governing bodies, conservation districts, state agencies that own or manage land, Colorado Weed Management Association, corn and wheat producers	Yes

Departmental Regulatory Agendas

Department

Department of Public Health and Environment

2022

Regulatory Agenda

January 1, 2022 – December 31, 2022



COLORADO
Department of Public
Health & Environment

Overview

Pursuant to Colorado Revised Statute §2-7-203(4), the Colorado Department of Public Health and Environment submits the following 2022 Regulatory Agenda. Pursuant to statutory requirements concerning the Department's Regulatory Agenda (§2-7-202(6), C.R.S.), this also contains the department's 2021 Regulatory Agenda Summary and the 2021 Results of Mandatory Review of Rules (Pursuant to §24-4-103.3(4), C.R.S.).

2022 Regulatory Agenda

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? <i>(X if yes)</i>	Purpose	Stakeholders
February 15, 2022	6 CCR 1007-2, Part 1, Section 4 - Financial Assurance Requirements	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-109, C.R.S.		To include a provision requiring bond holders to notify the Department prior to releasing a bond that is held for financial assurance	All solid waste facilities, financial institutions
February 16, 2022	5 CCR 1006-2 Medical Use of Marijuana	Center for Health and Environmental Data/Board of Health	Revision	Colorado Constitution, Article XVIII, Section 14 and §25-1.5-106, C.R.S.		Adopt permanent changes to align 5 CCR 1006-2 with the changes in HB 21-1317	Medical marijuana registry customers which includes patients, prospective patients, parents, guardians, and legal representatives of patients, caregivers, and health care providers

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? <i>(X if yes)</i>	Purpose	Stakeholders
April 11, 2022	5 CCR 1002-72, Cherry Creek Reservoir Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§§ 25-8-202(1)(c) and 25-8-205, C.R.S.	X	Revise Section 72.7 (MS4s) and related definitions to update, clarify and prevent conflicts with other regulations	Cherry Creek Basin Water Quality Authority (CCBWQA), CCBWQA members, CCBWQA MS4 entities, Water Quality Control Division
April 20, 2022	6 CCR 1015-3 Chapter 3 Emergency Medical Services	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§§25-3.5-203, 25-3.5-203.5, 25-3.5-205, 25-3.5-206, 25-3.5-207, 25-3.5-208, 25-3.5-1103, and 25-3.5-1104, C.R.S.	X	Update current data reporting standards and timelines	Emergency Medical Services agencies and personnel, patients and their families, Department of Regulatory Agencies
May 9, 2022	5 CCR 1002-84, Reclaimed Water Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202 and §25-8-205, C.R.S.	X	To improve the regulation, make general clarifications and corrections, improve efficiency in the reclaimed water program and reduce repetitiveness in the regulation	Reclaimed water treaters and users and the general public

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? <i>(X if yes)</i>	Purpose	Stakeholders
May 17, 2022	6 CCR 1007-2, Part 1, Section 12 - Water Treatment Plant Sludge	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Repeal	§30-20-109, C.R.S.		Repeal section due to overlapping solid waste regulations	Drinking water treatment facilities, water utilities, municipalities
May 17, 2022	6 CCR 1007-2, Part 1, Section 16 - Materials Prohibited From Disposal	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-109, C.R.S.		To include a prohibition on the disposal of radioactive licensed material in solid waste landfills	Solid waste landfill operators, exploration and production companies, E&P waste haulers, environmental, consulting firms, COGCC
May 17, 2022	6 CCR 1007-2, Part 1, Section 2 - Minimum Standards	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-109, C.R.S.		To include a TENORM waste characterization requirement for solid waste disposal sites that complies with 6 CCR 1007-1 Part 20	Solid waste landfill operators, exploration and production companies, E&P waste haulers, environmental, consulting firms, COGCC

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? (X if yes)	Purpose	Stakeholders
May 17, 2022	6 CCR 1007-3, Part 6 - Solid and Hazardous Waste Commission Fee	Solid and Hazardous Waste Commission	Revision	§25-15-314, C.R.S.		To amend the SHWC fee to fund the operation of the commission to fiscal year 2022-2023	Treatment, storage and disposal facilities, generators and transporters of hazardous waste
May 19 & 20, 2022	5 CCR 1001-8, Regulation Number 6: Standards of Performance for New Stationary Sources	Air Pollution Control Division/Air Quality Control Commission	Revision	§§24-4-103 and 25-7- 110, 25-7-110.5 and 25-7-110.8, C.R.S.		To consider a proposal to revise Regulation Number 6, Part A (NSPS) to incorporate by reference changes the EPA made to its New Source Performance Standards and/or Emission Guidelines	Industry & trade groups, local governments, environmental & citizen groups, concerned public members
May 19 & 20, 2022	5 CCR 1001-10 - Regulation Number 8: Control of Hazardous Air Pollutants	Air Pollution Control Division/Air Quality Control Commission	Revision	§§24-4-103 and 25-7- 110, 25-7-110.5 and 25-7-110.8, C.R.S		To consider revisions Regulation Number 8, Parts A and E (MACT Standards) to incorporate by reference changes the EPA made to its National Emission Standards for Hazardous Air Pollutants rules	Industry & trade groups, local governments, environmental & citizen groups, concerned public members

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? (X if yes)	Purpose	Stakeholders
June 13 & 14, 2022	5 CCR 1002-34 and 5 CCR 1002-35 Classifications and Numeric Standards for San Juan River and Dolores River Basins and Gunnison and Lower Dolores River Basins 5 CCR 1002-31 through 5 CCR 1002-38, Discharger Specific Variances and Temporary Modifications	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-101 et seq., 25-8-203 and 25-8-204, C.R.S.	X	Update classifications and standards for this river basin , update discharger specific variances for lagoons, and revise temporary modifications expiring in the next two years, and consider proposals for new temporary modifications	Entities with a Temporary modification expiring in the next two years, point source dischargers, municipalities, environmental organizations, wastewater treatment operators
June 15, 2022	6 CCR 1011-4 Behavioral Crisis Secure Transport	Health Facilities and Emergency Medical Services Division/Board of Health	New Rule	§§25-3.5-103, 25-3.5-309, 25-3.5-310 - 313, C.R.S.		Establish minimum requirements for secure transportation services licensing, pursuant to HB21-1085	Counties, Ambulance Agencies, Behavioral Health Entities, Community Organizations, Patients, Families and consumers
June 15, 2022	6 CCR 1009-13 Community Behavioral Health Disaster Program	Division of Disease Control and Public Health Response/Board of Health	New Rule	HB21-1281		To create the criteria in rule for the community behavioral health disaster preparedness and response program	Community behavioral health agencies and the communities they serve

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? <i>(X if yes)</i>	Purpose	Stakeholders
June 15, 2022	6 CCR 1014-5 Office of Health Equity Rules for the Health Disparities Grant Program	Colorado State Board of Health	Revision	Colorado Revised Statutes Title 25. Health §25-4-2203. Health disparities grant program--rules	X	Incorporate stakeholder feedback following issuance of grant new grant funds	Community organizations working with vulnerable populations
August 8, 2022	5 CCR 1002-11, Colorado Primary Drinking Water Regulations	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202 and §25-8-203, C.R.S.		Introduce a direct potable reuse rule	Public water systems, advocacy groups, other states, the USEPA, and consulting engineers
August 16, 2022	6 CCR 1007-2, Part 1, Section 10 - Waste Tires	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§§30-20-1403 and 30-20-1405, C.R.S.		To set the annual waste tire end user rebate amounts, and set the waste tire fee (if needed)	Tire retailers, waste tire processors, waste tire monofills, and waste tire end users

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? (X if yes)	Purpose	Stakeholders
August 17, 2022	6 CCR 1009-1 Epidemic and Communicable Disease Control	Division of Disease Control and Public Health Response/Board of Health	Revision	§§25-1-108(1)(c), 25- 1.5-102, 25-1-122, and 25-4-511(1), C.R.S.		To update this rule so that the Department can better respond to emerging issues, and to align this rule with current practice, including advances in prevention, diagnosis, and treatment of communicable diseases	CO healthcare providers, CO hospital infection preventionists & lab directors, LPHAs, CO Regional Epidemiologists, Association for Professionals in Infection Control, CO reference lab contacts, CO Chapter of the American Society for Clinical Laboratory Science, CO Hospital Association, CO Medical Society
August 18 & 19, 2022	5 CCR 1001-24 - Regulation Number 20: Colorado Low Emission Automobile Regulation	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7- 101 et seq., C.R.S		To consider the adoption of the Advanced Clean Trucks Rule	Disproportionately Impacted Communities, local governments, environmental groups, automobile dealers and manufacturers, and trade groups

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? (X if yes)	Purpose	Stakeholders
September 15 & 16, 2022	5 CCR 1001-5 - Regulation Number 3: Stationary Source Permitting and Air Pollutant Emission Notice Requirements	Air Pollution Control Division/Air Quality Control Commission	Revision	§§24-4-103 and 25-7- 110, 25-7-110.5 and 25-7-110.8, C.R.S.		To establish greenhouse gas emissions reporting and implement HB21- 1266	CEO, local governments, environmental groups, disproportionately impacted communities, industry & trade groups
October 11, 2022	5 CCR 1002-73, Chatfield Reservoir Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-205, C.R.S.	X	Update Chatfield Reservoir Control Regulation to reflect revised wasteload allocations resulting from trades completed since last rulemaking hearing; clarify trading discussion, update definitions to clarify and prevent conflicts with other regulations	Chatfield Watershed Authority (CWA), CWA members, Town of Castle Rock, Pine Canyon/JRW Family Limited Partnership, LLLP ("JRW"), Water Quality Control Division
October 11, 2022	5 CCR 1002-101, Water Quality Civil Penalty Inflation Adjustment Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202, §25-8-203, §25-7-608, §25-7-609, and §25-8-610, C.R.S.		Incorporate civil penalty requirements per HB20-1143	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? (X if yes)	Purpose	Stakeholders
October 19, 2022	6 CCR 1011-1 Chapter 6 Acute Treatment Units	Health Facilities and Emergency Medical Services Division/Board of Health	Repeal	§25-1.5-103, C.R.S.	X	Repeal of Chapter 6 - Acute Treatment Units occasioned by the development of Behavioral Health Entities as a licensure category	Licensees; families, patients and consumers; professional associations that represent licensed health care facilities
October 19, 2022	6 CCR 1007-1 Part 7 Radiation Control - Use of Radionuclides in the Healing Arts	Hazardous Materials and Waste Management Division/Board of Health	Revision	§§25-1-108, 25-1.5- 101(1)(l), and 25-11- 104, C.R.S.		Minor editorial corrections; Minor technical updates for conformance to 2021 federal rule changes of the Nuclear Regulatory Commission (NRC). See NRC Regulatory Action Tracking System (RATS) 2021-1	All facilities using radioactive materials for healing arts (medical) purposes, including private clinics and hospitals
October 19, 2022	6 CCR 1007-1 Part 17 Radiation Control - Transportation of Radioactive Materials	Hazardous Materials and Waste Management Division/Board of Health	Revision	§§25-1-108, 25-1.5- 101(1)(l), and 25-11- 104, C.R.S.		Minor editorial corrections; Minor technical updates for conformance to 2020 federal rule changes of the Nuclear Regulatory Commission (NRC). See NRC Regulatory Action Tracking System (RATS) 2020-3	All facilities that transport or ship radioactive materials

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? <i>(X if yes)</i>	Purpose	Stakeholders
November 14, 2022	5 CCR 1002-85, Nutrients Management Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-205 C.R.S.	X	To control nutrients (phosphorus and nitrogen) statewide through permits and voluntary nonpoint source controls, outreach and education	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators
November 14, 2022	5 CCR 1002-31 through 38, Classifications and Standards in River Basins	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-101 et seq., 25-8-203 and 25-8-204, C.R.S.		To consider revised lakes nutrients criteria to ensure that water quality standards protective of classified uses are appropriately applied based on available data and other supporting information	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators
November 16, 2022	6 CCR 1010-4 Colorado Milk and Dairy Products Regulation	Division of Environmental Health and Sustainability/Board of Health	Revision	§§25-1.5-104(1)(b)(I), 25-5.5-103, 25-5.5-107(5) and (6), 25-5.5-205, 25-5.5-309, and 25-5.5-310, C.R.S.		Incorporation by reference of the requirements and provisions of FDA's current Grade "A" Pasteurized Milk Ordinance	Grade 'A' milk processors, licensed milk and dairy plant samplers, manufacturers, farms, transport firms, licensed haulers, consulting and engineering firms, CDA, retail food establishments, consumers

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? <i>(X if yes)</i>	Purpose	Stakeholders
November 16, 2022	5 CCR 1005-5 Hemp Testing Laboratory Certification	Laboratory Services Division/Board of Health	Revision	§35-61-105.5(2)(d) and §25-1.5-101(1)(f), C.R.S.		To update the criteria in the rule for the certification of laboratories to test industrial hemp and hemp-derived products	Cannabis testing laboratories, industrial hemp cultivators, hemp- derived product manufacturers, Colorado Department of Agriculture, CDPHE- Division of Environmental Health and Sustainability, Colorado Hemp Advancement and Management Plan (CHAMP) participants
November 16, 2022	5 CCR 1006-2 Medical Use of Marijuana	Center for Health and Environmental Data/Board of Health	Revision	Colorado Constitution, Article XVIII, Section 14 and §25-1.5-106, C.R.S.		Review rule to ensure that it is in alignment with all statutes and does not need to be updated to align with any new legislative changes	Medical marijuana registry customers which includes patients, prospective patients, parents, guardians, and legal representatives of patients, caregivers, and health care providers

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? <i>(X if yes)</i>	Purpose	Stakeholders
November 17 & 18, 2022	5 CCR 1001-26 - Regulation Number 22: Colorado Greenhouse Gas Reporting and Monitoring	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-103, 25-7-105, 25-7-106, 25-7-109, and 25-7-110, C.R.S.		To consider revisions to Regulation Number 22 establishing a recovered methane protocol and establishing a greenhouse gas crediting and tracking system in response to SB21-264	CEO, PUC, gas distribution utilities, disproportionately impacted communities, local governments, environmental groups and industry & trade groups
December 15 & 16, 2022	5 CCR 1001-5 - Regulation Number 3 - Stationary Source Permitting and Air Pollutant Emission Notice Requirements	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7-114, C.R.S.		To consider revisions addressing the Clean Air Act (CAA) Ozone Nonattainment requirements for the 2008 and/or 2015 Ozone National Ambient Air Quality Standards (NAAQS). This would include proposed elements to Colorado's State Implementation Plan (SIP) and revisions to associated regulations	EPA, RAQC, Industry & trade groups, local governments, environmental & citizen groups, concerned public members

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? (X if yes)	Purpose	Stakeholders
December 15 & 16, 2022	5 CCR 1001-9 - Regulation Number 7 - Control of Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds and Nitrogen Oxides)	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7- 114, C.R.S.		To consider revisions addressing the Clean Air Act (CAA) Ozone Nonattainment requirements for the 2008 and/or 2015 Ozone National Ambient Air Quality Standards (NAAQS). This would include proposed elements to Colorado's State Implementation Plan (SIP) and revisions to associated regulations	EPA, RAQC, Industry & trade groups, local governments, environmental & citizen groups, concerned public members
December 15 & 16, 2022	5 CCR 1001-13 - Regulation Number 11 - Motor Vehicle Emissions Inspection Program	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7- 114, C.R.S.		To consider revisions addressing the Clean Air Act (CAA) Ozone Nonattainment requirements for the 2008 and/or 2015 Ozone National Ambient Air Quality Standards (NAAQS). This would include proposed elements to Colorado's State Implementation Plan (SIP) and revisions to associated regulations	EPA, RAQC, Industry & trade groups, local governments, environmental & citizen groups, concerned public members

Schedule <i>Anticipated hearing date</i>	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? (X if yes)	Purpose	Stakeholders
December 15 & 16, 2022	5 CCR 1001-14 - Air Quality Standards - Air Quality Standards, Designations and Emission Budgets	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-102, 25-7-105, 25-7-106, 25-7-109, 25-7-110, and 25-7- 114, C.R.S.		To consider revisions addressing the Clean Air Act (CAA) Ozone Nonattainment requirements for the 2008 and/or 2015 Ozone National Ambient Air Quality Standards (NAAQS). This would include proposed elements to Colorado's State Implementation Plan (SIP) and revisions to associated regulations	EPA, RAQC, Industry & trade groups, local governments, environmental & citizen groups, concerned public members

2021

Regulatory Agenda Summary January 1, 2021 – December 31, 2021



COLORADO
Department of Public
Health & Environment

2021 Regulatory Agenda Summary

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1001-10 - Control of Hazardous Air Pollutants	Air Pollution Control Division/Air Quality Control Commission	Revision	§25-4-1004.7(8) and (9), C.R.S.	To implement HB 18-1006	January 21 & 22, 2021	Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Adopted January 21, 2021
5 CCR 1003-2 - Water and Wastewater Facility Operator Certification Requirements	Water Quality Control Division/Water and Wastewater Facility Operators Certification Board	Revision	§25-9-101 through §25-9-110, C.R.S.	To consider revisions for applicants applying by reciprocity	January 26, 2021	Water and wastewater operators, applicants from other states, water and wastewater utilities	Adopted January 26, 2021
6 CCR 1007-3, Part 267, Subpart Q - Standards for the Management of Specific Hazardous Wastes	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	New Rule	§24-33.5-1234, C.R.S.	Establish rules for registration and certificate of facilities using or storing Aqueous Film Forming Foam (AFFF) containing Per- and Poly-fluoroalkyl substances (PFAS)	February 16, 2021	Fire Departments, aviation facilities and other entities that use or store Aqueous Film Forming Foam (AFFF) containing Per- and Poly- fluoroalkyl substances (PFAS)	Adopted February 16, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1005-5 - Hemp Testing Laboratory Certification	Division of Disease Control and Public Health Response/ Board of Health	New Rule	§35-61-105.5(2)(d) and §25-1.5-101(1)(f), C.R.S.	Establish criteria in rule for the certification of laboratories to test industrial hemp and hemp-derived products	February 17, 2021	Cannabis testing laboratories, industrial hemp cultivators, hemp-derived product manufacturers, Colorado Department of Agriculture, CDPHE-Division of Environmental Health and Sustainability, Colorado Hemp Advancement and Management Plan (CHAMP) participants	Adopted February 17, 2021
6 CCR 1010-21 - Colorado Wholesale Food and Shellfish Regulations	Division of Environmental Health and Sustainability/ Board of Health	Revision	§25-5-418 and §25-5-426, C.R.S.	Rulemaking as needed to support the implementation of SB19-240, SB19-220, and SB19-224	February 17, 2021	Industrial hemp operators that need to register as a Wholesale Food operator, Department of Agriculture, Department of Revenue	Adopted February 17, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1005-4 - Newborn Screening and Second Newborn Screening	Division of Disease Control and Public Health Response/ Board of Health	Revision	\$25-4-1004(1)(c)(I-IV) and \$25-4-1004.5(3), C.R.S.	Addition of 3 conditions to the Colorado Newborn Screening panel	March 17, 2021	Parents, newborns, hospital laboratories, nurseries, NICUs, pediatricians, Inherited Metabolic Disorder Specialists, Endocrine Specialists, Immunology Specialists, Hemoglobinopathy Specialists, Neuromuscular Specialists, Colorado branch of National Organization of Rare Disorders	Adopted March 17, 2021
6 CCR 1011-1, Chapter 2 - General Licensure Standards	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	\$25-3-121(2), \$24-34-113 and \$10-16-704, C.R.S.	Conforming amendments associated with Chapter 3 BHE and Chapters 9 and 13 Community Clinics and Free Standing Emergency Departments	April 21, 2021	Health Facilities, licensees, families, patients and consumers, providers, and professional associations that represent licensed facilities	Adopted April 21, 2021
6 CCR 1011-1, Chapter 3 - Behavioral Health Entities	Health Facilities and Emergency Medical Services Division/Board of Health	New Rule	\$25-27.6-105, C.R.S.	Develop Phase 1 rules for the new license for behavioral health entities	April 21, 2021	Current and future licensees, families, clients and consumers, providers, organizations that represent licensed facilities, practitioners and consumers	Adopted April 21, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1011-1, Chapter 9 - Community Clinics and Community Clinics and Emergency Centers and Chapter 13 Freestanding Emergency Departments	Health Facilities and Emergency Medical Services Division/Board of Health	Revision and New Rule	\$25-3-103(1)(c) and \$25-3-105(1)(a)(I) (B), C.R.S.	Develop new rules for freestanding emergency departments and make necessary updates to the community clinic chapter	April 21, 2021	Current and future licensees, families, clients and consumers, providers, organizations that represent licensed facilities, practitioners and consumers	Adopted April 21, 2021
5 CCR 1002-93 - Colorado's Section 303(d) List of Impaired Waters and Monitoring and Evaluation List	Water Quality Control Division/Water Quality Control Commission	Revision	\$25-8-202 and \$25-8-203, C.R.S.	Bi-annual update to the 303(d) list of impaired waters	May 10, 2021	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators	Adopted June 15, 2021
6 CCR 1007-2, Part 1, Section 13 - Medical Waste Facilities	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	\$30-20-109 and \$25-15-302(4.5), C.R.S.	To reduce permitting requirements for medical waste transfer operations; add requirement for treating one's own waste	May 18, 2021	Medical waste haulers, people residing in communities where medical waste transfer stations operate	Anticipated November 16, 2021
6 CCR 1007-3, Part 6 - Solid and Hazardous Waste Commission Fee	Solid and Hazardous Waste Commission	Revision	\$25-15-314, C.R.S.	To amend the SHWC fee to fund the operation of the commission to fiscal year 2021-2022	May 18, 2021	Treatment, storage and disposal facilities, generators and transporters of hazardous waste	Adopted May 18, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1007-3, Part 267, Subpart Q - Standards for the Management of Specific Hazardous Wastes	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	New Rule	§24-33.5-1234, C.R.S.	Establish rules for disposal of Aqueous Film Forming Foam (AFFF) containing Per- and Poly- fluoroalkyl substances (PFAS)	May 18, 2021	Fire Departments, aviation facilities and other entities that use or store Aqueous Film Forming Foam (AFFF) containing Per and Poly-fluoroalkyl substances (PFAS)	Withdrawn
6 CCR 1007-3, Part 261 - Identification and Listing of Hazardous Waste	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§25-15-302(2), C.R.S.	To update the ignitability characteristic requirement with the federal rule for additional methods to determine ignitability of hazardous wastes	May 18, 2021	Facilities that generate, treat or store hazardous waste that may be ignitable	Adopted May 18, 2021
6 CCR 1007-3, Part 273 - Standards for Universal Waste Management	Hazardous Materials and Waste Management Division/ Solid and Hazardous Waste Commission	Revision	§25-15-302(2), C.R.S.	To revise the Colorado universal waste rule for aerosol cans to adhere with the newly issued federal rule	May 18, 2021	Facilities that generate, treat or store waste aerosol cans under hazardous waste universal waste requirements	Anticipated November 16, 2021
6 CCR 1007-1 Part 16, Radiation Control - Radiation Safety Requirements for well logging and subsurface tracer studies	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1.5-101(1)(k), §25-1.5-101(1)(l), §25-11-103, §25-11-104, and §25-1-108, C.R.S.	Minor update for conformance to federal rule changes; minor editorial corrections	May 19, 2021	Well logging and subsurface tracer studies specific licensees	Adopted May 19, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1006-3 - Statewide Electronic Advanced Medical Directives System	Center for Health and Environmental Data/Board of Health	New Rule	\$25-54-102, C.R.S.	Implement SB 19-073	May 19, 2021	Individuals executive advance health care directives and their authorized agents, health care providers, health facilities, emergency medical services personnel, Health Facilities Emergency Medical Services Division	Adopted May 19, 2021
6 CCR 1007-1 Part 19 - Radiation Control - Licenses and radiation safety requirements for irradiators	Hazardous Materials and Waste Management/ Board of Health	Revision	\$25 1.5 101(1)(k), \$25-1.5-101(1)(l), \$25-11-103, \$25-11-104, and \$25-1-108, C.R.S.	Minor update for conformance to federal rule changes; minor editorial corrections	May 19, 2021	Specific licensees with irradiators	Adopted May 19, 2021
6 CCR 1007-1 Part 21 - Radiation Control - Colorado low income radon mitigation assistance (LIRMA) program	Hazardous Materials and Waste Management/ Board of Health	Revision	\$25 1.5 101(1)(k), \$25-1.5-101(1)(l), \$25-11-103, \$25-11-104, and \$25-1-108, C.R.S.	Updates to align/update with HUD income data table/criteria; minor editorial corrections	May 19, 2021	Applicants for low income radon mitigation system assistance	Adopted May 19, 2021
5 CCR 1001-8, Standards of Performance for New Stationary Sources	Air Pollution Control Division/Air Quality Control Commission	Revision	\$24-4-103 and \$25-7-110, \$25-7-110.5 and \$25-7-110.8, C.R.S.	To revise Regulation Number 6, Part A (NSPS) to incorporate by reference changes EPA made to its New Source Performance Standards and/or Emission Guidelines	May 20 & 21, 2021	Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Adopted May 21, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1001-10 - Control of Hazardous Air Pollutants	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	To consider revisions Regulation Number 8, Parts A and E (MACT Standards) to incorporate by reference changes the EPA made to its National Emission Standards for Hazardous Air Pollutants rules	May 20 & 21, 2021	Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Adopted May 21, 2021
5 CCR 1001-27 - Regional Haze Limits	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	To consider revisions related to the control of NOx/SO2/PM emissions from the remaining Reasonable Progress sources identified as impacting Class I areas	May 20 & 21, 2021	Industry & trade groups, Federal Land Manager & National Park Service, environmental & citizen groups, local governments	Anticipated November 19, 2021
5 CCR 1002-31 - The Basic Standards and Methodologies for Surface Water	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202 and §25-8-203, C.R.S.	Update water quality standards and classifications and fulfil triannual review requirement from EPA	June 14, 2021	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators	Adopted August 9, 2021
6 CCR 1007-1 Part 8 - Radiation Control - Radiation Safety Requirements for Radiation Generating Devices Not Used in the Healing Arts	Hazardous Materials and Waste Management Division/Board of Health	Revision	§25-1.5-101(1)(k), §25-1.5-101(1)(l), §25-11-103, §25-11-104, and §25-1-108, C.R.S.	Align with 2016 model regulation Part H of CRCPD; minor editorial and technical corrections	June 16, 2021	Users of x-ray machines for non-medical industrial purposes	Adopted June 16, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1007-1 Part 5 -Radiation Control - Radiation Safety Requirements for industrial radiographic operations	Hazardous Materials and Waste Management Division/Board of Health	Revision	\$25 1.5 101(1)(k), \$25-1.5-101(1)(l), \$25-11-103, \$25-11-104, and \$25-1-108, C.R.S.	TBD; minor update for conformance to federal rule changes; alignment with parallel Part 8 amendments; minor editorial changes	June 16, 2021	Industrial radiography specific licensees	Adopted June 16, 2021
6 CCR 1007-1 Part 2 - Radiation Control - Registration of radiation machines, facilities and services	Hazardous Materials and Waste Management Division/Board of Health	Revision	\$25 1.5 101(1)(k), \$25-1.5-101(1)(l), \$25-11-103, \$25-11-104, and \$25-1-108, C.R.S.	Minor change pertaining to industrial x-ray machines; minor editorial changes	June 16, 2021	Certain industrial x-ray machine facilities	Adopted June 16, 2021
5 CCR 1001-9 - Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds and Nitrogen Oxides)	Air Pollution Control Division/Air Quality Control Commission	Revision	\$24-4-103 and \$25-7-110, \$25-7-110.5 and \$25-7-110.8, C.R.S.	To consider revisions to Regulation 7 Reasonably Available Control Technology requirements for incorporation into the 2008 Ozone State Implementation Plan	July 15 & 16, 2021	Industry & trade groups, local governments, environmental groups, and concerned public members	Adopted July 16, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1001-14 - Air Quality Standards, Designations and Emission Budgets	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	To consider revisions to reduce greenhouse gas emissions from the transportation sector, in response to HB19-1261, update existing provisions as necessary, and consider establishing an Energy Intensive Manufacturing Audit Program in response to HB19-1261	July 15 & 16, 2021	CEO, CDOT, E3, disproportionately impacted communities, local governments, environmental groups and industry & trade groups	Withdrawn
5 CCR 1001-26 - Colorado Greenhouse Gas Reporting and Monitoring	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	To consider revisions to reduce greenhouse gas emissions from the transportation sector, in response to HB19-1261, update existing provisions as necessary, and consider establishing an Energy Intensive Manufacturing Audit Program in response to HB19-1261	July 15 & 16, 2021	CEO, CDOT, E3, disproportionately impacted communities, local governments, environmental groups and industry & trade groups	Adopted August 19, 2021
5 CCR 1002-64 - Biosolids Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-202 and §25-8-203, C.R.S.	Update biosolids control regulation for clarity and to reflect current practices	August 9, 2021	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators	Adopted August 9, 2021
6 CCR 1007-2, Part 1, Section 10 - Waste Tires	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	§30-20-1401(2), C.R.S.	To set the waste tire end user rebate amount	August 17, 2021	Waste tire end users	Anticipated November 16, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1011-1 Chapter 4 General Hospitals, Chapter 10 Rehabilitation Centers, Chapter 18 Psychiatric Hospitals, and Chapter 19 Hospital Units	Health Facilities and Emergency Medical Services Division/ Board of Health	Revision	§25-1.5-103, §25-3-101, and §25-3-103, C.R.S.	Implement rule review results	August 18, 2021	Licensees; families, clients and consumers; providers; organizations that represent licensed facilities, practitioners and consumers	Adopted August 18, 2021
6 CCR 1009-1 - Epidemic and Communicable Disease Control	Division of Disease Control and Public Health Response/ Board of Health	Revision	§25-1-108(1)(c), §25-1.5-102, §25-1-122, and §25-4-511(1), C.R.S.	Update the list of reportable conditions to better allow the Department to respond to emerging issues, including new or changing communicable diseases; Propose adding MIS-C as a reportable condition and make some minor modifications around the language for reporting novel coronaviruses	August 18, 2021	Colorado healthcare providers, Colorado hospital infection preventionists and lab directors, LPHAs, Colorado Regional Epidemiologists, Association for Professionals in Infection Control (APIC), Colorado reference lab contacts, Colorado Chapter of the American Society for Clinical Laboratory Science, Colorado Hospital Association, Colorado Medical Society	Adopted August 18, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1002-101 - Water Quality Civil Penalty Inflation Adjustment	Water Quality Control Division/Water Quality Control Commission	New Rule	\$25-8-202, \$25-8-203, \$25-7-608, \$25-7-609, and \$25-8-610, C.R.S.	Incorporate new civil penalty requirements per HB20-1143	October 12, 2021	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators	Adopted October 12, 2021
6 CCR 1016-2 - Prevention, Intervention, and Treatment Programs for Children and Youth	Prevention Services Division/Board of Health	Repeal	\$25-20.5-101, et. seq., C.R.S.	No longer have statutory authority over the Prevention, Intervention and Treatment Programs for Children and Youth program and must repeal the corresponding rule	October 20, 2021	Colorado Department of Human Services, Tony Grampas Youth Services Board	Adopted October 21, 2021
6 CCR 1007-2, Part 1, Section 12 - Water Treatment Plant Sludge	Hazardous Materials and Waste Management Division/Solid and Hazardous Waste Commission	Revision	\$30-20-109 and \$25-15-302(4.5), C.R.S	To adopt conforming changes as a result of the TENORM regulations that are expected to be adopted by the Board of Health in November 2020	November 16, 2021	Water treatment facilities, operators, and landfills	Rescheduled for 2022
6 CCR 1011-1 Chapter 8 - Facilities for Persons with Intellectual and Developmental Disabilities	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	\$25-3-103(1)(c) and \$25-3-105(1)(a)(I) (B), C.R.S.	Implement rule review results	November 17, 2021	Licensees; families, clients and consumers; organizations that represent licensed facilities, practitioners and consumers	Anticipated November 17, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1007-1 Part 12 - Radiation Control - Fees for Radiation Control Services	Hazardous Materials and Waste Management Division/Board of Health	Revision	\$25-1.5-101(1)(l), \$25-1-108(1)(c)(l) and \$25-11-104, C.R.S.	To update fees based on a periodic fee evaluation	November 17, 2021	All radioactive materials licensees and x-ray registrants	Withdrawn
5 CCR 1001-8 - Standards of Performance for New Stationary Sources	Air Pollution Control Division/Air Quality Control Commission	Revision	\$24-4-103 and \$25-7-110, \$25-7-110.5 and \$25-7-110.8, C.R.S.	To consider revisions to Regulation 6, Part B adopting a Clean Air Act Section 111d State Plan and emission reductions, monitoring, recordkeeping and reporting for utilities to address EPA's Affordable Clean Energy Rule	November 18 & 19, 2021	Disproportionately impacted communities, local governments, environmental groups and industry & trade groups	Withdrawn
5 CCR 1001-23 - The Control of Lead Hazards	Air Pollution Control Division/Air Quality Control Commission	Revision	\$24-4-103 and \$25-7-110, \$25-7-110.5 and \$25-7-110.8, C.R.S.	To consider revisions to the lead-based paint abatement regulation. Proposed revisions will include updating regulatory language and lowering clearance and lead dust hazard levels to reflect changes in federal regulation	November 18 & 19, 2021	Industry & trade groups, local governments, environmental groups, and concerned public members	Anticipated November 18, 2021
5 CCR 1002-32-38 - Surface Water Quality Classifications and Standards	Water Quality Control Division/Water Quality Control Commission	Revision	\$25-8-202 and \$25-8-203, C.R.S.	Update discharger specific variances for lagoons	December 13, 2021	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators	Withdrawn

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
6 CCR 1011-1 Chapter 26 - Home Care Agencies	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§25-1-107.5, §25-1-108, §25-1-120, §25-1-124(3), §25-1.5-101, §25-1.5-103, §25-1.5-108, §25-3-101 et seq., §25-27.5-101 et seq., and §26-20-108 et seq., C.R.S.	Implement rule review results	December 15, 2021	Licensees; families, clients and consumers; professional associations that represent licensed facilities	Anticipated December 15, 2021
6 CCR 1015-6 - State-Designated Health Professional Shortage Area Designation	Prevention Services Division/Board of Health	Revision	§25-1.5-404 and §25-1.5-501 et. seq., C.R.S.	Add new model for primary care health professional shortage area designation	December 15, 2021	Center for Improving Value in Health Care, Colorado Association of Local Public Health Officials, Colorado Behavioral Health Care Council, Colorado Community Health Network, Colorado Medical Society, Colorado Rural Health Center, federally qualified health centers, Mental Health Colorado	Adopted May 19, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for adoption	Stakeholders	Status
5 CCR 1001-9 - Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds and Nitrogen Oxides)	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	To consider revisions to Regulation Number 7 to establish oil and gas reduction strategies, monitoring, reductions, recordkeeping and reporting in response to SB19-096, HB19-1261 and SB19-181. SIP Fix revisions necessary for EPA approval of Colorado's Ozone SIP	December 16 & 17, 2021	Disproportionately impacted communities, local governments, environmental groups and industry & trade groups	Anticipated December 17, 2021
5 CCR 1001-26 - Colorado Greenhouse Gas Reporting and Monitoring	Air Pollution Control Division/Air Quality Control Commission	Revision	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	To consider revisions to Regulation Number 22, to address greenhouse gases in terms of building energy efficiency in response to HB19-1261	December 16 & 17, 2021	CEO, E3, disproportionately impacted communities, local governments, environmental groups and industry & trade groups	Anticipated December 17, 2021

Rulemakings that did not appear on the original 2021 Regulatory Agenda

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
Emergency Executive Director Rulemaking 6 CCR 1014-3 Cleanup of Methamphetamine-Affected Properties	Hazardous Materials and Waste Management Division/Executive Director	Revision	§25-18.5-102, C.R.S. and §25-18.5-106, C.R.S.	The changes are to revise the regulation in order to extend the expiration date for any of the licenses, certifications, and/or endorsements covered by Section II(H) of Executive Order D 2020-015	December 28, 2020	Consultants, Decontamination Workers, Decontamination Supervisors, Qualified Instructors	Adopted December 28, 2020
5 CCR 1001-9 - Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds and Nitrogen Oxides)	Air Pollution Control Division/Air Quality Control Commission	Revision	§§24-4-103, 25-7-110, 25-7-110.5 and 25-7-110.8, C.R.S.	To consider revisions to Regulation Number 7, Part D, Section III. This hearing is intended to address the issues which were bifurcated from the December 2020 rulemaking hearing. Alternative proposals to extend requirements for non-emitting controllers to existing facilities are within the scope of notice for this hearing. Revisions unrelated to pneumatic controller requirements will not be considered during this hearing	February 18 & 19, 2021	Industry & trade groups, local governments, environmental groups, concerned public members	Adopted February 19, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
5 CCR 1003-2 - Water and Wastewater Facility Operator Certification Requirements	Water Quality Control Division/Water and Wastewater Facility Operators Certification Board	Revision	§25-9-101 through §25-9-110, C.R.S.	To remove obsolete provisions of Regulation 100 as a follow-up to the 2018 Facility Classification Amendments	March 30, 2021	Water and wastewater operators, water and wastewater utilities and facilities	Adopted March 30, 2021
5 CCR 1002-73 - Chatfield Reservoir Control Regulation	Water Quality Control Division/Water Quality Control Commission	Revision	§25-8-205, 25-8-205, and 24-4-103(4), C.R.S	To reflect the transfer of ownership of wasteload allocation from Roxborough Park Metropolitan District to Dominion Water & Sanitation District	June 14, 2021	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators	Adopted June 14, 2021
5 CCR 1002-32 through 5 CCR 1002-38 - Classifications and Numeric Standards for Colorado Basins	Water Quality Control Division/Water Quality Control Commission	Revision	§§25-8-101, 25-8-203, and 25-8-204 C.R.S.	Update water quality standards and classifications and fulfil triannual review requirement from EPA, related to the Regulation #31 rulemaking hearing	June 14, 2021	Point source dischargers, municipalities, environmental organizations, wastewater treatment operators	Adopted August 9, 2021
5 CCR 1001-1 - Procedural Rules	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-106(3), 25-7-110.8(1), 24-4-103, 25-7-110, 25-7-110.5 and 25-7-110.8 C.R.S.	To consider revisions to the Procedural Rules	July 15 & 16, 2021	Industry & trade groups, local governments, environmental groups, concerned public members	Adopted July 15, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
5 CCR 1001-13 - Motor Vehicle Emissions Inspection Program	Air Pollution Control Division/Air Quality Control Commission	Revision	40 C.F.R. §51.350(a)(2); §§25-7-101, 25-7-105(1)(a), 25-7-301, and 25-7-302, 24-4-103, 25-7-110, 25-7-110.5 and 25-7-110.8 C.R.S.	To consider revisions to reduce greenhouse gas emissions from the transportation sector, in response to HB19-1261, update existing provisions as necessary, and consider establishing an Energy Intensive Manufacturing Audit Program in response to HB19-1261	July 15 & 16, 2021	CEO, CDOT, E3, disproportionately impacted communities, local governments, environmental groups and industry & trade groups	Adopted August 19, 2021
5 CCR 1001-24 - Colorado Low Emission Automobile Regulation	Air Pollution Control Division/Air Quality Control Commission	Revision	§177 of the CAA, 42 U.S.C. §7507; §§25-7-105(1), 25-7-102, 25-7-109, 25-7-109(1)(a)(2), 25-7-103, 25-7-106, 24-4-103 25-7-110, 25-7-110.5 and 25-7-110.8 C.R.S.	To consider revisions to reduce greenhouse gas emissions from the transportation sector, in response to HB19-1261, update existing provisions as necessary, and consider establishing an Energy Intensive Manufacturing Audit Program in response to HB19-1261	July 15 & 16, 2021	CEO, CDOT, E3, disproportionately impacted communities, local governments, environmental groups and industry & trade groups	Adopted August 19, 2021
Emergency Rulemaking 6 CCR 1011-1 Chapter 2 General Licensure Standards	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§§24-4-103(6), 25-1.5-102, 25-1.5-103, and 25-3-103, C.R.S.	The changes are to implement the COVID-19 vaccination requirement in licensed healthcare facilities	August 30, 2021	Licensees; families, clients and consumers; professional associations that represent licensed facilities	Adopted August 30, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
5 CCR 1003-2 - Water and Wastewater Facility Operator Certification Requirements	Water Quality Control Division/Water and Wastewater Facility Operators Certification Board	Revision	§25-9-101 through §25-9-110, C.R.S.	To implement SB21-077, removing proof of lawful presence as a condition of certification	September 28, 2021	Water and wastewater operators, applicants, applicants from other states	Adopted September 28, 2021
6 CCR 1015-3 Chapter 2 Rules Pertaining to EMS Practice and Medical Director Oversight	Health Facilities and Emergency Medical Services Division/Chief Medical Officer	Revision	§§25-3.5-203, 25-3.5-203.5, 25-3.5-205, 25-3.5-206, 25-3.5-207, 25-3.5-208, 25-3.5-1103, and 25-3.5-1104, C.R.S.	Implement changes to the regulation necessitated by the passage of HB21-1251	October 20, 2021	Licensed and certified EMS providers, EMS agencies, EMS medical directors, consumers	Adopted October 20, 2021
Emergency Rulemaking 6 CCR 1014-5 Office of Health Equity Rules for the Health Disparities Grant Program	Colorado State Board of Health	Revision	§25-4-2203, C.R.S.	Revise the rules to incorporate SB21-181	October 21, 2021	Community organizations that work with vulnerable populations in Colorado	Adopted October 21, 2021
5 CCR 1001-2 - Common Provisions	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-112; 24-4-103 and 25-7-110, 25-7-110.5 and 25-7-110.8 C.R.S.	To consider revisions to the Common Provisions regulation to address HB20-1143 with respect to inflation adjustments for maximum fines and penalties for air quality control violations	October 21 & 22, 2021	Industry & trade groups, local governments, environmental & citizen groups, concerned public members	Adopted October 21, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
5 CCR 1001-26 - Colorado Greenhouse Gas Reporting and Monitoring	Air Pollution Control Division/Air Quality Control Commission	Revision	§§25-7-105(1), 25-7-105(1)(e) et. seq., 25-7-102, 5-7-102(2)(g), 25-7-103(11), 25-7-106; 25-7-109(1), 25-7-109(2)(c), 24-4-103, 25-7-110, 25-7-110.5 and 25-7-110.8 C.R.S.	To consider revisions to Regulation Number 22, Part B to include a new section for Greenhouse Gas Emissions and Energy Management Program for Industrial Manufacturers ("GEMM") in Colorado to conduct an audit of their operations every 5 years to determine whether they are using the best available technologies and the best available energy efficiency practices to reduce GHG emissions in response to HB19-1261 & HB21-1266	October 21 & 22, 2021	CEO, CDOT, E3, local governments, environmental groups, disproportionately impacted communities, industry & trade groups	Adopted October 22, 2021
5 CCR 1006-1 Vital Statistics	Center for Health and Environmental Data/ Board of Health	Revision	§25-2-103 and 24-4-103, C.R.S	Update language to reflect updates to C.R.S. 25-2-113.8, which no longer requires minors to obtain treatment prior to amending their sex as listed on their birth certificate	November 17, 2021	CO Clerk and Recorders, CO DMV, U.S. Dept of State, LGBTQ Individuals and Advocacy Organizations	Anticipated November 17, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
6 CCR 1011-1 Chapter 2 General Licensure Standards	Health Facilities and Emergency Medical Services Division/Board of Health	Revision	§§24-4-103(6), 25- 1.5-102, 25-1.5-103, and 25-3-103, C.R.S.	The changes are to implement the COVID- 19 vaccination requirement in licensed healthcare facilities	November 17, 2021 or December 15, 2021	Licensees; families, clients and consumers; professional associations that represent licensed facilities	Anticipated November 17, 2021 or December 15, 2021
6 CCR 1014-5 Office of Health Equity Rules for the Health Disparities Grant Program	Colorado State Board of Health	Revision	§25-4-2203, C.R.S.	Revise the rules to incorporate SB21-181	December 15, 2021	Community organizations that work with vulnerable populations in Colorado	Anticipated December 15, 2021
Emergency Rulemaking 5 CCR 1006-2 Medical Use of Marijuana	Center for Health and Environmental Data/ Board of Health	Revision	Colorado Constitution, Article XVIII, Section 14 and §25-1.5-106, C.R.S.	Align 5 CCR 1006-2 with the changes in HB 21-1317	December 15, 2021	Medical marijuana registry customers which includes patients, prospective patients, parents, guardians, and legal representatives of patients, caregivers, and health care providers	Anticipated December 15, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or Other Basis	Purpose	Schedule for Adoption	Stakeholders	Status
5 CCR 1006-2 Medical Use of Marijuana	Center for Health and Environmental Data/ Board of Health	Revision	Colorado Constitution, Article XVIII, Section 14 and §25-1.5-106, C.R.S.	Request a \$10 increase to the application processing fee, which will bring the total fee to \$35 effective Feb. 14, 2022	December 15, 2021	Medical marijuana registry customers which includes patients, prospective patients, parents, guardians, and legal representatives of patients, caregivers, and health care providers	Anticipated December 15, 2021
6 CCR 1009-2 The Infant Immunization Program and Immunization of Students Attending School	Division of Disease Control and Public Health Response/Board of Health	Revision	§§25-4-903 and 25-4-904, C.R.S.	This rulemaking will address needed modifications identified by OLLS	December 15, 2021	Staff in public and private schools, staff in licensed child cares, healthcare providers, CDE, CDHS CDHE, county, district or municipal public health agencies that rely on the rule to maintain their own businesses, agencies or operations, students enrolled in schools, their parents/legal guardians, and the public at large	Anticipated December 15, 2021

2021

Results of Mandatory Review of Rules



2021 Results of Mandatory Review of Rules

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1001-10 - Control of Hazardous Air Pollutants	Air Pollution Control Division	\$24-4-103 and \$25-7-110, \$25-7-110.5 and \$25-7-110.8, C.R.S.	January 2021	Y	N	N	January 21, 2021
6 CCR 1011-1 Chapter 6 - Acute Treatment Units	Health Facilities and Emergency Medical Services Division	\$25-1-107.5, \$25-1-108, \$25-1-120, \$25-1-124(3), \$25-1.5-101, \$25-1.5-103, \$25-1.5-108, \$25-3-101 et seq., \$25-27.5-101 et seq., and \$26-20-108 et seq., C.R.S.	January 2021	N	N	Y	Pending
6 CCR 1011-1 Chapter 9 - Community Clinics and Emergency Centers	Health Facilities and Emergency Medical Services Division	\$25-1-107.5, \$25-1-108, \$25-1-120, \$25-1-124(3), \$25-1.5-101, \$25-1.5-103, \$25-1.5-108, \$25-3-101 et seq., \$25-27.5-101 et seq., and \$26-20-108 et seq., C.R.S.	January 2021	Y	N	N	April 21, 2021
6 CCR 1007-1 Part 4 - Radiation Control - Standards for Protection Against Radiation	Hazardous Materials and Waste Management Division	\$25-1.5-101(1)(k), \$25-1.5-101(1)(l), \$25-11-103, \$25-11-104, and \$25-1-108, C.R.S.	February 2022	Y	Y	N	Pending

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1002-73 - Chatfield Reservoir Control Regulation	Water Quality Control Division	§25-8-205, C.R.S.	March 2021	Y	N	N	Pending
6 CCR 1007-1 Part 21 - Radiation Control - Colorado Low Income Radon Mitigation Assistance (LIRMA) Program	Hazardous Materials and Waste Management Division	§25-1-108, §25-1.5-101(1)(l), §25-11-104, §25-11-114, §25-16-104.5, and §25-16-104.6, C.R.S.	March 2021	Y	N	N	May 19, 2021
6 CCR 1011-1 Chapter 4 - General Hospitals	Health Facilities and Emergency Medical Services Division	§25-1-107.5, §25-1-108, §25-1-120, §25-1-124(3), §25-1.5-101, §25-1.5-103, §25-1.5-108, §25-3-101 et seq., §25-27.5-101 et seq., and §26-20-108 et seq., C.R.S.	April 2021	Y	Y	N	August 18, 2021
6 CCR 1011-1 Chapter 10 - Rehabilitation Centers	Health Facilities and Emergency Medical Services Division	§25-1-107.5, §25-1-108, §25-1-120, §25-1-124(3), §25-1.5-101, §25-1.5-103, §25-1.5-108, §25-3-101 et seq., §25-27.5-101 et seq., and §26-20-108 et seq., C.R.S.	April 2021	Y	Y	N	August 18, 2021

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1011-1 Chapter 18 - Psychiatric Hospitals	Health Facilities and Emergency Medical Services Division	§25-1-107.5, §25-1-108, §25-1-120, §25-1-124(3), §25-1.5-101, §25-1.5-103, §25-1.5-108, §25-3-101 et seq., §25-27.5-101 et seq., and §26-20-108 et seq., C.R.S.	April 2021	Y	Y	N	August 18, 2021
6 CCR 1011-1 Chapter 19 - Hospital Units	Health Facilities and Emergency Medical Services Division	§25-1-107.5, §25-1-108, §25-1-120, §25-1-124(3), §25-1.5-101, §25-1.5-103, §25-1.5-108, §25-3-101 et seq., §25-27.5-101 et seq., and §26-20-108 et seq., C.R.S.	April 2021	Y	Y	N	August 18, 2021
5 CCR 1001-8 - Standards of Performance for New Stationary Sources	Air Pollution Control Division	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	May 2021	Y	N	N	May 21, 2021
5 CCR 1001-10 - Control of Hazardous Air Pollutants	Air Pollution Control Division	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	May 2021	Y	N	N	May 21, 2021
5 CCR 1001-27 - Regional Haze Limits	Air Pollution Control Division	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	May 2021	Pending	Pending	Pending	Pending
5 CCR 1002-72 - Cherry Creek Reservoir Control Regulation	Water Quality Control Division	§25-8-202(1)(c) and §25-8-205, C.R.S.	May 2021	Y	N	N	Pending

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1002-86 - Graywater Control Regulation	Water Quality Control Division	§25-8-101 through §25-8-703, C.R.S.	May 2021	Y	N	N	Pending
5 CCR 1002-93 - Colorado's Section 303(D) List of Impaired Waters and Monitoring and Evaluation List	Water Quality Control Division	§25-8-202(1)(a), (b), (i), (2) and (6), §25-8-203, and §25-8-204, C.R.S.	May 2021	N	N	N	NA
6 CCR 1011-1 Chapter 21 - Hospices	Health Facilities and Emergency Medical Services Division	§25-1-107.5, §25-1-108, §25-1-120, §25-1-124(3), §25-1.5-101, §25-1.5-103, §25-1.5-108, §25-3-101 et seq., §25-27.5-101 et seq., and §26-20-108 et seq., C.R.S.	May 2021	Y	Y	N	Pending
5 CCR 1001-9 - Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds and Nitrogen Oxides)	Air Pollution Control Division	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	July 2021	Y	N	N	July 16, 2021
5 CCR 1001-14 - Air Quality Standards, Designations and Emission Budgets	Air Pollution Control Division	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	July 2021	NA	NA	NA	Withdrawn

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1001-26 - Greenhouse Gas Reporting and Monitoring	Air Pollution Control Division	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	July 2021	Y	N	N	August 19, 2021
6 CCR 1007-1 Part 10 - Radiation Control - Notices, Instructions and Reports to Workers: Inspection	Hazardous Materials and Waste Management Division	§25-1.5-101(1)(1), §25-1-108(1)(c). and §25-11-104. C.R.S.	July 2021	Y	N	N	Pending
5 CCR 1002-23 - Regulation for State of Colorado Continuing Planning Process	Water Quality Control Division	§§25-8-202(2), 207(1)(c), and 703, C.R.S.	August 2021	Pending	Pending	Pending	Pending
5 CCR 1002-51 - Water Pollution Control Revolving Fund Rules	Water Quality Control Division	§25-8-202 (1)(e) and (g), C.R.S.	August 2021	N	N	N	NA
5 CCR 1002-52 - Drinking Water Revolving Fund	Water Quality Control Division	§25-1.5-203, C.R.S.	August 2021	N	N	N	NA
5 CCR 1002-64 - Biosolids Regulation	Water Quality Control Division	§25-8-202, §25-8-205, §25-8-501, and §25-8-509, C.R.S.	August 2021	N	N	N	NA
6 CCR 1011-1 Chapter 24 - Medication Administration Regulations	Health Facilities and Emergency Medical Services Division	§25-1.5-103, §25-1.5-301, et seq., and §25-1.5-302, C.R.S.	August 2021	Y	Y	N	Pending

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1001-8 - Standards of Performance for New Stationary Sources	Air Pollution Control Division	\$24-4-103 and \$25-7-110, \$25-7-110.5 and \$25-7-110.8, C.R.S.	November 2021	Pending	Pending	Pending	Pending
5 CCR 1001-23 - The Control of Lead Hazards	Air Pollution Control Division	\$24-4-103 and \$25-7-110, \$25-7-110.5 and \$25-7-110.8, C.R.S.	November 2021	Pending	Pending	Pending	Pending
5 CCR 1002-34 - Classifications and Numeric Standards for San Juan and Dolores River Basins	Water Quality Control Division	\$25-8-203 and \$25-8-204, C.R.S.	November 2021	Pending	Pending	Pending	Pending
5 CCR 1002-35 - Classifications and Numeric Standards for Gunnison and Lower Dolores River Basins	Water Quality Control Division	\$25-8-203 and \$25-8-204, C.R.S.	November 2021	Pending	Pending	Pending	Pending
5 CCR 1002-82 - 401 Certification Regulation	Water Quality Control Division	\$25-8-202 and \$25-8-205, C.R.S.	November 2021	Pending	Pending	Pending	Pending
5 CCR 1001-9 - Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions (Emissions of Volatile Organic Compounds and Nitrogen Oxides)	Air Pollution Control Division	\$24-4-103 and \$25-7-110, \$25-7-110.5 and \$25-7-110.8, C.R.S.	December 2021	Pending	Pending	Pending	Pending

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
5 CCR 1001-26 - Colorado Greenhouse Gas Reporting and Monitoring	Air Pollution Control Division	§24-4-103 and §25-7-110, §25-7-110.5 and §25-7-110.8, C.R.S.	December 2021	Pending	Pending	Pending	Pending
6 CCR 1007-2, Part 1, Section 5 - Asbestos Waste Management	Hazardous Materials and Waste Management Division	§30-20-109, C.R.S.	December 2021	Pending	Pending	Pending	Pending
6 CCR 1007-2, Part 1, Section 10 - Waste Tire Facilities and Waste Tire Haulers	Hazardous Materials and Waste Management Division	§30-20-1401(2), C.R.S.	December 2021	Pending	Pending	Pending	Pending
6 CCR 1007-3, Part 266 - Hazardous Waste - Colorado Financial Requirements	Hazardous Materials and Waste Management Division	§25-15-301, et.seq., C.R.S.	December 2021	Pending	Pending	Pending	Pending
6 CCR 1007-3, Part 99 - Hazardous Waste - Notification	Hazardous Materials and Waste Management Division	§25-15-301, et.seq., C.R.S.	December 2021	Pending	Pending	Pending	Pending
6 CCR 1007-3, Part 100 - Hazardous Waste - Permit Regulation	Hazardous Materials and Waste Management Division	§25-15-301, et.seq., C.R.S.	December 2021	Pending	Pending	Pending	Pending

Rule Number (CCR) and Title (or Description)	Division/ Board/ Program	Statutory or Other Basis	Month of Review Completion	Did review result in revisions to regulation?	Did the review result in repeal of any part of the regulation?	Did review result in repeal of entire CCR volume?	Adoption date (if applicable)
6 CCR 1007-3, Part 101 - Hazardous Waste - Department Compliance Advisories and Enforcement Actions	Hazardous Materials and Waste Management Division	§25-15-301, et.seq., C.R.S.	December 2021	Pending	Pending	Pending	Pending
5 CCR 1002-63 - Pretreatment Regulations	Water Quality Control Division	§25-8-202, §25-8-205, and §25-8-508, C.R.S.	December 2021	Pending	Pending	Pending	Pending

Departmental Regulatory Agendas

Department

Department of Human Services

2021

Regulatory Agenda **REPORT**

January 1, 2021-December 31, 2021



Overview

The Colorado Department of Human Services (CDHS) submits the following 2021 Regulatory Agenda Report and Results of Mandatory Review of Rules in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. § 2-7-203(4), detailing the results of the past year's rules review activity and the results of its mandatory review of rules pursuant to Colo. Rev. Stat. § 24-4-103.3.

Hearing or Adoption Date	CCR Number	Rule Title (CDHS Tracking)	New Rule, Revised, Reviewed or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders	Status <i>Adopted/Not Adopted/Withdrawn/Ongoing</i>
Adopted: 1/8/2021	12 CCR 2509-4	Revision to Kinship Rules Regarding Non-Certified kinship Care Placements (20-07-14-04)	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 19-3-406, C.R.S.; 19-3-407, C.R.S.	To allow flexibility for county human services directors to name a designee to authorize kinship living arrangements when the county department does not have custody or authority for placement, and there is a disqualifying factor in the home of the potential kinship living arrangement.	County departments of human/social services, kin-serving community agencies, kinship families.	Adopted
Adopted: 1/8/2021	2 CCR 502-1	Controlled Substance Licensing Update (19-10-18-01)	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 18-18-301, C.R.S.; 27-80-204, C.R.S.; 27-80-213, C.R.S.; 42 C.F.R. Part 8	To align the Office of Behavioral Health's (OBH's) controlled substance licensing rules with SB19-219. To clarify inconsistencies within the controlled substance licensing and opioid treatment program regulations.	Current and prospective providers with or planning to obtain a controlled substance license from OBH. Individuals receiving or in need of medication assisted treatment (MAT).	Adopted
Adopted: 1/8/2021	12 CCR 2509-4	Sibling Foster Care (20-05-22-01)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-1-111, C.R.S.; 19-1-103, C.R.S.; 19-7-201 - 203, C.R.S.; 19-3-213, C.R.S.; 19-3-500.2, C.R.S.;, 19-3-507, 19-3-508, 19-3-605, and	To address concerns the Office of Legislative Legal Services (OLLS) had concerns with language in sections 7.304.201 and 7.304.64 in a previously adopted rule packet.	Permanency Task Group, county administrators and supervisors, Rocky Mountain Legal Clinic, Foster Power, Elevating Connections, Office of the Child's Representative, OLLS	Adopted

				19-5-207.3; 19-7-204 (2), C.R.S.; 19-7-204, C.R.S.			
Adopted: 1/8/2021	12 CCR 2516-1	Legal Credential Authorization Requirements for Communication Access Realtime Translation (CART) Providers (20-09-24-02)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.;	To address the shortage of CART providers, an issue compounded by the COVID-19 pandemic. CART providers provide access to effective communication for deaf, hard of hearing, and deafblind consumers during legal proceedings, court services, and other related matters.	State Courts, Legal Auxiliary Services Advisory Council, Legal Auxiliary Services Rule 230 CART Working Group, CART providers, CART consumers.	Adopted
Adopted: 1/8/2021	9 CCR 2503-5	Old Age Pension and Aid to the Needy Disabled Colorado Supplement Cost of Living Adjustment (COLA) Increase for 2021 (20-10-16-01)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 24-4-103, C.R.S.; 26-2-111, C.R.S.; 26-2-114, C.R.S.; Colorado Constitution, Article XXIV, Section 6; 26-2-119, C.R.S.; 20 C.F.R. 416.2095 et seq.	Pursuant to a Maintenance of Effort requirement with the U.S. Social Security Administration, to “pass through” certain COLA adjustments to recipients in order to spend at least the same amount in the current year as in the year prior.	County Human Services Directors Association; Colorado Commission on Aging; Colorado Legal Services; Disability Law Colorado; Colorado Senior Lobby; Single Entry Point agencies; PAC & Economic Security Sub-PAC; Colorado Gerontological Society; Area Agencies on Aging; Colorado Center on Law and Policy; Colorado Department of Human Services Food & Energy Assistance Division; and, Colorado Department of Health Care Policy and Financing.	Adopted
Adopted: 2/5/2021	12 CCR 2516-1	Technical Clean-up for the Colorado Commission for the Deaf, Hard of Hearing, and DeafBlind’s	Revised	26-1-107, C.R.S.; 26-1-111, C.R.S.; 26-21-107.5, C.R.S.; 26-21-107.5, C.R.S.; 26-21-107.7, C.R.S.	To revise a definition in the Colorado Commission for the Deaf, Hard of Hearing, and DeafBlind (CCDHHDB) Grant Program, to align with statute, as requested by OLLS.	Deaf, hard-of-hearing, and deafblind consumers; Local government State agencies; State-operated programs;	Adopted

		(CCDHHDB) Grant Program (20-11-24-01)				Private non-profit community-based organizations; Former, current and future grantees of the CCDHHDB Grant Program.	
Adopted: 2/5/2021	12 CCR 2509-8	General Rules 701 Update (20-09-11-01)	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-6-106, C.R.S.; 26-6-106.3, C.R.S.	To comply with pending Federal requirements for Families First Prevention Services Act (FFPSA). Also to clarify/modify rules for consistency among the 24-hour care and day treatment programs.	Providers including those from child placement agencies, day treatment centers, residential child care centers, secure residential treatment centers, specialized group facilities, and foster care homes.	Adopted
Adopted: 2/5/2021	12 CCR 2509-8	Rules Regulating Therapeutic Foster Care (20-09-24-03)	New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-6-106, C.R.S.; 26-6-106.3, C.R.S.	To create rules for Therapeutic Foster Care in order to expand the continuum of care for children and youth and address the impact of the FFPSA on services for children and youth involved with the child welfare system.	Child placement agencies, county departments of human/social services, Colorado Department of Human Services, Office of the Child's Representative.	Adopted
Adopted: 2/5/2021	2 CCR 502-1	Updates to OBH's Addiction Counseling Program (20-11-09-01)	New, Revised, Reviewed, Repealed	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 12-245-804, C.R.S.; 12-245-805, C.R.S.; 12-245-806, C.R.S.; 27-80-108, C.R.S.	To align OBH's Addiction Counselor Certification Program rules with the changes to addiction counseling requirements from HB20-1206.	Individuals credentialed as addiction counselors, individuals pursuing or planning on pursuing an addiction counselor credential, and substance use disorder programs that employ addiction counselors.	Adopted
Adopted: 2/5/2021 (Emergency) 3/5/2021 (Permanent)	12 CCR 2516-1	Technical Update for (CCDHHDB) Communications Technology Program (21-01-06-01)	Revised	26-1-107, C.R.S.; 26-21-106, C.R.S.	To update rules in order to reflect the current 2021's Federal Poverty Guidelines.	Deaf, hard-of-hearing and deafblind consumers who qualify for the program, vendors, and state agencies.	Adopted

Adopted: 5/7/2021	12 CCR 2509-8	Meeting 'National Model Foster Family Home Licensing Standards' and Foster Parent Steering Committee Recommendation to Improve Alternative Care (20-07-06-01)	Revised, New, Repealed	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-6-106, C.R.S.; 42 U.S.C. § 671	To meet or be in reasonable accord with the National Model Foster Family Homes Licensing Standards. The standards are required by FFPFA.	Foster Parent Steering Committee and Time Limited Foster Care Rules Task Group.	Adopted
Adopted: 5/7/2021	12 CCR 2518-1	Adult Protective Services Program Oversight Rule Changes (20-12-22-02)	Revised	26-1-107, C.R.S.; 26-3.1-108, C.R.S.	To modify the performance improvement and corrective action rule requirements. The rule updates the statute and rule citations and changes the language from "shall" to "may" to provide CDHS with flexibility in when and how to apply performance improvement and corrective actions.	County departments of social/human services.	Adopted
Adopted: 5/7/2021	9 CCR 2503-9	Colorado Child Care Assistance Program (CCCAP) Rules (21-01-28-01)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-2-805, C.R.S.; 45 C.F.R. § 98.16	To assess parent copays based on a marginal rate increase rather than on an increased percentage of a family's gross income. This helps families continue to afford child care and maintain continuity of care for their children.	Office of Early Childhood (OEC) Policy Advisory Committee (PAC) & Sub-PAC, Sub-PAC designated County Advisory Group	Adopted
Adopted: 5/7/2021 (Emergency) 6/4/2021 (Permanent)	9 CCR 2503-7	Revisions to the Low Income Energy Assistance Program (LEAP) (21-03-25-01)	Revised	26-1-111, C.R.S.; 40-8.5-101, C.R.S.; § 40-8.7-109, C.R.S.	To change a relevant deadline to ensure that Colorado households have the time to apply for Low Income Household Water Assistance Program.	LEAP Self Administering Counties and the LEAP Administering Contractor.	Adopted

Adopted 6/4/2021	12 CCR 2509-1	Labor Trafficking of a Minor (12 CCR 2509-1) (20-07-22-01)	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To align rules with SB19-185, which added the definition of human trafficking as a form of child abuse and neglect now includes, “human trafficking of a minor for involuntary servitude,” or child labor trafficking.	County stakeholders, Office of Child’s Representative, Division of Youth Services.	Adopted
Adopted 6/4/2021	12 CCR 2509-2	Labor Trafficking of a Minor (12 CCR 2509-2) (20-09-11-02)	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To align rules with SB19-185, which added the definition of human trafficking as a form of child abuse and neglect now includes, “human trafficking of a minor for involuntary servitude,” or child labor trafficking.	County stakeholders, Office of Child’s Representative, Division of Youth Services.	Adopted
Adopted 6/4/2021	12 CCR 2512-2	Colorado Brain Injury Trust Fund Services (20-08-25-01)	Revised	26-1-107, C.R.S. (2015); 26-1-109, C.R.S. (2015); 26-1-111, C.R.S. (2015)	To align rules with changes made through HB19-1147, including changing definitions, enabling the expansion of services, and removal of outdated and unnecessary language.	Individuals with brain injury, their family members, providers that serve this population, and Brain Injury Trust Fund and Advisory Board members.	Adopted
Adopted 6/4/2021	9 CCR 2503-5	Adult Financial Expungement and Technical Clean-up (21-02-16-02)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To: (1) align expungement timeframes for unused Adult Financial grant payments with program rules for the Supplemental Nutrition Assistance Program (SNAP); and (2) Technical clean-up of language for clarity.	County Human Services Directors Association; PAC & Economic Security Sub-PAC; CDHS Food & Energy Assistance Division; Department of Health Care Policy and Financing.	Adopted
Adopted: 7/9/2021	12 CCR 2509-1	Substance Exposed Newborn Practice (20-07-20-02)	New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 19-3-216, C.R.S.	To bring existing rule in alignment with statute following the recent passage of Senate Bill 20-028. The new legislation changed the definitions of abuse and neglect for substance exposed newborns, and this proposed rule would align rules with this statutory language.	Division of Child Welfare, County staff and community stakeholders.	Adopted
Adopted: 7/9/2021 (Emergency)	9 CCR 2503-9	Colorado Child Care Assistance	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.;	To temporarily increase licensed child care provider absence payments to at least six absences	OEC Sub-PAC and PAC.	Adopted

8/6/2021 (Permanent)		Program Increased Absence Payments (21-04-23-02)		26-1-122, C.R.S.; 26-2-805, C.R.S.	per month for Colorado Shines Levels 1-2 providers and at least seven absences per month for Levels 3-5 providers from August 1, 2021 until June 30, 2022.		
Adopted: 8/6/2021	12 CCR 2509-8	Rules regulating Child Care Facilities & Quality Standards for 24 Hour Care (18-06-15-01)	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-6-106, C.R.S.	Supports requirements of FFPSA, including changes to the admission of and treatment services provided to children/youth to residential child care facilities.	Licensed residential care facilities, OBH, Department of Public Health & Environment.	Adopted
Adopted: 8/6/2021	12 CCR 2516-1	Certification for Sign Language Interpretation (21-04-20-01)	New	26-1-107, C.R.S.; 26-1-111, C.R.S.; 6-1-707, C.R.S.	To act upon authority provided by HB19-1069 to address a severe shortage of certified sign language interpreters by making additional sign language interpreter certifications available.	Deaf, hard of hearing, and deafblind (DHHDB) consumers; Sign language interpreters; Local government; Sign language interpreting agencies; State agencies; State-operated programs; Private non-profit community-based organizations; and Businesses.	Adopted
Adopted: 8/6/2021 (Emergency) 9/3/2021 (Permanent)	2 CCR 502-1	Behavioral Health On-Site Services (21-07-09-01)	New, Reviewed	26-1-107, C.R.S.; 26-1-111, C.R.S.; 27-65-128, C.R.S.; 27-66-102, C.R.S.; 27-80-108, C.R.S.; 27-81-106, C.R.S.	To allow behavioral health services to be delivered through video technology. Also removes the OBH on-site inspection requirements for agency license and designation reviews.	All facilities and programs regulated by OBH and individuals receiving and in need of behavioral health services.	Adopted
Adopted: 9/3/2021	2 CCR 502-1	Age of Outpatient Psychotherapy Consent (21-03-23-01)	Revised, Reviewed	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To align rule with statutory language and changes to age of consent for outpatient psychotherapy. Adds language that addresses psychotherapy consent age as established by HB19-1120.	Providers regulated by OBH. Youth aged 12-15 seeking outpatient psychotherapy services at OBH-regulated facilities.	Adopted

Adopted: 9/3/2021	9 CCR 2503-7	Revisions to the Low Income Energy Assistance Program (LEAP) (21-05-04-01)	Reviewed, Revised, New	26-1-111, C.R.S.; § 40-8.5-101, C.R.S.; § 40-8.7-109, C.R.S.	Part of annual review of LEAP rules, to amend current LEAP rules in a number of areas, to include: the flat-rate benefits charts; income guidelines; and reducing barriers to applicants by easing restrictions on earned income verification requirements.	LEAP Stakeholders Group.	Adopted
Adopted: 9/3/2021 (Emergency) 10/8/2021 (Permanent)	10 CCR 2506-1	FFY22 SNAP COLA Updates (21-08-11-02)	Revised	26-1-107, C.R.S.; 26-1-109(3), C.R.S.; 26-1-111, C.R.S.; 26-2-301, C.R.S.; 26-2-302, C.R.S.; 26-1-107, C.R.S.	To implement COLA changes required to become effective 10/01/2021. Figures are typically made available to states during the month of August immediately prior to the next fiscal year.	SNAP applicants and participants as well as county SNAP administration and staff.	Adopted
Adopted: 9/3/2021 (Emergency) 10/8/2021 (Permanent)	9 CCR 2503-9	Colorado Child Care Assistance Program FPG & SMI Updates (21-07-22-02)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-2-805, C.R.S.; 26-2-805, C.R.S.	To update the Federal Poverty Levels and the State Median Income levels in rule and in the automated system used by counties to administer CCCAP to align with each federal fiscal year updates.	Office of Early Childhood (OEC) PAC & Sub-PAC.	Adopted
Adopted: 9/3/2021 (Emergency) 10/8/2021 (Permanent)	12 CCR 2509-2	Child Abuse and Neglect Cases and Protective Orders (21-08-18-02)	Revised	26-1-107, C.R.S.; 19-3-216, C.R.S.; 19-3-313.5, C.R.S.	To require the Office of Administrative Courts (OAC) to issue protective orders at the same time of the Notices of Issues, thereby protecting medical information about alleged victims.	Attorney General's Office	Adopted
Adopted: 10/8/2021	12 CCR 2509-4	Qualified Residential Treatment Program Placement Reviews (21-02-25-01)	New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 24-4-103, C.R.S.; 24-4-102, C.R.S.	To create guidelines for the Qualified Residential Treatment Program (QRTP) Placement Review process. These rules would guide both the Administrative Review Division and counties in a number of areas related to the QRTP Placement Reviews.	FFPSA Implementation Assessment Group, County Departments of Human Services Workgroup, Office of the Respondent Parent Counsel, Office of the Child's Representative.	Adopted
Adopted: 10/8/2021	9 CCR 2503-6	Colorado Works ReVisioned (20-09-03-02)	New, Revised, Reviewed, Repealed	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-2-706, C.R.S.; 26-2-606.6, C.R.S.;	To redesign and streamline Colorado's Temporary Assistance for Needy Families (TANF) program, (Colorado Works) rules, Colorado Works Workforce	County Human Services Directors Association; Colorado Legal Services; Disability Law Colorado; All Families Deserve a	Adopted

				26-2-707-5, C.R.S.; 26-2-708, C.R.S.; 26-2-709, C.R.S.; 26-2-711, C.R.S.; 26-2-712, C.R.S.; 26-2-716, C.R.S.	Development program services, and the program's conciliation and noncompliance process.	Chance Coalition; PAC & Economic Security Sub-PAC; Colorado Center on Law and Policy; CDHS Food & Energy Assistance Division; and Colorado Department of Health Care Policy and Financing.	
Adopted: 10/8/2021	12 CCR 2509-8	Rules Regulating Child Care Centers (less than 24 hours) (21-05-20-01)	New, Revised, Reviewed, Repealed	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-6-113, C.R.S.; 26-6-106, C.R.S.	To reduce barriers for staff qualifications and outdoor space requirements, and to reorganize rules into a more consumer-friendly format.	All licensed child care centers (less than 24-hour care).	Adopted
Adopted: 10/8/2021 (Emergency) Hearing: 11/5/2021 (Permanent)	12 CCR 2509-5	Intellectual and Development al Disabilities Facilities and Acute Residential Facilities (21-08-11-01)	Revised, New	26-6-106, C.R.S.; 27-60-113, C.R.S.	To provide, pursuant to SB21-137, resources to providers to address the emergency need for increased placement for children and youth with acute and severe behavioral or mental health needs.	County departments of human and social services, health care providers, community centered boards, providers, parents.	Adopted (Emergency) Ongoing (Permanent)
Hearing: 11/5/2021	9 CCR 2504-1	Child Support Services (CSS) Application Fee (21-03-26-01)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 45 C.F.R. § 302.33	To eliminate the collection of an application fee from customers applying for child support services. This proposed rule change is consistent with the goal of Division of Child Support Services to provide equitable services to families across the state.	State and County Departments of Human Services and Divisions of CCSS, Office of Child Support Enforcement, Sub-PAC, PAC, Center on Fathering, Members of the Judiciary and the State Court Administrator's Office, Colorado IV-D Attorneys.	Ongoing
Hearing: 11/5/2021	12 CCR 2509-1	Extended Foster Care & Re-Entry (12 CCR 2509-1)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To implement HB21-1094, establishing the Foster Youth in Transition Program. The rules will ensure consistent statewide implementation and support counties in understanding what	Counties, runaway and homeless youth shelters, current and former foster youth, youth-serving agencies including those	Ongoing

					they are required to provide to youth who request services through the program.	providing services to emerging adults like CDHE.	
Hearing: 11/5/2021	12 CCR 2509-2	Extended Foster Care & Re-Entry (12 CCR 2509-2)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To implement HB21-1094, establishing the Foster Youth in Transition Program. The rules will ensure consistent statewide implementation and support counties in understanding what they are required to provide to youth who request services through the program.	Counties, runaway and homeless youth shelters, current and former foster youth, youth-serving agencies including those providing services to emerging adults like CDHE.	Ongoing
Hearing: 11/5/2021	12 CCR 2509-3	Extended Foster Care & Re-Entry (12 CCR 2509-3)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To implement HB21-1094, establishing the Foster Youth in Transition Program. The rules will ensure consistent statewide implementation and support counties in understanding what they are required to provide to youth who request services through the program.	Counties, runaway and homeless youth shelters, current and former foster youth, youth-serving agencies including those providing services to emerging adults like CDHE.	Ongoing
Hearing: 11/5/2021	12 CCR 2509-4	Extended Foster Care & Re-Entry (12 CCR 2509-4)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To implement HB21-1094, establishing the Foster Youth in Transition Program. The rules will ensure consistent statewide implementation and support counties in understanding what they are required to provide to youth who request services through the program.	Counties, runaway and homeless youth shelters, current and former foster youth, youth-serving agencies including those providing services to emerging adults like CDHE.	Ongoing
Hearing: 11/5/2021	12 CCR 2509-5	Extended Foster Care & Re-Entry (12 CCR 2509-5)	Revised	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To implement HB21-1094, establishing the Foster Youth in Transition Program. The rules will ensure consistent statewide implementation and support counties in understanding what they are required to provide to youth who request services through the program.	Counties, runaway and homeless youth shelters, current and former foster youth, youth-serving agencies including those providing services to emerging adults like CDHE.	Ongoing
Hearing: 12/3/2021	12 CCR 2509-2	Safe Haven, Abandoned Infants (21-02-08-01)	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.	To provide consistency in assessments of voluntarily surrendered infants.	Child Welfare Sub-PAC, Division of Child Welfare, Child Protection Task Group.	Ongoing

Hearing: 12/3/2021	10 CCR 2506-1	SNAP Technical Cleanup 2021 (20-08-10-01)	Revised, Repealed	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-2- 301, C.R.S. 26-2-302, C.R.S.; Agricultural Act of 2014	To provide unified terminology based on feedback from SNAP regulation workgroup, improved placement of definitions, archival of revision history, updated sections to align with federal regulation, technical clean up, and removal of obsolete language that is not in alignment with federal regulations.	All SNAP applicants, participants, and administrators.	Ongoing
Hearing: 12/3/2021	9 CCR 2504-1	Certification Requirements for Child Support Services Employees (21-01-11-01)	Revised, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 26-13- 103, C.R.S. 26-13.5-113	To help ensure county CSS provide consistent and equitable services to families across the state by clarifying certification requirements and establishing a certification requirement for CSS units that perform actions associated with the automated enforcement remedies.	OES Sub-PAC; County Human Services Directors and designees; CSS Administrators; Regional Partners; Federal Office of Child Support Enforcement; IV-D Attorneys; Judicial Department; Colorado Legal Services; and Center on Fathering.	Ongoing
Hearing: 12/3/2021	2 CCR 502-1	Follow-Up Updates To Controlled Substance Licensing (21-09-29-01)	Amended, Reviewed, New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111, C.R.S.; 18-18-301, C.R.S.; 27-80-204, C.R.S.; 27-80-213, C.R.S.; 42 C.F.R. § 8.11	To: better align Controlled Substance Licensing and Opioid Treatment Program (OTP) rules with Federal Controlled Substance Licensing/OTP requirements; address licensing procedures as required by the OLLS; and promote better access to MAT services.	Individuals in need of or receiving substance use disorder (SUD) treatment; Families of above individuals; the entities responsible for the payment of SUD services; and Providers.	Ongoing
Hearing: 12/3/2021 (Emergency)	12 CCR 2518-1	30.920 State Level Appeals Process (21-05-07-01)	New	26-1-107, C.R.S.; 26-1-109, C.R.S.; 26-1-111; 26-3.1-111, C.R.S.	To comply with HB21-1123, which requires the CDHS to share appeal information, to include appeal outcome, with the Colorado Department of Regulatory Agencies (DORA) for the purposes of a regulatory investigation.	Adult Protective Services (APS) Task Group; Interested public during stakeholder sessions; Administrative Review Division Steering Committee; PAC; Aging and Adult Sub-PAC; and DORA.	Ongoing
Hearing: 12/3/2021 (Emergency)	12 CCR 2518-1	Expansion of CAPS Checks to DORA and	Revised	26-1-107, C.R.S.; 26-3.1-108, C.R.S.	To implement HB21-1123 related to reporting substantiated perpetrators to DORA and the courts.	District and probate courts; persons seeking guardianship or conservatorship of an	Ongoing

		the Courts (21-04-23-01)				at-risk adult; county departments of human services; health professionals licensed by DORA.	
--	--	-----------------------------	--	--	--	---	--

2021

Results of Mandatory Review of Rules



2021 Results of Mandatory Review of Rules

Number (CCR) and Title (or Description)	Office	Identified Sections With Rules For Potential or Enacted Repeal, Revision, or Amendment	Did Review Result in Repeal of Entire CCR Volume?	Adoption Date (if applicable)
9 CCR 2503-7 - Income Maintenance (Volume 3)	OES	3.751.1, 3.752.21, 3.752.23, 3.755.12, 3.755.21, 3.755.45, 3.756.14, 3.758.32, 3.758.47 (Revision)	No	September 3, 2021
9 CCR 2503-8 - Income Maintenance (Volume 3)	OES	N/A <u>Note:</u> CCR Section was subject to comprehensive review during the rulemaking process in 2020.	No	N/A
9 CCR 2503-9 - Income Maintenance (Volume 3)	OES	3.902, 3.903, 3.905.1, 3.905.2 - 3.905.4, 3.906.1, 3.907.1, 3.909, 3.910.2, 3.911, 3.912, 3.914, 3.915.1, 3.917.1- 3.917.95 (Repeal, Revise) 3.904.1, 3.904.2, 3.904.3, 3.904.4, 3.906.2, 3.907 (Revise)	No	N/A
9 CCR 2504-1 - Child Support Services	OES	6.002, 6.101, 6.250.2, 6.260, 6.260.51, 6.261, 6.261.2, 6.261.3, 6.270, 6.600, 6.602 - 6.606, 6.701, 6.702, 6.710, 6.714, 6.805, 6.902.11 - 6.902.13, 6.904 - 6.907, 6.909 (Revise) 6.908, 6.908.6 (Repeal)	No	N/A

2022

Regulatory Agenda

January 1, 2022-December 31, 2022



COLORADO
Department of Human Services

Overview

The Colorado Department of Human Services (CDHS) submits the following 2022 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. § 2-7-203(4). Pursuant to state law, annually by November 1, executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules; and
- An identification and listing of persons or parties that may be affected positively or negatively by the rules.

The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department’s web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its “SMART Act” hearing and presentation pursuant to Colo. Rev. Stat. § 2-7-203(2)(a)(III)(A).

The following constitutes Department of Human Services’ DRA for 2022 and is provided in accordance with Colo. Rev. Stat. § 24-7-203(2)(a)(IV):

Bill (if applicable)	Office	CCR	Rule Title / CDHS Tracking Number (if applicable)	Purpose of Proposed Rule	Statutory or other basis for adoption or change to rule	New rule, revision, or repeal?	Anticipated Hearing Date	Stakeholders
HB21-1094	Office of Children, Youth & Families (OCYF)	12 CCR 2509-07	HB21-1094 Implementation Rules - IV-E (21-07-22-01)	To ensure counties are correctly claiming Title IV-E (IV-E) of the Social Security Act information.	19-7-315, C.R.S.	Revision	January 2022	County Departments of Human/Social Services; Foster Youth; Runaway and Homeless Youth Providers; and Placement Providers.
	OCYF	12 CCR 2509-8	7.705 Rules Regulating Residential Child Care Facilities and 7.714 Quality Standards for Twenty Four (24) Hour Child Care Facilities (21-09-23-01)	To support federal mandates for Family First Prevention Services Act (FFPSA).	26-6-106, C.R.S.; 26-1-107, C.R.S.; Federal mandates	Revision	January 2022	Residential child care facilities; specialized group facilities; kinship homes; certified foster homes; county departments of human services; child placement agencies that certify foster homes; and sponsor specialized group facilities.

	OCYF	12 CCR 2509-2	Plans of Safe Care Practice (21-03-16-01)	To add rules aligning child welfare practice with the Federal requirement of the Comprehensive Addiction and Recovery Act that requires a Plan of Safe Care be completed for all newborns who are born substance exposed.	Federal requirements		March 2022	Division of Child Welfare, county partners, and community partners.
	OCYF	12 CCR 2509-2	Institutional Abuse (21-03-02-02)	To provide clarity in determining findings for what does and does not constitute Institutional Abuse.	26-1-111, C.R.S.	Revision	May 2022	Child Welfare Sub-Policy Advisory Committee (PAC), PAC, Division of Child Welfare, Institutional Abuse Review Team.
	OCYF	12 CCR 2509-1	Institutional Abuse (21-03-02-01)	To provide clarity in determining findings for what does and does not constitute Institutional Abuse.	26-1-111, C.R.S.	Revision	May 2022	Child Welfare Sub-Policy Advisory Committee (PAC), PAC, Division of Child Welfare, Institutional Abuse Review Team.
	Office of Aging, Adult, and Disability Services (OAADS)	12 CCR 2510-1	Revisions to Volume 10 Older Americans Act (21-01-14-01)	To increase flexibility for the Area Agencies on Aging s (AAAs) and their community providers to enhance service delivery for older adults in the community.	26-1-107, C.R.S., 26-1-109, C.R.S., 26-1-111, C.R.S., 26-11-203, C.R.S.	Revision, Repeal	February or March, 2022	AAAs and community providers of the AAAs; State and Local Ombudsman Programs; Colorado Commission on Aging; and Family Voice Council.
SB21-216	OAADS	12 CCR 2516-1	Technical Clean-up for the Colorado Commission for the Deaf, Hard of Hearing, and DeafBlind's (CCDHHDB) Grant Program	To revise definition of "entity" to match the statutory definition in section 26-21-107.5(5), C.R.S.	26-21-107.5, C.R.S.	Revision	March 2022	Grant Program Committee; CCDHHDB; Deaf, hard of hearing, and deafblind (DHHDB) consumers; Local government; Sign language interpreting and transliterating agencies; State agencies; and state-operated programs.
SB21-118	OAADS	12 CCR 2518-1	Implementation of SB21-118: Adult Protective Services (APS) Alternative Response (21-09-09-01)	To implement SB21-118, which authorizes CDHS to set up a pilot program, allowing an alternative response to certain low-risk allegations of mistreatment and/or self-neglect. Additional	SB21-118	New Rule	June 2022	County departments of human services; APS clients and family members; and service provider agencies for at-risk adults.

				technical and/or practice changes may be included in this rule package.				
	Office of Economic Security (OES)	9 CCR 2503-7	Low Income Energy Assistance Program (LEAP)	To include annual updates to the income limits, provide updates to the flat rate charts to reflect current utility rates and update the federal poverty limits. In addition, to update any rules that need to be updated for the new program year based on stakeholder input.		Revision	November, 2022	LEAP counties and contractors.
	OAADS	12 CCR 2516-1	Technical Update for the CCDHHDB's Communications Technology Program	To update rules in in order for the numbers to reflect the current 2022's Federal Poverty Guidelines.	Federal guidelines	Revision	February 2022	Deaf, hard of hearing, and deafblind individuals/consumers.
HB21-1304	Office of Early Childhood (OEC)	9 CCR 2503-9	Colorado Child Care Assistance Program (CCCAP)	To update CCCAP Rules to align with changes in statute that result of the creation of the new Department of Early Childhood.	26-1-107, C.R.S., 26-1-111, C.R.S., 26-1-109, C.R.S.	Revision	TBD	OEC Sub-Policy Advisory Committee (PAC), PAC, and other county/childcare provider/citizen stakeholder groups that will be determined once the new department is formed.
SB21-201	OEC	9 CCR 2503-9	Colorado Child Care Assistance Program	To update the CCCAP Qualified Exempt Child Care Provider background check rules to align with the related changes in statute that will now require individuals to be denied a CCCAP Fiscal Agreement if they have petty offense convictions in addition to a pattern of misdemeanors	26-1-107, C.R.S., 26-1-111, C.R.S., 26-1-109, C.R.S.	Revision	TBD	OEC Sub-PAC, PAC, and other county/childcare provider/citizen stakeholder groups that will be determined as needed in coordination with Child Care Licensing.
	OEC	9 CCR 2503-9	Colorado Child Care Assistance Program (20-10-22-01)	To: update CCCAP rules regarding processing timeframes for redetermination forms received by the county; the way in which counties verify citizenship, date of birth, and identity of children applying for the program to align with OM-ECL-2021-002; and, revising the rules regarding the use of Slot Contracts.	26-1-107, C.R.S., 26-1-111, C.R.S., 26-1-109, C.R.S.	New Rule, Revision	May 2022	The Slot Contract rule revisions have been revised in partnership with a county and child care provider workgroup. Other county/childcare provider/citizen stakeholder groups will be engaged via public comment regarding the other rule changes to ensure transparency and to gather additional feedback. PAC

								and the OEC Sub-PAC will be engaged.
	OES	10 CCR 2506-1	Supplemental Nutrition Assistance Program (SNAP) FY23 Cost of Living (COLA) Updates	To update rules with annual updates to income guidelines and certain deductions as a result of annual cost of living increases.	Federal guidelines	Revision	October 2022	Economic Security Sub-PAC, County Departments, Colorado Center on Law and Policy, Hunger Free Colorado, SNAP clients.
SB21-275	OEC	12 CCR 2509-10	Early Intervention (EI) Program	To revised EI rules to reflect the change in responsibilities transferred by SB21-275.	SB21-275	Revision	2022	Families, direct service providers, Community Centered Boards, Administrative Units, and Colorado Interagency Coordinating Council.
HB21-1021	Office of Behavioral Health (OBH)	2 CCR 502-1	Approval of Recovery Support Service Organizations	To establish standards that Recovery Support Service Organizations must meet in order to be eligible to bill Medicaid for their peer delivered services.	27-60-108, C.R.S.	New Rule	May 2022	Department of Health Care Policy and Finance (HCPF), Recovery organizations, Peers, Individuals experiencing Substance Use Disorder (SUD); Family of persons with SUD.
HB21-1305	OBH	2 CCR 502-1	Educational Standards for Addiction Counselor Licensure	To set training requirements for individuals seeking a licensure as an addiction counselor, as required by HB21-1305.	12-245-804, C.R.S.; 27-80-108, C.R.S.	New Rule, Revision, Repeal	January 2022	Department of Regulatory Affairs (DORA), Individuals pursuing addiction counselor licensure.
Possible 2022 Bill	OBH	2 CCR 502-1	Behavioral Health Administration (BHA) / Behavioral Health System	Depending on scope and duties of the Behavioral Health Administration outlined in expected 2022 legislation, there is likely to be a complete reform to OBH's current rule volume, 2 CCR 502-1.	TBD	New Rule, Revision, Repeal	TBD	All behavioral health stakeholders.
SB21-216	OAADS	12 CCR 2516-1	CCDHHDB's Rural Auxiliary Services Program	To address: (1) the definition of "rural area"; (2) a process for providing auxiliary services (sign language interpreting/ Communication Access Realtime Translation (CART) services to rural areas for deaf, hard of hearing, and deafblind individuals; (3) a process for working with auxiliary service providers; (4) related training/scholarship activities; (5) related	26-21-106, C.R.S.	New Rule	December 2022	Rural community members; local professionals/organizations focused on communication access for deaf, hard of hearing, and deafblind communities (e.g., Bridging Communications, Colorado Cross Disability Coalition); Auxiliary Service Providers who work in rural

				outreach activities; (6) required website resources; and (7) creating/maintaining an advisory council.				communities; and entities interested in providing auxiliary services training.
SB06-61	OAADS	12 CCR 2516-1	CCDHHDB's Legal Auxiliary Services Program Clean-Up	To update outdated, especially with the recognition of a new sign language interpreter certification as of September 30, 2021.		Revision	June 2022	Members of the deaf, hard of hearing, and deafblind communities; organizations focused on deaf, hard of hearing, and deafblind communities; Colorado State Courts and those interacting with the courts; and auxiliary service providers.
SB21-137, SB21-276	Office of Children, Youth and Families (OCYF)	12 CCR 2509-5	Intellectual and Developmental Disabilities (IDD) Facilities and Acute Residential Facilities	To permit any updates identified as necessary to rules adopted under an emergency basis in 2021 due to SB21-137 and SB21-276. These rules regulate Acute Residential Facilities.	26-6-106, C.R.S., 27-60-113, C.R.S., 26-5-102, C.R.S.	Revision	May 2022	County Departments of Human and Social Services, HCPF, Colorado Department of Public Health and Environment (CDPHE), Children's Hospital of Colorado.
	OES	9 CCR 2503-5	Colorado Works Technical Clean Up	To provide technical clean-up to the Colorado Works Program rules. Relates to the federal program Temporary Assistance for Needy Families (TANF), known as Colorado Works.		Revision	July 2022	Economic Security Sub-PAC; County Departments; Colorado Center on Law and Policy; All Families Deserve a Chance Coalition; Colorado Works clients
	OES	9 CCR 2503-6	Adult Financial Modernization Phase II	To continue revisions to the Adult Financial program rules.		New rule, revision	January 2022	Economic Security Sub-PAC; County Departments; Colorado Center on Law and Policy; Adult Financial Clients, Colorado Cross Disability Coalition; and AAAs.
	OES	9 CCR 2503-5	Colorado Works ReVisioned Phase II	To continue revisions to the ReVisioned Colorado Works program rules, the first phase of which was adopted in 2021.		Revision	December 2022	Economic Security Sub-PAC; County Departments; Colorado Center on Law and Policy; All Families Deserve a Chance Coalition; and Colorado Works clients.

	OES	9 CCR 2503-6	Adult Financial Cost of Living Adjustments (COLA)	To adjust COLA figures in rule following release by the Federal Government at or near the end of the fiscal year.	Federal guidance	Revision	November 2022	Economic Security Sub-PAC; County Departments; Colorado Center on Law and Policy; Adult Financial Clients, Colorado Cross Disability Coalition; and AAAs.
SB21-199	OES	9 CCR 2503-5	Colorado Works Lawful Presence Updates and Intentional Program Violations (IPV) Waivers	To revise program rules relating to IPV waivers.	26-2-111.8, C.R.S.	Revision	March 2022	Economic Security Sub-PAC, County Departments, Colorado Center on Law and Policy, All Families Deserve a Chance Coalition, Colorado Works clients
SB21-199	OES	9 CCR 2503-6	Adult Financial Lawful Presence Updates and IPV Waivers	To revise program rules relating to lawful presence and IPV Waivers.	26-2-111.8, C.R.S.	Revision	March 2022	Economic Security Sub-PAC; County Departments; Colorado Center on Law and Policy; Adult Financial Clients, Colorado Cross Disability Coalition; and AAAs.
	OES	9 CCR 2503-6	Adult Financial Program Grant Increases	To revise program rules relating to program grant increases.		Revision	October 2022	Economic Security Sub-PAC; County Departments; Colorado Center on Law and Policy; Adult Financial Clients, Colorado Cross Disability Coalition; and AAAs.
	OES	9 CCR 2504-1	Child Support Services Rule Review	To review and amend or revise existing program rules as necessary.		New, Revision	November 2022	Economic Security Sub-PAC, PAC, County Department of Human Services, Colorado Judiciary, Family Law Section, Fatherhood/Motherhood Groups, Office of Child Support Enforcement, OES partners, and IV-D Attorneys.
	OCYF	12 CCR 2509-2	Deferred Findings	To revise existing and as necessary add new program rules relating to the process and deferred findings for people Person Responsible for Abuse or Neglect (PRAN).		Revision, New	TBD	Child Protection Task Group (and other county partners), Administrative Review Division (ARD), Office of Respondent Parent's Counsel (CRPC) and

								Office of the Children's Representative (OCR)
	OCYF	12 CCR 2509-1, 12 CCR 2509-2	Emotional Abuse	To develop consistency in definitions relating to emotional abuse/neglect, especially severity levels. Note that this will be adopted in several rule packets.		Revision	TBD	Child Protection Task Group (and other county partners), Administrative Review Division. ORPC and OCR.
	OCYF	12 CCR 2509-1, 12 CCR 2509-2	Educational Abuse	To provide clarity in rules regarding educational abuse, especially for children who are being educated at home. Note that this will be adopted in several rule packets.		Revision, New	TBD	Child Protection Task Group (and other county partners), Administrative Review Division. ORPC and OCR.
	OCYF	12 CCR 2509-2, 12 CCR 2509-3, 12 CCR 2509-5	Prevention, Streamline Prevention Processes	To revise existing rules and add new rules as necessary as they pertain to prevention. Note that this will be adopted in several rule packets.		Revision, New	March 2023	Child Protection Task Group (and other county partners), Administrative Review Division. ORPC and OCR.
	OCYF	12 CCR 2509-2, 12 CCR 2509-5	Core Services Program (21-10-20-01, 21-10-20-01)	To provide clarity regarding processes and to develop consistency relating to the Core Services Program. Note that this will be adopted in several rule packets.		Revision	September 2022	Child Protection Task Group (and other county partners), Administrative Review Division. ORPC and OCR.
	OCYF	12 CCR 2509-3	Case Closure	To revise existing rules relating to case closure case requirements.		Revision	TBD	
	OCYF	12 CCR 2509-3, 12 CCR 2509-6, 12 CCR 2509-7, 12 CCR 2509-8	Kinship Foster Care	To write rules for the new level of kinship foster care. Note that this will be adopted in several rule packets.		New	TBD	
	OCYF	12 CCR 2509-4	Adoption Rules (Part 3 of 3)	To complete revisions to adoption rules. This will be the third of three packets in recent years to amend related rules.		New	TBD	
	OCYF	12 CCR 2509-5	Foster Care	To revise this section to comply with Federal law and to make this more user friendly		New	TBD	

	OCYF	12 CCR 2509-4	Immunization Requirements	To revise existing rules relating to immunization requirements.		Revision	TBD	
	OCYF	12 CCR 2509-8	Immunization Requirements (20-12-14-01)	Section 7.304 County pre-placement re: immunizations will be finalized in 2022- short package		Revision	TBD	
	OCYF	12 CCR 2509-4	Relative Guardianship Assistance Program (RGAP)	To revise existing rules relating to the RGAP program.		Revision	TBD	
SB20-162	OCYF	12 CCR 2509-4	Independent Assessor Process (21-07-19-01)	To revise and add new rules as necessary re county responsibilities when placing a child/youth in a QRTP.	19-1-102, C.R.S; 19-1-115, C.R.S	Revision, New	October 2022	Child Welfare Sub-PAC, county departments of human/social services, OBH, HCPF, and residential services providers.
SB20-162	OCYF	12 CCR 2509-7	Confidentiality	To revise rules about how counties will handle confidential information for staff and clients	19-1-102, C.R.S.; 19-1-115, C.R.S	Revision	December 2022	Child Welfare Sub-PAC, county departments of human/social services, OBH, HCPF, and residential services providers.
SB20-106	OCYF	12 CCR 2509-8	Homeless Youth Consent	To revise rules to comply with Federal law about young people consenting to care.		Revision	TBD	24-hour child care providers, CDPHE, OBH, HCPF, Colorado Department of Education, county departments of human/social services.
SB21-269	OCYF	12 CCR 2509-8	Respite Care Child Care Centers	To revise rule to allow for more flexibility for foster parents to use respite care		New	May 2022	24 hour child care providers, RAEs, CDPHE, OBH, HCPF, CDE, and county departments of human/social services.
	OCYF	12 CCR 2509-8	Day Treatment Centers	To Revise rules about how Day treatment centers are monitored by provider services		Revision	October 2022	24 hour child care providers, RAEs, CDPHE, OBH, HCPF, CDE, and county departments of human/social services.

	OCYF	12 CCR 2509-8	Homeless Youth Shelters	To add a section of rules for Colorado to have more consistent practice regarding homeless youth shelters		Revision	June 2022	24 hour child care providers, RAEs, CDPHE, OBH, HCPF, CDE, and county departments of human/social services.
	OCYF	12 CCR 2509-8	General Rules for Child Care Facilities	To update rules around how child care centers are monitored by provider services		Revision	July 2022	24 hour child care providers, RAEs, CDPHE, OBH, HCPF, CDE, and county departments of human/social services.
	OCYF	12 CCR 2509-8	Homeless Youth Host Homes	To provide new rules about how youth host homes can provide services to homeless youth		Revision	June 2022	24 hour child care providers, RAEs, CDPHE, OBH, HCPF, CDE, and county departments of human/social services.
	OCYF	12 CCR 2509-8	Respite Only Foster Care Homes (21-08-18-01)	To add rules to allow for foster parent to provide respite only to increase foster home supports		Revision	June 2022	24 hour child care providers, RAEs, CDPHE, OBH, HCPF, CDE, and county departments of human/social services.
	OCYF	12 CCR 2509-8	Quality Standards for Child Care Facilities	To update rules for child care facilities to comply with federal law and how they are monitored		Revision, New	March 2022	24 hour child care providers, RAEs, CDPHE, OBH, HCPF, CDE, and county departments of human/social services.
	OCYF	12 CCR 2509-8	Psychiatric Residential Treatment Facilities (PRTF), Qualified Residential Treatment Program (QRTF), and Residential Child Care Facilities (RCCF)	To add rules about how providers services will monitor psychiatric residential facilities and Qualified Residential treatment facilities,		Revision, New	March 2022	24 hour child care providers, Regional Accountable Entities (RAEs), CDPHE, OBH, HCPF, CDE, and county departments of human/social services.
	OCYF	12 CCR 2509-8	Child Placement Agencies	To add rules about Child Placement agencies and how they are monitoring the foster homes they license		Revision, New	September 2022	24 hour child care providers, CDPHE, OBH, HCPF, CDE, and county departments of human/social services.

	OCYF	12 CCR 2509-8	Acute Residential	To add rule about the new facilities that the state will be supervising for high acuity youth		Revision, New	January 2022	24 hour child care providers, CDPHE, OBH, HCPF, CDE, and county departments of human/social services.
	OCYF	12 CCR 2509-8	Increase CHRP capacities in group care facilities	To change the cap for foster homes who serve youth with Developmental Disabilities		Revision	February 2022	24 hour child care providers, CDPHE, PBH, HCPF, CDE, county departments of human/social services
	OCYF	12 CCR 2509-8	IDD Facilities and Acute Residential Facilities	To add rule about the new facilities that the state will be supervising for high acuity youth		Revision	May, 2022	24 hour child care providers, CDPHE, OBH, HCPF, CDE, and county departments of human/social services.

Departmental Regulatory Agendas

Department

Department of Labor and Employment

2022

Regulatory Agenda

January 1, 2022-December 31, 2022



COLORADO
Department of
Labor and Employment

Overview

The Colorado Department of Labor and Employment submits the following 2022 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1, executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department’s “Regulatory Efficiencies Reviews” during 2022 (which are denoted as such in the “purpose” column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department’s web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its “SMART Act” hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes the Department of Labor and Employment’s Regulatory Agenda for 2022 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule Anticipated Hearing or Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>
February 2022	7 CCR 1101-3	Workers' Compensation Rules of Procedure with Treatment Guidelines	Revision	8-47-107	Update surcharge	Insurance carriers
September 2022	7 CCR 1101-3	Workers' Compensation Rules of Procedure with Treatment Guidelines	Revision	8-47-107	Update fee schedule	Insurance carriers, injured workers, medical providers
November 2022	7 CCR 1101-3	Workers' Compensation Rules of Procedure with Treatment Guidelines	Revision	8-47-107	Update treatment guidelines	Insurance carriers, injured workers, medical providers
May 2022	7 CCR 1101-14	Storage Tank Regulations	Revision	8-20.5-103(9)	Revise RBSL standards, simplify AST rules and align with NFPA, maybe AST Operator Training, maybe Storage Tank Fund sunset?, various edits and corrections.	Tank owners, CWMPA, tank contractors and consultants

May 2022	7 CCR 1101-18	Underground Damage Prevention Safety Commission Regulations	Revision	9-1.5-104.2 (2)(d) and 104.2(6)(a)	Stakeholder meetings will begin on 10-18-21, regarding the amendment to CRS 9-1.5 by the passing of HB21-1095. There may be revision necessary to clarify the exemption from calling for utility locates before road grading by County employees.	Utility Notification Center of Colorado, excavators, underground facility owners
August 2022	7 CCR 1101-8	Conveyance Regulations	Revision	9-5.5-116	Depending upon the final Sunset Review Report from DORA, recommendations to revise rule may include revising regulation to eliminate the regulations of specific types of conveyances.	Conveyance owners, contractors, inspectors, mechanics, interested citizens
March 2022	7 CCR 1101-12	Amusement Rides and Devices Regulations	Revision	8-20-1004	There may be necessary regulation revision depending upon the public, industry and legislative response to the report and enforcement documents issued for the investigation of the accident at Glenwood Caverns Adventure Park.	Contractors, interested citizens, owners, operators, industry specialists
October 2022	7 CCR 1101-2	Regulations Concerning Employment Security	Revision	8-72-102	Worker Classification Investigations and Fines - To change the amount of the monetary penalty assessed	Employers and workers, business associations, advocacy groups,

					upon the first finding of an employee misclassification and any time after should that misclassification continue.	labor and union organizations
Fall 2022	7 CCR 1101-2	Regulations Concerning Employment Security	Revision	8-72-102	Update employer-related rules to accommodate changes coming with the Employer Services Modernization.	Employers and workers, business associations, advocacy groups, labor and union organizations
Spring 2022	7 CCR 1107-3	Division of Family and Medical Leave Insurance	New	8-13.3-504	Defining FAMLl Benefits	Employers and workers, business associations, advocacy groups, labor and union organizations, insurance carriers, medical providers
Spring 2022	7 CCR-1107-4	Division of Family and Medical Leave Insurance	New	8-13-.3-506	Amount of Benefits	Employers and workers, business associations, advocacy groups, labor and union organizations

Spring 2022	7 CCR 1107-5	Division of Family and Medical Leave Insurance	New	8-13.3-421	Substitution of Private Plans for FMLI Benefit	Employers and workers, business associations, advocacy groups, labor and union organizations, insurance carriers, medical providers
Summer 2022	7 CCR 1107-6	Division of Family and Medical Leave Insurance	New	8-13.3-511	Employer Responsibilities and Program Notifications	Employers and workers, business associations, advocacy groups, labor and union organizations, insurance carriers, medical providers
Summer 2022	7 CCR 1107-7	Division of Family and Medical Leave Insurance	New	8-13.3-514	Elective Coverage	Employers and workers, business associations, advocacy groups, labor and union organizations, insurance carriers, medical providers
Fall 2022	7 CCR 1107-8	Division of Family and Medical Leave Insurance	New	8-13.3-510	Coordination of Benefits	Employers and workers, business associations, advocacy groups, labor and union organizations,

						insurance carriers, worker compensation
Fall 2022	7 CCR 1105-1	Division of Vocational Rehabilitation	Revision	8-84-106	Revision to parameters for Financial Need Analysis	Coloradans with disabilities; advocates
Fall 2022	7 CCR 1105-1	Division of Vocational Rehabilitation	Revision	8-84-201	Ensure compliance and address inconsistencies	BEP Licensed Vendors; Coloradans with visual impairments; federal and state agencies with vending facilities; National Federation of the Blind
Early 2022	7 CCR 1101-1	Colorado Labor Peace Act and Industrial Relations Act Rules	Revision	Administrative Procedure Act, C.R.S. § 24-4-103, and the provisions of C.R.S. Title 24, Article 50, and C.R.S. §§ 8-1-101, -103, -107, -108, -111, -116, -117, -130; 8-2-206; and 24-50-1103, -1106(4).	To clarify and modernize the various processes required under the Act, and to revise the rules so it applies to agricultural employers and employees per SB 21-87, authorizing agricultural employees to organize and join labor unions, engage in protected, concerted activity, and engage in collective bargaining.	Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies
Early 2022	7 CCR 1103-16	Prevailing Wage and Apprenticeship Program	New Rule	Colorado Quality Apprenticeship Training Act of 2019, C.R.S. §	To provide guidance on provisions listed in SB 19-196 to include prevailing wage, and establish an	Labor and union organizations, non-profit organizations,

		Requirements for Public Projects		24-92-201 et. seq., and the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq.	investigation process for complaints received by the Division	advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies
Early 2022	7 CCR 1103-17	Colorado Youth Employment Opportunity Act Rules	New Rule	Colorado Youth Employment Opportunity Act, Article 12 of C.R.S. Title 8, and the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq.	To clarify the Division's exemption process and investigation process required by the Colorado Youth Employment Opportunity Act.	Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies
November 2022	7 CCR 1103-1	Colorado Overtime & Minimum Pay	Revision	These Rules are issued under the authority, and as enforcement, of	Division might revise the COMPS rule based on stakeholder feedback collected throughout the	Labor and union organizations, non-profit organizations,

		Standards Order (COMPS Order) #39		Section 15 of Article XVIII of the Colorado Constitution and Articles 1, 2, 4, 6, and 12 of C.R.S. Title 8 (2022), and are intended to be consistent with the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq.	year, and ongoing cases. With the new PAY CALC Order, which sets the state minimum wage, rulemaking on COMPS because on as-needed basis, instead of it being mandatory year after year.	advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies
November 2022	7 CCR 1103-14	Division of Labor Standards and Statistics - Pay Calculations	Revision	These Rules are issued under the authority, and as enforcement, of Section 15 of Article XVIII of the Colorado Constitution and Articles 1, 2, 4, 6, and 12 of C.R.S. Title 8 (2022), and are intended to be consistent with the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq.	Annual update of the state minimum wage per the Colorado Constitution, Section 15 of Article XVIII	Labor and union organizations, non-profit organizations, advocacy groups, Wage Theft Task Force, national and local law firms and bar associations, universities, business associations and organizations, internal state agencies

Departmental Regulatory Agendas

Department

Department of Public Safety

2022

Regulatory Agenda

January 1, 2022 – December 31, 2022



COLORADO

Department of Public Safety

Executive Director's Office

Overview

The Colorado Department of Public Safety submits the following 2022 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2022 (which are denoted as such in the "purpose" column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its Regulatory Agenda as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

The following constitutes the Department's Regulatory Agenda for 2022 and is provided in accordance with Colo. Rev. Stat. §24-7-203(4):

PUBLIC SAFETY 2022 Regulatory Agenda

Schedule	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review?	Purpose	Stakeholders	Anticipated Hearing Date
<i>month</i>				<i>X if yes</i>		<i>Consider including high-level outreach bullets</i>	
Jan.	8 CCR 1507-1	Revision	42-4-235 (4)(a)(I), CRS		review and update for consistency with state statutes and CFRs	Local/State Government; CMCA and other requesting parties	Jan/Feb 2022
Jan.	8 CCR 1507-22	Revision	29-22-104 (6)(A) & 29-22-104 (b), CRS		review and update for consistency with state statutes and CFRs	Local/State Government; DERAs; CMCA and other requesting parties	Jan/Feb 2022
Jan.	8 CCR 1507-25	Revision	42-20-109 (1)-(2), 42-20-404, 504, 508 & 42-20-108.5, CRS		review and update for consistency with state statutes and CFRs	Local/State Government; CMCA and other requesting parties	Jan/Feb 2022
Jan.	8 CCR 1507-28	Revision	42-8-104 (1), CRS		review and update for consistency with state statutes and CFRs	Local/State Government; CMCA and other requesting parties	Jan/Feb 2022
Dec. 2021	8 CCR 1507-56	Revision	43-3-502.5, CRS		review and update for consistency with state statutes and applicable national criteria	Local & State Government; MOSAB; MOST Vendors, Instructors, Stakeholders & Other Interested Parties	December 1st or 2nd, 2021
Mar.	8 CCR 1507-52	Revision	24-33.5-1231, CRS	X	review and update for consistency with state statutes and applicable national criteria		March 2022
Apr.	8 CCR 1507-44	Revision	24-33.5-2104 (4), CRS	X	review and update, if needed, for consistency with state statute and applicable guidelines	school districts, public schools within a school district, local educational agencies (LEA), charter schools, grant recipients	Unknown

Departmental Regulatory Agendas

Department

Department of Transportation

2022

Regulatory Agenda



COLORADO
Department of Transportation

Overview

The Colorado Department of Transportation submits the following 2022 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1, executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for the adoption of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and a brief summary of all permanent and temporary rules adopted since the previous DRA was filed.
-

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2021. The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department's website, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

The following constitutes Colorado Department of Transportation's DRA for 2021 and is provided in accordance with Colo. Rev. Stat. §24-7-203(4).

Schedule (month)	Rule Number and Title (or Description)	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review (X if yes)	Purpose	Stakeholders	Anticipated Hearing Date
March	2 CCR 601-17, Implementation of the Use of Waste Tires for Noise Mitigation Purposes along Colorado State Highways	Revision	§43-2-401, and §43-2-404, C.R.S.	X	The purpose of the rulemaking will be to conduct a review to assess the continuing need for, appropriateness and cost effectiveness of the program's rules as mandated by SB 14-063. The assessment will determine whether the rules should be continued in their current form, modified or repealed. This will include reviewing and revising the administrative rules regarding Statement of Basis and Purpose, Authority, Definitions, General Eligibility Criteria for Noise Mitigation Measures Funded, and Noise Mitigation Prioritization Formula.	The Department will work with the following stakeholders: (1) CDPHE, (2) Local Jurisdictions, (3) Environmental Organizations, and (4) Applicants for recycled waste tire grants pertaining to noise mitigation measures.	Fall 2022
May	2 CCR 601-1A, State Highway Access Category Assignment Schedule	Revision	§43-2-147, C.R.S.		The purpose of this rulemaking will be to update the Access Category Classifications as a result of any new additions and abandonments in the State Highway System.	The Department will work with the following stakeholders: (1) Local Jurisdictions, (2) Home Builder Associations, (3) Metro Districts, (4) Transportation Management Organizations and Associations, and (5) Statewide Transportation Advisory Committee.	Fall 2022

June	Rule 910, Hours of Operation and Restrictions in 2 CCR 601-4, Rules Pertaining to Transport Permits for the Movement of Extra-Legal Vehicles or Loads	Revision	§42-4-505 and §42-4-511(1), C.R.S		An unintended result of the March 30, 2020 emergency rulemaking effectively removed the prohibition of the operation of Longer Vehicle Combinations (“LVCs”) in the metropolitan areas of Pueblo, Colorado Springs, and Denver during rush hour times. The purpose of this rulemaking will be to reestablish the prohibition of the operation of LVCs on designated state highways in the metropolitan areas of Pueblo, Colorado Springs, and Denver during the weekday morning hours of 7 to 9 a.m. and evening hours of 4 to 6 p.m.	The Department will work with the following stakeholders: (1) Colorado Motor Carrier Association, (2) Colorado State Patrol, (3) Federal Highway Administration, (4) Colorado Wyoming Petroleum Marketers Association, and (5) LVC Permittees.	Early Spring 2022
------	---	----------	-----------------------------------	--	---	--	-------------------

Departmental Regulatory Agendas

Department

Department of Regulatory Agencies



COLORADO

**Department of
Regulatory Agencies**

Executive Director's Office

November 1, 2021

The Honorable Members of the General Assembly
c/o the Staff of the Legislative Council
State Capitol Building
200 East Colfax Denver, CO 80203

Dear Members of the General Assembly:

I am pleased to submit the Department of Regulatory Agencies' (DORA) 2022 Regulatory Agenda and the 2021 Regulatory Report, in compliance with §2-7-203, C.R.S. The Department's Regulatory Agenda has also been submitted to the Colorado Secretary of State for publication in the Colorado Register and both the Regulatory Agenda and Regulatory Report are posted to our website at <https://dora.colorado.gov/legislative-services>.

The Agenda provides a summary of rules that will be under consideration for review, revision, repeal, or creation in the upcoming calendar year. The Report summarizes all permanent, temporary, and emergency rules that were or are being revised, created, or repealed and the results of the mandatory review of regulations per the Department's Rule Review Schedule in the current calendar year. As reflected in the Report, all permanent regulations adopted by the Department involved early stakeholder engagement as outlined on the Department's website.

According to §2-7-203(2)(a)(II), C.R.S., the Department will be prepared to discuss our Agenda and Report with the Department's Joint Committee of Reference during our upcoming SMART Act presentation.

Sincerely,

Patty Salazar
Executive Director



2022

Regulatory Agenda



COLORADO
Department of
Regulatory Agencies

Overview

The Colorado Department of Regulatory Agencies submits the following 2021 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department’s “Regulatory Efficiencies Reviews” during 2021 (which are denoted as such in the “purpose” column). The DRA is to be filed with the Legislative Council staff for distribution to the committee(s) of reference, posted on the department’s web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its “SMART Act” hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II).

Note: For optimal printing, please ensure that “printer properties” and “page setup” are set up for legal-sized paper, “fit to page” and landscape.

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
1	BAN	4/1/2022	3-701-7	Surety Bond	Revision	§11-110-108 §11-102-104 (B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
2	BAN	4/1/2022	3-701-7	Permissible Investments	Revision	§11-110-108 §11-102-104 (B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
3	BAN	4/1/2022	3-701-7	Records	Revision	§11-110-111 §11-102-104(B) § 11-110-201 §11-110-114	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
4	BAN	4/1/2022	3-701-7	Qualifications for Licensing	Revision	§ 11-110-107 §11-102-104 (B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
5	BAN	4/1/2022	3-701-7	Money Transmitter	Revision	§11-110-103(3) §11-102-104 (B) § 11-110-112	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
6	BAN	4/1/2022	3-701-7	Compliance with Federal Regulations	Revision	§11-110-113 §11-102-104(B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
7	BAN	4/1/2022	3-701-7	Customer Notice	Revision	§11-110-120 §11-102-104(B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
8	BAN	4/1/2022	3-701-7	Employee Money Laundering	Revision	§11-110-203 §11-102-104(B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
9	BAN	4/1/2022	3-701-10	All Administrative Rules	Revision	§11-102-104		Review and update all administrative rules	Banking Board, state chartered banks, trust companies, licensed money transmitters and PDPA banks
10	DOI	6/1/2022	1-1-2001	Actuarial Qualifications	Revision	§10-1-108(8) §10-1-109.	Yes	The purpose of this regulation is to assure that the consulting actuary, actuary or other person acting in the capacity of an actuary is properly qualified to perform the actuarial duties in a competent and professional manner by establishing qualifications for such persons. The actuarial opinion and other documents included in the scope of this regulation are relied upon for determinations of financial soundness and for the protection of the general public. For these reasons, the qualifications of the person signing the documents must be verified and periodically reevaluated.	Actuaries

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
11	DOI	2/1/2022	1-1-2008	Penalties and Timelines Concerning Division Inquires and Document Request	Revision	§10-1-109 §10-2-104 §10-3-109(3) §10-16-109	Yes	The purpose of this regulation is to prescribe the time period in which all persons and entities shall respond to Colorado Division of Insurance inquiries, including, but not limited to, document and information requests during market conduct and financial examinations, investigations of complaints, and any other formal or informal investigation or examination conducted for the purpose of determining compliance with Colorado insurance law. In addition, the purpose of this regulation is to prescribe the penalties for failure to respond to Division inquiries within the timeframes specified in this regulation.	Insurers
12	DOI	11/1/2022	1-1-2009	Exceptions to Electronic Rate Filing	Revision	§10-1-109 §10-4-401 (5) §10-16-107(1).	Yes	The purpose of this regulation is to prescribe the format for electronic rate filings with the Division of Insurance (Division), and to set forth the circumstances that would be considered an emergency situation exempting insurers and carriers from making electronic rate filings.	Insurers
13	DOI	10/1/2022	1-2-2007	Concerning Managing General Agents	Revision	§10-1-109 §10-2-108	Yes	The purpose of this regulation is to clarify standards and procedures contained in the Managing General Agents Act.	Managing general agents and insurers
14	DOI	10/1/2022	1-2-11	Standards and Approval for Required Education Course for Producers to be Appointed by a Bail Insurance Company	Revision	§10-1-109 §10-2-104	Yes	The purpose of this regulation is to specify the requirements, procedures, and standards necessary to implement the education requirements mandated by § 10-2-415.5(2)(c), C.R.S. including the certification and filing of courses in bail recovery pursuant to § 10-2-415.5(2)(c)(I)(B), C.R.S which comply with the Peace Officer Standards and Training Board (P.O. S.T.) curriculum established by P.O.S.T. pursuant to § 24-31-303(1)(h), C.R.S.	Producers
15	DOI	12/1/2022	1-2-13	Cash-Bonding Agent and Professional Cash-Bail Agent Provisions for Release of Qualification Bond	Revision	§10-1-109	Yes	Pursuant to § 12-7-103, C.R.S. as effective until July 1, 2012, Cash-Bonding Agents and Professional Cash-Bail Agents were required to post a cash qualification bond in the amount of \$50,000 to secure payment of defaulted bonds and to pay any final, non-appealable judgment for failure to return collateral, including costs and attorney's fees, if awarded. This regulation sets forth the terms and conditions for release of the qualification bond for those Cash-Bonding Agents and Professional Cash-Bail Agents whose license expired, was cancelled, surrendered, revoked other otherwise inactivated prior to July 1, 2012.	Cash-Bonding Agents and Professional Cash-Bail Agents
16	DOI	2/1/2022	2-1-2007	Concerning Issuance of a Certificate of Authority	Revision	§10-1-109 §10-14-505	Yes	The purpose of this regulation is to clarify the standards for issuing certificates of authority to transact insurance business in Colorado to insurers, fraternal benefit societies and interinsurance exchanges.	Property and casualty insurers

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
17	DOI	10/1/2022	2-1-2008	Concerning Risk Retention Groups and Purchasing Groups	Revision	§10-1-109 §10-3-1403	Yes	The purpose of this regulation is to regulate the formation and/or operation of risk retention groups or purchasing groups in this state formed pursuant to the provisions of the federal Liability Risk Retention Act of 1986, 15 U.S.C. § 3901 et seq ("RRA 1986"), to the extent permitted by such law.	Insurers
18	DOI	6/1/2022	2-1-10	Motor Vehicle Self-Insurance	Revision	§10-1-109 §10-4-601.5 §10-4-624 §42-7-501	Yes	Section 10-4-624 C.R.S., provides that any person in whose name more than twenty-five (25) motor vehicles are registered may qualify for self-insurance. This provision affords owners of fleets of motor vehicles a cost-effective method of complying with Colorado's motor vehicle financial responsibility requirements while affording coverage and protection to the general public. The purpose of this regulation is to set the filing requirements and standards for certification as a self-insurer under § 10-4-624, C.R.S. It is the opinion of the Commissioner that any owner of motor vehicles which must be registered should either obtain complying motor vehicle insurance or comply with this regulation.	Motor vehicle self-insurers
19	DOI	4/1/2022	2-2-2001	Concerning Public Entity Self-Insurance Pools	Revision	§10-1-109	Yes	The purpose of this regulation is to clarify the requirements for the formation and operation of public entity self-insurance pools.	Public entities forming a self-insurance pool
20	DOI	4/1/2022	2-2-2002	Concerning Employers Workers' Compensation Self-Insurance Pools	Revision	§8-44-205(9) §10-1-109.	Yes	The purpose of this regulation is to clarify the requirements for the formation and operation of employer's workers' compensation self-insurance pools.	Employers forming a self-insurance pool
21	DOI	2/1/2022	2-3-2001	Concerning the Formation and Operations of Captive Insurance Companies in Colorado	Revision	§10-1-109 §10-6-129	Yes	The purpose of this regulation is to set forth the formation, operation and reporting requirements for captive insurance companies formed pursuant to the Colorado Captive Insurance Company Act, Article 6 of Title 10, C.R.S., and to ensure that licensed captive insurance companies are financially sound.	Captive insurance companies
22	DOI	8/1/2022	3-1-2002	Statutory Deposits Quarterly Reports on Market Value	Revision	§10-1-109	Yes	The purpose of this regulation is to implement the market valuation requirement of § 10-3-235 (4) C.R.S., by the establishment of regular reporting method.	Insurers

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
23	DOI	5/1/2022	3-1-2007	Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition	Revision	§§ 10-1-109, 10-3-201(1)(b), 10-6-129, 10-14-505, and 10-16-109, C.R.S.	Yes	The purpose of this regulation is to set forth the standards which the Commissioner of Insurance may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors or the general public. This regulation shall not be interpreted to limit the powers granted the Commissioner by any laws or parts of laws of this state, nor shall this regulation be interpreted to supersede any laws or parts of laws of this state.	Insurers
24	DOI	11/1/2022	3-1-2008	Concerning Actuarial Opinions and Memorandums for Life Companies	Revision	§§10-1-108(7), 10-1-109, 10-7-114, and 10-14-505, C.R.S.	Yes	The purpose of this regulation is to prescribe: A. Guidelines and standards for statements of actuarial opinion, which are to be submitted in accordance with §§10-7-114 and 10-14-602, C.R.S. and for memorandums submitted in support thereof; B. Rules applicable to the appointment of an appointed actuary; and C. Guidance as to the meaning of "adequacy of reserves."	Life insurers and fraternal benefit societies
25	DOI	2/1/2022	3-1-2009	Minimum Reserve Standards for Individual and Group Health Insurance Contracts	Revision	§§ 10-1-109, 10-16-109 and 10-16-220, C. R.S.	Yes	The purpose of this regulation is to set forth minimum standards for reserves of insurers providing individual and group health insurance.	Insurers
26	DOI	8/1/2022	3-1-11	Risk-Based Capital (RBC) for Insurers	Revision	§§ 10-1-109, 10-3-201(1)(b), 10-6-129, and 10-14-604, C.R.S.	Yes	The purpose of this Regulation is to establish standards for the minimum capital and surplus to be maintained by insurers, captive insurers and fraternal benefit societies as provided by §§ 10-3-201(1)(b), 10-6-116, and 10-14-604, C.R.S. These standards provide for the early detection of a potentially hazardous or otherwise dangerous condition of an insurer in order to protect its insureds and the general public. This Regulation additionally provides for reporting, corrective measures, and enforcement actions available to the Commissioner.	Insurers
27	DOI	8/1/2022	3-1-12	Risk-Based Capital (RBC) for Health Organizations	Revision	10-16-310(3) 10-16-411(2)	Yes	The purpose of this Regulation is to establish standards for the minimum capital and surplus to be maintained by health organizations as provided by §§ 10-16-310 and 10-16-411, C.R.S. These standards provide for the early detection of a potentially hazardous or otherwise dangerous condition of a health organization in order to protect its enrollees/members and the general public. This Regulation additionally provides for reporting, corrective measures, and enforcement actions available to the Commissioner.	Health organizations

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
28	DOI	10/1/2022	3-1-13	Disclosure of Material Transactions	Revision	§10-1-109, 10-6-114 10-6-129 10-14-505	Yes	The purpose of this regulation is to establish filing requirements for certain domestic insurers for material transactions, which have the potential of creating a hazardous financial condition. It is necessary to monitor the financial condition and operation of an insurer so as to adequately protect its insureds and the public.	Insurers
29	DOI	7/1/2022	3-1-14	Alternative Mechanism for Carriers Entering into Contracts with Risk-bearing Entities	Revision	§10-1-109 §10-16-109 §10-16-708	Yes	The purpose for this regulation is to establish an acceptable alternative mechanism pursuant to §10-16-705(5)(b), C.R.S. This regulation establishes the terms of an alternative mechanism, which, if complied with, is deemed approved for purposes of §10-16-705(5)(b), C.R.S. Carriers are not limited to this one alternative mechanism. Other alternative mechanism plans can be submitted for consideration to the commissioner.	Insurers
30	DOI	4/1/2022	3-1-16	Custodial Agreements and the Use of Clearing Corporations	Revision	§ 10-1-109 §10-3-1203(2) §10-6-129, §10-14-505 § 10-16-109	Yes	The purpose of this regulation is to provide current criteria, procedures and clarification concerning the holding of securities or book-entry securities as investments or in meeting the statutory deposits or guaranty fund deposits pursuant to §§ 10-3-210, 10-6-116, 10-16-310, 10-16-412 and 10-16-505, C.R.S. Only custodial agreements complying with this regulation shall be acceptable to the Commissioner of Insurance.	Insurers
31	DOI	2/1/2022	3-5-2002	Title Insurer Assessment	Revision	§10-1-109 §10-3-207	Yes	The purpose of this regulation is to establish the standard to determine the amount each title insurer shall be assessed in accordance with § 10-3-207, C.R.S.	Title Insurers
32	DOI	12/1/2022	4-2-2002	Hospital Indemnity and Disability Income Policies	Revision	§10-1-109 §10-16-109	Yes	This regulation prohibits insurers from refusing to pay benefits under certain contracts because of hospitalization in government hospitals.	Insurers
33	DOI	2/1/2022	4-2-10	Reporting Requirements for Multiple Employer Welfare Arrangements (MEWAs)	Revision	§10-1-109	Yes	This regulation is intended to clarify the information to be filed under the provisions of § 10-3-903.5(7)(c), C.R.S., by Multiple Employer Welfare Arrangements (MEWAs) claiming exempt status from formal licensing requirements; and to clarify the responsibilities of licensed producers.	MEWAs
34	DOI	3/1/2022	4-2-27	Procedures for Reasonable Modifications to Individual and Small Group Health Plans	Revision	§10-1-109 §10-16-109	Yes	The purpose of this regulation is to establish procedures for the submission of reasonable modifications to grandfathered individual and small group health benefit plans, to non-grandfathered individual and small group health benefit plans, as outlined in § 10-16-105.1(5), C.R.S., and to pediatric stand alone dental plans.	Health insurers

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
35	DOI	12/1/2022	4-2-30	The Rules for Complying with Mandated Coverage of Hearing Aids and Prosthetics	Revision	§10-1-109	Yes	The purpose of this regulation is to provide health carriers the guidance necessary to comply with the requirement to provide coverage for prosthetics and hearing aids pursuant to §§10-16-104(14) and (19), C.R.S., respectively.	Health insurers
36	DOI	3/1/2022	4-2-42	Concerning Essential Health Benefits	Revision	§10-1-108(7) §10-1-10	No	The purpose of this regulation is to establish rules for the required inclusion of the essential health benefits in individual and small group health benefit plans in accordance with Article 16 of Title 10 of the Colorado Revised Statutes, and the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111- 148, 124 Stat. 119 (2010) and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010), together referred to as the "Affordable Care Act" (ACA).	Health insurers
37	DOI	2/1/2022	4-6-2008	Concerning Small Employer Group Health Benefit Plans	Revision	§10-1-109 §10-16-105.2(1)(a)(IV) §10-16-108.5(8) §10-16-109 §10-16-708	Yes	The purpose of this regulation is to establish rules for implementing Colorado's small group laws. This regulation concerns the applicability and scope of the small group provisions; carriers' obligations to provide coverage; employee eligibility requirements; the use of restrictive riders; rules relating to fair marketing; and carrier disclosure requirements.	Health insurers
38	DOI	2/1/2022	4-6-10	Employee Leasing Companies and Health Care Coverage	Revision	§10-1-109 §10-3-1110	Yes	The purpose of this regulation is to establish and implement rules for health carriers that issue and renew health plans to employee leasing companies and work-site employers.	Health insurers
39	DOI	9/1/2022	4-6-12	Mandatory Coverage of Mental Illness	Revision	§10-1-109 §10-16-109	Yes	The purpose of this regulation is to clarify the coordination of subsections (5) and (5.5) of § 10-16-104, C.R.S. (2012), concerning mental illness and biologically based mental illness (BBMI).	Insurers
40	DOI	10/1/2022	4-7-2001	Health Maintenance Organizations	Revision	§10-1-109 §10-16-109 §10-16-111 §10-16-403(2)(b)	Yes	The purposes of this regulation are to provide the requirements for licensure as a health maintenance organization (HMO) and establish standards for HMO organization and operations.	Health Maintenance Organizations
41	DOI	February 1, 2022	4-7-2002	Concerning the Laws Regulating Health Maintenance Organization Benefit Contracts and Services in Colorado	Revision	§10-16-109	Yes	The purpose of this regulation is to provide reasonable standards for the terms and provisions contained in Health Maintenance Organizations' ("HMOs") benefit contracts and evidences of coverage.	Health Maintenance Organizations
42	DOI	June 1, 2022	5-1-2001	Mass Merchandising of Property and Liability Insurance	Revision	§ 10-1-109	Yes	The purpose of this regulation is to prescribe rules to prevent abuses in connection with the sale of property and liability insurance in this state pursuant to mass marketing plans, while preserving for consumers the potential benefits of this form of marketing.	Property and liability insurers

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
43	DOI	July 1, 2022	5-1-2002	Application and Binder Forms	Revision	§10-1-109 §10-3-111	Yes	The purpose of this regulation is to implement rules that provide clear disclosure of the insurance company on the application form or on the binder. In addition, this regulation is designed to eliminate the unfair practice of providing false or misleading information by individuals who are not disclosing the name of the insurance company on an application form or a binder for insurance.	Property and casualty insurers
44	DOI	September 1, 2022	5-1-2006	Nationwide Inland Marine Definition	Revision	§ 10-1-109	Yes	The purpose of this regulation is to adopt a standard definition of “inland marine” insurance.	Property and casualty insurers
45	DOI	July 1, 2022	5-1-2008	Concerning Claims-made Insurance Policies	Revision	§10-1-109	Yes	The purpose of this regulation is to establish standards for the training of all persons engaged in the sale or consultation of claims-made	Casualty insurers
46	DOI	August 1, 2022	5-1-2009	Regulation to Require Reporting of Financial and Statistical Data by Property and Casualty Insurance Companies	Revision	§10-1-109 §10-4-404	Yes	The purpose of this regulation is to set forth the manner of reporting data by insurers to statistical agents, to prescribe reports to be submitted by statistical agents to the commissioner, and to prescribe certain conduct in connection therewith. This regulation does not apply to data reported directly by insurers to the commissioner.	Property and casualty insurers
47	DOI	April 1, 2022	5-1-12	Warranties and Service Contracts	Revision	§10-1-108(8) §10-1-10	Yes	The purpose of this regulation is to establish a distinction between a written agreement that is an insurance contract pursuant to § 10-1-102 (12), C.R.S. and a written agreement that meets the definition of a written warranty or service contract and is not subject to regulation by the Division of Insurance (Division). The Division has received numerous inquiries regarding contracts which may be insurance and are sold as warranties or service contracts. The definitions and rules contained herein set forth certain conditions which will cause a contract to be considered a contract of insurance, and thereby regulated by the Division, and warranty contracts and service contracts which may not be regulated unless specifically addressed in the Colorado statutes, rules and regulations.	Insurers
48	DOI	February 1, 2022	5-1-14	Penalties for Failure to Promptly Address Property and Casualty First Party Claims	Revision	§10-1-109 §10-3-1110	Yes	The purpose of this regulation is to describe the procedure and circumstances under which penalties will be imposed for failure to make timely decisions and/or payment on first party claims.	Property and casualty insurers

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
49	DOI	January 1, 2022	5-2-12	Concerning Automobile Insurance Consumer Protections	Revision	§10-1-109 §10-4-601.5	Yes	The purpose of this regulation is to interpret and implement the provisions of Part 6 of Article 4 of Title 10 of the Colorado Revised Statutes. In addition, this regulation provides rules governing the rejection of coverage, cancellation, nonrenewal, increase in premium, and reduction in coverage on complying policies of automobile insurance.	Auto insurers
50	DOI	November 1, 2022	6-5-2001	Concerning the Reporting of Suspected Insurance Fraud	Revision	§10-1-109 §10-4-1003	Yes	The purpose of this regulation is to facilitate the reporting of suspected insurance fraud, to aid in the detection, investigation and ultimate prosecution of those who commit insurance fraud in this state and to deter future fraudulent acts by improving regulatory oversight of licensed persons who commit insurance fraud. This regulation describes the procedure and circumstances under which all insurers shall, and individuals may, report suspected insurance fraud for the purpose of investigating, and enforcing laws prohibiting insurance fraud.	Insurers, nonprofit hospital, medical-surgical, and health service corporations, health maintenance organization, and licensed insurance producers
51	DOI	March 1, 2022	8-1-2005	Title Insurance Agent Licensing	Revision	§10-1-108(7) §10-1-1	Yes	The purpose of this regulation is to set forth the title insurance agent licensing requirements.	Title insurers
52	DPO	August 12, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.1)	Authority	New rule	§ 12-20-204 § 12-310-103(4)	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
53	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.2)	Scope and Purpose	New rule	§ 12-20-204 § 12-310-103(4)	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
54	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.3)	Applicability	New rule	§ 12-20-204 § 12-310-103(4)	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
55	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.1)	Clarification of Who is Required to Register for the Surgical Assistant and Surgical Technician Program	Revision	§ 12-20-204 § 12-310-102 § 12-310-103(4)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
56	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.2)	Declaratory Orders	Revision	§ 12-20-204 § 12-310-102 § 24-4-105(11)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
57	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.3)	Reporting Criminal Convictions, Judgements, and Administrative Proceedings	Revision	§ 12-20-204 § 12-310-103	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
58	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.4)	Regarding the Continuing Duty to Report Information to the Director's Office	Revision	§ 12-20-204 § 12-310-103	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
59	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.8)	Confidential Agreements to Limit Practice for Physical Condition or Disability, A Behavioral, Mental Health or Substance Use Disorder or an Intellectual and Developmental Disability	New rule	§ 12-20-204 § 12-30-108 § 12-310-103 § 12-310-108.5	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
60	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.6)	Concerning Healthcare Provider Disclosures to Consumers About the Potential Effects of Receiving Emergency or NonEmergency Services from and Out of Networks Provider	Revision	§ 12-20-204 § 12-310-103 § 24-34-113	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
61	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.8)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	Revision	§ 12-20-204 § 12-30-115 § 12-310-103	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
62	DPO	August 30, 2021	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.5)	Registration Maintenance and Reporting Changes	Revision	§ 12-20-204(1) § 12-145-107(1)(a) § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
63	DPO	August 30, 2021	Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (Rule 1.9)	Duty to Report Information	Revision	§ 12-20-204 § 12-210-107(2) § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
64	DPO	August 30, 2021	Office of Hearing Aid Provider Licensure 3 CCR 711-1 (Rule 1.8)	Duty to Report Information	Revision	§ 12-20-204 § 12-230-301(3) § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
65	DPO	August 30, 2021	Office of Respiratory Therapy Licensure 4 CCR 741-1 (Rule 1.7)	Duty to Report Information to the Director's Office	Revision	§ 12-20-204 § 12-300-115 § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
67	DPO	August 31, 2021	Office of Direct-Entry Midwifery Registration 4 CCR 739-1 (Rule 1.2)	Standards for Education	Revision	§ 12-20-204(1) § 12-225-104(5) § 12-225-108(1)(a)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-101 (CONCERNING THE CONTINUATION OF THE REGISTRATION OF DIRECT-ENTRY MIDWIVES, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
68	DPO	August 30, 2021	Office of Direct-Entry Midwifery Registration 4 CCR 739-1 (Rule 1.17)	Administration of Medications	Revision	§ 12-20-204(1) § 12-225-104(5) § 12-225-108(1)(a)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-101 (CONCERNING THE CONTINUATION OF THE REGISTRATION OF DIRECT-ENTRY MIDWIVES, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
69	DPO	September 2, 2021	Office of Funeral Home and Crematory Registration 4 CCR 742-1 (Rule 1.7)	Custody and Responsibility	Revision	§ 12-20-204 § 12-135-401	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-006 (CONCERNING THE CONVERSION OF HUMAN REMAINS TO BASIC ELEMENTS WITHIN A CONTAINER USING AN ACCELERATED PROCESS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
70	DPO	September 10, 2021	Colorado Podiatry Board 3 CCR 712-21	Rule 330 - Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204(1) § 12-30-109(6) § 12-290-106(1)(a)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
71	DPO	September 10, 2021	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.4)	Rules of Administrative Procedure	Revision	§ 12-20-204(1) § 12-20-202(3)(a) § 12-120-104(1)(a) § 12-120-416 § 24-34-107	No	The purpose of this proposed revision is to implement Colorado House Bill 20-1326 (CONCERNING AN EXPANSION OF AN INDIVIDUAL'S ABILITY TO PRACTICE AN OCCUPATION IN COLORADO THROUGH CREATION OF AN OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM), to implement Colorado House Bill 21-1147 (CONCERNING SIMPLIFICATION OF THE REGULATORY REQUIREMENTS FOR CONTINUING EDUCATION OF PROFESSIONAL ARCHITECTS), and to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
72	DPO	September 10, 2021	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.8)	Reporting Change of Address, Telephone Numbers or Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
73	DPO	September 15, 2021	State Board of Examiners of Nursing Home Administrators 3 CCR 717-1 (Rule 1.1)	General Licensing Provisions	Revision	§ 12-20-204 § 12-265-107(1)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
74	DPO	September 17, 2021	State Board of Social Work Examiners 4 CCR 726-1 (Rule 1.8)	Reporting Change of Address, Telephone Number or Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
75	DPO	September 22, 2021	State Board of Accountancy 3 CCR 705-1 (Rule 1.6)	Certificate Requirements, Discipline, Maintenance and Status Changes	Revision	§ 12-20-204 § 12-100-105(1)(b) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
76	DPO	September 29, 2021	State Electrical Board 3 CCR 710-1 (Rule 1.11)	Renewal and Reinstatement	Revision	§ 12-20-204 § 12-105-106(1)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
77	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 1.00.18)	Patient Counseling	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 1.00.18 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
78	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 1.00.24)	Procurement of Drugs	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 1.00.24 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
79	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 2.01.10, 2.01.20)	Information to Appear on Each Order, Additional Information	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 2.01.10 and 2.01.20 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
80	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 3.00.21, 3.00.22)	Procuring, Prescribing and Dispensing Opiate Antagonists	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 3.00.21 and 3.00.22 to implement Colorado Senate Bills 21-011 and 21-122 concerning the expanded authority and utilization of opiate antagonists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
81	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 3.01.22)	Filling of Automated Cassettes	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 3.01.22 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
82	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 5.00.01, 5.00.10, 5.00.17, 5.00.19, 5.00.40, 5.00.50, 5.00.55, 5.00.60)	Outlets - Registration requirement updates to outsourcing facilities including 503Bs and 3rd Party Logistics Providers	Revision, New Rule	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 5.00.01, 5.00.10, 5.00.40, 5.00.50, 5.00.55 and 5.00.60 and the new Board Rules 5.00.17 and 5.00.19 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
83	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 7.00.30)	Compliance of Outlet	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 7.00.30 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, state agencies, and other key stakeholders
84	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 9.00.10)	Legal Proceedings - Reporting	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 9.00.10 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
85	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 14.00.50, 14.00.80)	Eligibility for registration and Consultant pharmacists	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 14.00.05 and 14.00.80 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
86	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 15.01.00, 15.09.11, 15.09.12, 15.09.14, 15.10.10)	Wholesaler Drug Distributor requirements	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 15.01.00, 15.09.11, 15.09.12 and 15.10.10 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
87	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 17.00.10)	Definitions - Pharmaceutical Care	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 17.00.10 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
88	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 21.00.20, 21.11.10, 21.21.70)	Casual sales and labeling requirements	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 21.00.20, 21.11.10 and 21.21.70 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
89	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 2.01.20)	Chart	Repeal/Revision	§ 12-20-204 § 12-280-101 § 12-280-107(1) § 12-280-108(3)(b)	No	The purpose of these proposed revisions is to correct the error where the original basis and purpose was published into Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
90	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 3.03.10)	MedPaks	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(1) § 12-280-108(3)(b)	No	The purpose of these proposed revisions is to correct and update how medpaks are required to be processed.	Licensees, professional associations, relevant state agencies, and other key stakeholders
91	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule Board Rule - Appendix C)	Appendix C	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(1) § 12-280-108(3)(b)	No	The purpose of this proposed revision is to correct a typographical error.	Licensees, professional associations, relevant state agencies, and other key stakeholders
92	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 29.00.50)	Pharmacy Technicians	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b) § 12-280-115.5(3)(b)(1) and (II)	No	The purpose of this proposed revision to Board Rule 29.00.50 is to establish a process for a provisional certificant to apply for a hardship extension to extend the validity of the provisional certification beyond eighteen months.	Licensees, professional associations, relevant state agencies, and other key stakeholders
93	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 15.02.10)	Wholesalers	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of the proposed revision to Board Rule 15.02.10 is to implement Colorado Senate Bill 21-077 concerning the use of social security numbers for applicants.	Licensees, professional associations, relevant state agencies, and other key stakeholders
94	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (23.00.00)	Prescription Drug Monitoring Program	Revision and response to OSA recommendations	§ 12-20-204 § 12-280-107(1)	No	The purpose of the proposed revisions and additions to Board Rule 23.00.00 is to resolve the Departments OSA PDMP Audit recommendations and our respective responses to improve the PDMP.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
95	DPO	October 1, 2021	State Board of Psychologist Examiners 4 CCR 721-1 (Rule 1.8)	Reporting Change of Address, Telephone Number, of Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
96	DPO	October 5, 2021	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.8)	Reporting Change of Address, Telephone Number or Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
97	DPO	October 12, 2021	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.4)	General Rules	Revision	§ 12-110-102(3) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
98	DPO	October 14, 2021	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.17)	Reporting Change of Address, Telephone Number or Name	Revision	§ 12-20-204 § 12-315-106(5)(g) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
99	DPO	October 14, 2021	State Board of Veterinary Medicine 4 CCR 727-1 (Rule TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-315-106(5)(g) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
100	DPO	October 15, 2021	State Board of Unlicensed Psychotherapists 4 CCR 734-1 (Rule 1.8)	Reporting Change of Address, Telephone Number, or Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
101	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.1)	Rules and Regulations for the Licensure of Practical and Professional Nurses	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to clarify and update the rule for Reinstatement and Reactivation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
102	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.2)	Rules and Regulations for Approval of Nursing Education Programs	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to clarify and update the rule for Establishing a Nursing Education Program and Withdrawal of Full Approval of a Nursing Education Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
103	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.5)	Rules and Regulations for Licensure of Psychiatric Technicians	Revision	§ 12-20-202 § 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to implement Colorado House Bill 20-1326 (CONCERNING AN EXPANSION OF AN INDIVIDUAL'S ABILITY TO PRACTICE AN OCCUPATION IN COLORADO THROUGH CREATION OF AN OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM).	Licensees, professional associations, relevant state agencies, and other key stakeholders
104	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.10)	Rules and Regulations for Certification as a Nurse Aide	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to correct incorrect statutory citations.	Licensees, professional associations, relevant state agencies, and other key stakeholders
105	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.13)	Rules and Regulations Regarding the Delegation of Nursing Tasks	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-056 (CONCERNING EXPANSION OF THE OPPORTUNITIES TO ADMINISTER MEDICAL MARIJUANA AT SCHOOL TO A STUDENT WITH A VALID MEDICAL MARIJUANA RECOMMENDATION, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
106	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.14)	Rules and Regulations to Register Professional Nurses Qualified to Engage in Advanced Practice Registered Nursing	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to correct incorrect statutory citations.	Licensees, professional associations, relevant state agencies, and other key stakeholders
107	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.15)	Rules and Regulations for Prescriptive Authority for Advanced Practice Registered Nurses	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to clarify and update the rule regarding the 750 mentorship for prescriptive authority for advanced practice nurses.	Licensees, professional associations, relevant state agencies, and other key stakeholders
108	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.16)	Duty to Report Requirements	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of this proposed revision is to strike the requirement to only report felony convictions as it conflicts with statute.	Licensees, professional associations, relevant state agencies, and other key stakeholders
109	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-255-107(1)(j) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
110	DPO	October 29, 2021	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
111	DPO	November 4, 2021	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (Rule 1.8)	Reporting Change of Address Telephone Number or Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
112	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.6)	Licensure of Dentists and Dental Hygienists	Revision	§ 12-20-204 § 12-220-105(3) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING) and to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
113	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (TBD)	Rules Regarding the Use of Benzodiazepine	Revision	§ 12-20-204 § 12-220-105(3) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
114	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.13)	Limited Prescriptive Authority for Dental Hygienists	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct a typographical error.	
115	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.17)	Advertising	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
116	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.21)	Fining Schedule for Violations of the Dental Practice Act	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
117	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.29)	Confidential Agreements to Limit Practice of Physical or Mental Illness	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
118	DPO	November 10, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.30)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to remove unnecessary language.	Licensees, professional associations, relevant state agencies, and other key stakeholders
119	DPO	November 18, 2021	State Board of Examiners of Nursing Home Administrators 3 CCR 717-1 (Rule 1.4)	Change of Name and Address	Revision	§ 12-20-204 § 12-265-107(1)(a)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
120	DPO	November 18, 2021	Colorado Medical Board 3 CCR 713-22 (Rule 120)	Rule 120 - Demonstration of Continued Competency By Physician Applicants for Licensure Pursuant to the Occupational Credential Portability Program, Reinstatement of and Expired License, Or Reactivation of a License	Revision	§ 12-20-204 § 12-240-106(1)(a) § 12-20-203(3)	No	The purpose of these proposed revisions is to implement Colorad House Bill 20-1326 (CONCERNING AN EXPANSION OF AN INDIVIDUAL'S ABILITY TO PRACTICE AN OCCUPATION IN COLORADO THROUGH CREATION OF AN OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM).	Licensees, professional associations, relevant state agencies, and other key stakeholders
121	DPO	November 18, 2021	Colorado Medical Board 3 CCR 713-22 (TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-240-106(1)(a) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
122	DPO	November 18, 2021	State Board of Optometric Examiners 4 CCR 728-1 (TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-275-108(1)(b) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
123	DPO	Winter 2021	Office of Barber and Cosmetology Licensure 4 CCR 731-1 (Rule 1.4)	Licensure by Endorsement	Revision	§ 12-20-204 § 12-105-106 (1)(a)	No	The purpose of this proposed revision is to update the rule that currently conflicts with the statute regarding military spouses.	Licensees, professional associations, relevant state agencies, and other key stakeholders
124	DPO	Fall/Winter 2021	Office of Private Investigator Licensing 4 CCR 750-1 (All rules)	Private Investigator Licensure Rules and Regulations	Repeal	§ 12-20-204 § 12-160-109(2)(a)	No	The Office of Private Investigator Licensing went through Sunset Review by the legislature in 2020 and the Governor vetoed Colorado House Bill 20-1207 (CONCERNING THE CONTINUATION OF THE REGULATION OF PRIVATE INVESTIGATORS), which requires the current rules to be repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders
125	DPO	Fall/Winter 2021	Office of Private Investigator Voluntary Licensure 4 CCR 746-1 (All rules)	Rules and Regulations	Repeal	§ 12-20-204	No	The purpose of this proposed repeal is to remove rules that are no longer effective.	Licensees, professional associations, relevant state agencies, and other key stakeholders
126	DPO	Spring 2022	State Board of Addiction Counselor Examiners 4 CCR 744-1 (TBD)	Continuing Professional Competence	Revision	§ 12-20-204 § 12-245-204(4)(a)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1305 (CONCERNING THE PRACTICE OF MENTAL HEALTH PROFESSIONALS, AND, IN CONNECTION THEREWITH, CLARIFYING EDUCATION AND HOURS OF PRACTICE REQUIRED FOR LICENSURE OR CERTIFICATION AS AN ADDICTION COUNSELOR; AND ESTABLISHING SUPERVISION PRIVILEGES FOR CERTIFIED AND LICENSED ADDICTION COUNSELORS).	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
127	DPO	Spring/Summer 2022	Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (TBD)	Compact Rules	New Rules	§ 12-20-204 § 12-210-107(2)	No	The purpose of these proposed new rules is to implement Colorado Senate Bill 21-021 (CONCERNING THE ENACTMENT OF THE "AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
128	DPO	Spring/Summer 2022	Office of Speech-Language Pathology Certification 4 CCR 748-1 (TBD)	Compact Rules	New Rules	§ 12-20-204(1) § 12-305-115	No	The purpose of these proposed new rules is to implement Colorado Senate Bill 21-021 (CONCERNING THE ENACTMENT OF THE "AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
129	DPO	Spring/Summer 2022	Office of Speech-Language Pathology Certification 4 CCR 748-1 (TBD)	Rules and Regulations for Speech-Language Pathologists	New Rule, Revision, Repeal	§ 12-20-204(1) § 12-305-115	No	The Speech-Language Pathology Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	
130	DPO	Spring/Summer 2022	Rules and Regulations Regarding Radon Professionals CCR TBD	TBD	New Rules	§ 12-20-204 § 12-165-105(1)(a)	No	The purpose of these proposed new rules will be to implement Colorado House Bill 21-1195 (CONCERNING THE REGULATION OF RADON PROFESSIONALS, AND, IN CONNECTION THEREWITH, REQUIRING LICENSURE TO PRACTICE AS A RADON MEASUREMENT PROFESSIONAL OR RADON MITIGATION PROFESSIONAL, AND MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
131	DPO	Spring/Summer 2022	Colorado Podiatry Board 3 CCR 712-TBD	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-290-106(1)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
132	DPO	Spring/Summer 2022	Landscape Architects Board 4 CCR 729-1	Bylaws and Rules of the State Board of Landscape Architects	New Rule, Revision, Repeal	§ 12-20-204 § 12-130-107(1)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
131	DPO	Spring/Summer 2022	Landscape Architects Board 4 CCR 729-1	Bylaws and Rules of the State Board of Landscape Architects	Revision	§ 12-20-204 § 12-130-107(1)(a) § 12-20-202	No	The purpose of this potential revision is to implement Colorado House Bill 20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders
132	DPO	Spring/Summer 2022	State Electrical Board 3 CCR 710-1(TBD)	State Electrical Board Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-105-106(1)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
133	DPO	Spring/Summer 2022	State Board of Accountancy 3 CCR 705-1 (TBD)	State Board of Accountancy Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-100-105(1)(b) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
134	DPO	Spring/Summer 2022	State Board of Accountancy 3 CCR 705-1 (Rule 1.6)	Certificate Requirements, Discipline, Maintenance, and Status Changes	Revision	§ 12-20-204 § 12-100-105	No	The purpose of this proposed revision is to eliminate confusion with applicants and licensees who are licensed in a different state and how that applicant or licensee can use titles within Colorado. Colorado is an outlier compared to other state boards of accountancy with this rule because Colorado requires CPAs from other states to add the name of its state or state certification when holding out, unless it is applying Rule 1.11 (Practice Privilege/Mobility).	Licensees, professional associations, relevant state agencies, and other key stakeholders
135	DPO	Spring/Summer 2022	Director of Professions and Occupations - Professional Review Program 4 CCR 747-1	Registration Requirements for Governing Boards	New Rule, Revision, Repeal	§ 12-20-204 § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
136	DPO	Summer 2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule TBD)	State Board of Veterinary Medicine's Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-315-106(5)(g)	No	The Veterinary Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
137	DPO	Summer 2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.18(A)(9))	Veterinary Medical Ethics and Code of Conduct	Revision	§ 12-20-204 § 12-315-106(5)(g) § 12-315-119(3)(a)	No	The purpose of this proposed revision is to consider implementation of a recommendation made by a Board of Veterinary subcommittee in 2020. The current rule does not specify the type of records required to maintain standard of practice.	Licensees, professional associations, relevant state agencies, and other key stakeholders
138	DPO	Summer 2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.9)	Academic License	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to address the discrepancy with the statute. Section 12-315-108 (3), C.R.S, states that Academic Veterinarians do not have to meet the requirements of 12-315-107, C.R.S. The current rule states that the applicant must meet the requirements of 1.7.(B) including successfully completed the NAVLE.	Licensees, professional associations, relevant state agencies, and other key stakeholders
139	DPO	Summer 2022	State Board of Optometric Examiners 4 CCR 728-1 (TBD)	State Board of Optometric Examiners Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-275-108(1)(b)	No	The Optometry Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
140	DPO	Summer 2022	State Board of Optometric Examiners 4 CCR 728-1 (TBD)	TBD	New Rule	§ 12-20-204 § 12-275-108(1)(b) § 12-275-128(2)(a)	No	The purpose of this proposed revision is to update the exemption for unemployed, retired, and certain other optometrists from the requirement to carry professional liability insurance. Such exemptions currently exist in the Rules for the Medical Board, Dental Board, Podiatry Board and Chiropractic Board.	Licensees, professional associations, relevant state agencies, and other key stakeholders
141	DPO	Summer 2022	Massage Therapy Licensure 3 CCR 722-1 (TBD)	Massage Therapy Licensure Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-235-118	No	The Massage Therapy Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
142	DPO	Summer 2022	Office of Acupuncture Licensure 4 CCR 738-1 (TBD)	Office of Acupuncture Licensure Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204(1) § 12-200-106(3)	No	The Acupuncture Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
143	DPO	Summer 2022	Colorado Dental Board 3 CCR 709-1 (Rule 1.14)	Anesthesia	Revision	§ 12-20-204 § 12-220-106(1)(a) (II-III), and (f) § 12-220-305(1)(p) and (q) § 12-220-306 § 12-220-504(1)(c) § 12-220-501(3)(a) (V) § 12-220-201(1)(cc) and (II) § 12-220-411	No	The purpose of these proposed revisions are to review and update how anesthesia applications are received and approved by the Board.	Licensees, professional associations, relevant state agencies, and other key stakeholders
144	DPO	Summer 2022	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rules 1.1(A) and 1.3(A) (7))	Preamble and Rules of Conduct	Revision	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of these proposed revisions are to update the preamble of the rules to reflect the changes made to the structure of the statute during the recodification of Title 12.	Licensees, professional associations, relevant state agencies, and other key stakeholders
145	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rules 1.4)	Rules of Administrative Procedure	Revision, Repeal	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of these proposed revisions and/or repeals are to repeal sections of the rule that may not be necessary because of direct testing for examinations, which requires candidates to take and pass all examinations before they can submit an application.	Licensees, professional associations, relevant state agencies, and other key stakeholders
146	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.4)	Rules of Administrative Procedure	Revision	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to change to an updated reference to References and Verification for Qualifying Work Experience, specifically the experience portfolio.	Licensees, professional associations, relevant state agencies, and other key stakeholders
147	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is for professional land surveyors to consider closure clause to address recent issues with failing to close corners that established where a survey line intersects a previously fixed boundary at a point between corners.	Licensees, professional associations, relevant state agencies, and other key stakeholders
148	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is for professional land surveyors to solicit feedback from stakeholders whether rules are needed to address the use of range boxes to protect monuments as many states have adopted such rules.	Licensees, professional associations, relevant state agencies, and other key stakeholders
150	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is regarding continuing education for architects and for the Board to consider whether to add service on a state licensing Board as a way of earning continuing education credit.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
151	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to define "Plot Plans" that are used in construction and the work within these plans has expanded to engineering and land surveying and need to be defined to protect consumers by ensuring the work meets standards.	Licensees, professional associations, relevant state agencies, and other key stakeholders
152	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.4)	Rules of Administrative Procedure	Revision	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed revision is to align the rule with the statute as it relates to the experience requirement, specifically LSI.	Licensees, professional associations, relevant state agencies, and other key stakeholders
153	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to define effective date for settlements and/or judgements to clarify reporting requirements.	Licensees, professional associations, relevant state agencies, and other key stakeholders
154	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to explore inclusion of co-op experience (internships) for acceptable engineering and/or land surveying experience.	Licensees, professional associations, relevant state agencies, and other key stakeholders
155	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	TBD	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	At the 2021 Annual meeting of the National Council of Architect Registration Board, of which Colorado is a member, the membership will consider major revision to the NCARB model laws. Once adopted by the membership, Colorado, along with other states will consider these revisions against our rules to ensure improvements in licensure mobility and consistency in enforcement are gained where practicable.	Licensees, professional associations, relevant state agencies, and other key stakeholders
156	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	TBD	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	At the 2021 Annual meeting of the National Council of Examiners for Engineers and Surveyors, of which Colorado is a member, the membership consider revision to the NCEES model laws. Once adopted by the membership, Colorado, along with other states will consider these revisions against our rules to ensure improvements in licensure mobility and consistency in enforcement are gained where practicable.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
157	DPO	TBD	Passenger Tramway Safety Board 3 CCR 718-1	Multiple Rules	New Rule, Revision	§ 12-150-105(1)(a)	No	The purpose of these proposed new rules and revisions are to update ANSI incorporation in Section 4, revise Section 23 to expand the Board's authority over incidents that occur in loading and unloading zones, consider improvements after Committee work related to conveyor maintenance, documenting deficiencies and observations in inspection reports, maintenance personnel, minimum operating personnel, ropeway event and data recorder, and summer ramps.	Licensees, professional associations, relevant state agencies, and other key stakeholders
158	DPO	TBD	Passenger Tramway Safety Board 3 CCR 718-1	All Rules	New Rule, Revision, Repeal	§ 24-4-103.3 § 12-150-105(1)(a)	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
159	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.2)	Standards	Revision	§ 12-20-204 § 12-155-105(1)(f)	No	The purpose of this proposed revision is to reconsider the current reference to the five minute allowance as may not not sufficient for adequate supervision.	Licensees, professional associations, relevant state agencies, and other key stakeholders
160	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.2)	Standards	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is to revise an incorrect incorporation by reference number from the International Residential Code.	Licensees, professional associations, relevant state agencies, and other key stakeholders
161	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rules 1.3 and 1.4)	Apprentice Registration and Recordkeeping and Applications and Licensing	New Rule, Revision, Repeal	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of these proposed revisions, new rules, or repeals are to clarify annual reporting requirements that will take effect July 1, 2022 and were adopted to implement Colorado Senate Bill 20-120.	Licensees, professional associations, relevant state agencies, and other key stakeholders
162	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is to update and revise the remaining references regarding direct testing.	Licensees, professional associations, relevant state agencies, and other key stakeholders
163	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is to change the reference to qualifying for examinations to qualifying for licensure regarding direct testing.	Licensees, professional associations, relevant state agencies, and other key stakeholders
164	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is regarding notice of change of address and whether to revise "written requirement" to include notification through the online portal.	Licensees, professional associations, relevant state agencies, and other key stakeholders
165	DPO	TBD	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.6(F)(6))	Requirements	Revision	§ 12-110-107	No	The purpose of the proposed revision is to consider changes to the prohibited substances list.	Licensees, professional associations, relevant state agencies, and other key stakeholders
166	DPO	TBD	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.16(D)(1))	Requirements for Elimination Bouts	Revision	§ 12-110-107	No	The purpose of the proposed revision is to consider changes to set the standard round length.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
167	DPO	TBD	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.17(U))	Requirements for Officials	Revision	§ 12-110-107	No	The purpose of the proposed revision is to consider changes to set the minimum number of judges.	Licensees, professional associations, relevant state agencies, and other key stakeholders
168	DPO	TBD	State Board of Pharmacy 3 CCR 719-1 (Rule 23)	Prescription Drug Monitoring Program	New	§ 12-20-204 § 12-280-107(1) § 12-280-404(2)(b)	No	The purpose of the potential new section in Board Rule to Rule 23 is to implement Colorado House Bill 21-1012 (CONCERNING EXPANSION OF THE PRESCRIPTION DRUG MONITORING PROGRAM TO TRACK INFORMATION REGARDING ALL PRESCRIPTION DRUGS PRESCRIBED IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION), which expands the Prescription Drug Monitoring Program to collect dispensation data on all prescription drugs (not just controlled substances).	Licensees, professional associations, relevant state agencies, and other key stakeholders
169	DPO	TBD	State Board of Pharmacy 3 CCR 719-1 (Rule 23)	Prescription Drug Monitoring Program	New	§ 12-20-204 § 12-280-107(1) § 12-280-404(2)(b)(l)	No	The purpose of the potential new section in Board Rule to Rule 23 is to implement Colorado Senate Bill 21-098 (CONCERNING THE CONTINUATION OF THE PRESCRIPTION DRUG MONITORING PROGRAM), which expands the Prescription Drug Monitoring Program to collect dispensation data on some prescription drugs (not just controlled substances) as determined by the Board.	Licensees, professional associations, relevant state agencies, and other key stakeholders
170	PUC	April	723-3	Electric	Revision	§40-2-108	No	To update the Renewable Energy Standard rules to include changes from recent legislation and business practices.	Electric Investor Owned Utilities and stakeholders
171	PUC	December	723-3	Electric	Revision	§40-2-108	No	To update the Electric Resource Planning Rules to include changes from recent legislation and the most recent ERP processes.	Electric Investor Owned Utilities and stakeholders
172	PUC	October	723-3 & 723-1	Electric and maybe & Practice and Procedure	New	SB21-272	No	To incorporate the requirements of SB272 regarding analysis of the impact of Commission decisions on disproportionately impacted communities, outreach to those communities, and definitions.	All public utilities and stakeholders
173	PUC	September	723-3	Electric	Revision	SB21-072 40-2-108,	No	To update the Transmission planning rules regarding recommendations from past reviews and to incorporate guidance pursuant to SB21-72 regarding transmission markets.	Electric Investor Owned Utilities and stakeholders
174	PUC	June		Transportation	Revision	§40-2-108	Yes	To update rules regarding safety and regulation of passenger carriers.	Passenger Carriers
175	PUC	June	723-11	Gas Pipeline Safety	Revision	§40-2-108, SB21-108 changes to federal rules	No	To update rules regulating gas pipeline safety to incorporate changes from SB21-108 - GIS, civil penalties, annual reporting and other.	Natural Gas companies
176	PUC	May	723-7	Rail	Revision	Changes required by federal rules	No	To update rules regarding the State Safety Oversight Program	Rail Fixed Guideway Companies

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
177	PUC	December	723-6	Transportation	Revision	§40-2-108	No	To update towing and booting rules based on changes in business practices and incorporation of towing task force recommendations.	Towing and Booting Companies
178	PUC	May	723-5	Water	Revision	§40-2-108	Yes	To update the rules regulating water companies and accounting standards.	Water companies regulated by the Commission
179	DRE	on-going through 2022	4-725-1	Rules regarding Real Estate Brokers	Revision	12-10-219(4) and 12-10-220, C.R.S.	No	The purpose of this proposed rule-making will be	The Division will work with the following stakeholders: 1) Colorado Association of Realtors; 2) Denver Metro Commercial Association of Realtors; 3) Institute of Real Estate Management; 4) Building Owners and Managers Association; 5) National Association of Residential Property Managers; 6) Colorado Bar Association; and 7) licensed practitioners.
180	DRE	on-going through 2022	4-725-2	Rules of the Colorado Board of Real Estate Appraisers	Revision	12-10-604(1)(a)(I), C.R.S.	No	The Board will conduct rule-making to incorporate the recommendations found in the 2021 Sunset review conducted by the Colorado Office of Policy, Research and Regulatory Reform. Also comply with any federal mandates regarding any licensing, education and practice standards as necessary.	The Division will work with the following stakeholders: 1) Colorado Coalition of Appraisers; 2) Colorado Association of Real Estate Appraisers (North & South Chapters); 3) Appraisal Institute; 4) Representatives of Appraisal Management Companies; 5) American Society of Farm Managers and Rural Appraisers; 6) Appraisal Sub-Committee; and 7) Licensed and Certified

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
181	DRE	on-going through 2022	4-725-3	Rules regarding Mortgage Loan Originators and Mortgage Companies	Revision	12-10-703(2)(a), 12-10-711(11), and 12-10-712(3), C.R.S.	No	The purpose of this potential rule-making will be to amend, repeal and add new administrative rules as a result of any federal mandates. This will include reviewing the definitions, licensure requirements, application processes, education requirements, professional standards, declaratory orders and exceptions of initial decisions, and the nationwide multistate licensing system and registry as needed.	The Division will work with the following stakeholders: 1) Colorado Mortgage Lenders Association; 2) Colorado Association of Mortgage Professionals; 3) Rocky Mountain Home Association; 4) licensed practitioners; 5) mortgage company compliance managers; 6) Board of Mortgage Loan Originators; and 7) NMLS
182	DRE	Summer and Fall of 2022	4-725-5	Rule Regarding the HOA Information and Resource Center	New	12-10-801(5), C.R.S.	No	The purpose of this proposed rule-making will be to	The Division will work, if needed, with the following stakeholders: 1) Community Association Institute (Denver & Southern Chapters); 2) Colorado Legislative Action Committee; 3) Owner Association Attorneys 4) Education Providers; 5) Representatives from small & large management companies; 6) Homeowners living in HOAs; and 7) Board members of HOAs.
183	DRE	on-going through 2022	4-725-6	Rule Regarding Subdivisions and Timeshares	Revision	12-10-506(5) and 12-10-506(6), C.R.S.	No	The purpose of this potential rule-making will be to	The Division will work, if needed, with the following stakeholders: 1) Community Association Institute (Denver & Southern Chapters); 2) Colorado Legislative Action Committee; 3) Owner Association Attorneys 4) Education Providers; 5) Representatives from small & large management companies; 6) Homeowners living in HOAs; and 7) Board members of HOAs.

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
184	DRE	Fall and Winter of 2022	4-725-7	Reenact Rules regarding Community Association Managers	New	Unknown at this time	No	The Division will conduct rule-making to incorporate the recommendations found in the 2021 Sunrise review conducted by the Colorado Office of Policy, Research and Regulatory Reform. The purpose of this proposed rule-making will be to evaluate if there is a need to add new administrative rules to implement any new legislation signed into law regarding the regulation of Community Association Managers.	The Division will work, if needed, with the following stakeholders: 1) Community Association Institute (Denver & Southern Chapters); 2) Colorado Legislative Action Committee; 3) Owner Association Attorneys 4) Education Providers; 5) Representative from small & large management companies.
185	DOS	ongoing through 2022	3-704-1	Investment Advisor Licensing	New	§11-51-704	No	The purpose of this proposed rule making is to implement a continuing education program for investment adviser representatives (IARs) who are licensed in Colorado. This rule will be based on a model rule adopted by the North American Securities Administrators Association (NASAA).	The Division will work with the following stakeholders: 1) Colorado Financial Planners Association (FPA), 2) Financial Industry Regulation Authority (FINRA), 3) National Association of Insurance and Financial Advisors (NAIFA) Colorado Chapter, 4) Securities Industry and Financial Markets Association (SIFMA), 5) Society of Financial Services Professionals, 6) Securities and Insurance Licesning Association (SILA), and 6) licensed broker dealer and investment adviser firms.

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
186	DOS	ongoing through 2022	3-704-1	Investment Advisor books and records	Revision	§11-51-704	No	The purpose of this proposed rule making is to provide additional specificity in the required written policies and procedures of investment advisers. The rule will promote uniformity and facilitate compliance with state securities laws. This rule will be based on a model rule adopted by the North American Securities Administrators Association (NASAA).	The Division will work with the following stakeholders: 1) Colorado Financial Planners Association (FPA), 2) Financial Industry Regulation Authority (FINRA), 3) National Association of Insurance and Financial Advisors (NAIFA) Colorado Chapter, 4) Securities Industry and Financial Markets Association (SIFMA), 5) Society of Financial Services Professionals, 6) Securities and Insurance Licesning Association (SILA), and 6) licensed broker dealer and investment adviser firms.
187	DOS	ongoing through 2022	3 CCR 704-1	Broker Dealers Dishonest and Unethical Conduct	Revision	§11-51-704	No	The purpose of this proposed rule making is to adopt a standard of conduct for broker-dealers that is consistent with the new federal standard adopted by the SEC in Regulation Best Interest.	The Division will work with the following stakeholders: 1) Colorado Financial Planners Association (FPA), 2) Financial Industry Regulation Authority (FINRA), 3) National Association of Insurance and Financial Advisors (NAIFA) Colorado Chapter, 4) Securities Industry and Financial Markets Association (SIFMA), 5) Society of Financial Services Professionals, 6) Securities and Insurance Licesning Association (SILA), and 6) licensed broker dealer and investment adviser firms.

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
188	DOS	ongoing through 2022	3 CCR 704-1	Investment Advisors and Broker Dealers	Repeal	§11-51-704	No	The purpose of this proposed rule making is to repeal the rule that requires all licensed firms to submit annually the email address of all representatives licensed in Colorado. The rule is meant to reduce the regulatory burden on firms.	The Division will work with the following stakeholders: 1) Colorado Financial Planners Association (FPA), 2) Financial Industry Regulation Authority (FINRA), 3) National Association of Insurance and Financial Advisors (NAIFA) Colorado Chapter, 4) Securities Industry and Financial Markets Association (SIFMA), 5) Society of Financial Services Professionals, 6) Securities and Insurance Licesning Association (SILA), and 6) licensed broker dealer and investment adviser firms.

2021

Regulatory Agenda Report



REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
1	BAN	4/1/2022	3-701-7	Surety Bond	Revision	§11-110-108 §11-102-104 (B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
2	BAN	4/1/2022	3-701-7	Permissible Investments	Revision	§11-110-108 §11-102-104 (B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
3	BAN	4/1/2022	3-701-7	Records	Revision	§11-110-111 §11-102-104(B) § 11-110-201 §11-110-114	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
4	BAN	4/1/2022	3-701-7	Qualifications for Licensing	Revision	§ 11-110-107 §11-102-104 (B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
5	BAN	4/1/2022	3-701-7	Money Transmitter	Revision	§11-110-103(3) §11-102-104 (B) § 11-110-112	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
6	BAN	4/1/2022	3-701-7	Compliance with Federal Regulations	Revision	§11-110-113 §11-102-104(B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
7	BAN	4/1/2022	3-701-7	Customer Notice	Revision	§11-110-120 §11-102-104(B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
8	BAN	4/1/2022	3-701-7	Employee Money Laundering	Revision	§11-110-203 §11-102-104(B)	No	Update Money Transmitter Rules for joining National Multistate Licensing System (NMLS), statutory reference and general cleanup/update	Money Transmitter Licensees
9	BAN	4/1/2022	3-701-10	All Administrative Rules	Revision	§11-102-104		Review and update all administrative rules	Banking Board, state chartered banks, trust companies, licensed money transmitters and PDPA banks
10	DOI	6/1/2022	1-1-2001	Actuarial Qualifications	Revision	§10-1-108(8) §10-1-109.	Yes	The purpose of this regulation is to assure that the consulting actuary, actuary or other person acting in the capacity of an actuary is properly qualified to perform the actuarial duties in a competent and professional manner by establishing qualifications for such persons. The actuarial opinion and other documents included in the scope of this regulation are relied upon for determinations of financial soundness and for the protection of the general public. For these reasons, the qualifications of the person signing the documents must be verified and periodically reevaluated.	Actuaries

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
11	DOI	2/1/2022	1-1-2008	Penalties and Timelines Concerning Division Inquires and Document Request	Revision	§10-1-109 §10-2-104 §10-3-109(3) §10-16-109	Yes	The purpose of this regulation is to prescribe the time period in which all persons and entities shall respond to Colorado Division of Insurance inquiries, including, but not limited to, document and information requests during market conduct and financial examinations, investigations of complaints, and any other formal or informal investigation or examination conducted for the purpose of determining compliance with Colorado insurance law. In addition, the purpose of this regulation is to prescribe the penalties for failure to respond to Division inquiries within the timeframes specified in this regulation.	Insurers
12	DOI	11/1/2022	1-1-2009	Exceptions to Electronic Rate Filing	Revision	§10-1-109 §10-4-401 (5) §10-16-107(1).	Yes	The purpose of this regulation is to prescribe the format for electronic rate filings with the Division of Insurance (Division), and to set forth the circumstances that would be considered an emergency situation exempting insurers and carriers from making electronic rate filings.	Insurers
13	DOI	10/1/2022	1-2-2007	Concerning Managing General Agents	Revision	§10-1-109 §10-2-108	Yes	The purpose of this regulation is to clarify standards and procedures contained in the Managing General Agents Act.	Managing general agents and insurers
14	DOI	10/1/2022	1-2-11	Standards and Approval for Required Education Course for Producers to be Appointed by a Bail Insurance Company	Revision	§10-1-109 §10-2-104	Yes	The purpose of this regulation is to specify the requirements, procedures, and standards necessary to implement the education requirements mandated by § 10-2-415.5(2)(c), C.R.S. including the certification and filing of courses in bail recovery pursuant to § 10-2-415.5(2)(c)(I)(B), C.R.S which comply with the Peace Officer Standards and Training Board (P.O. S.T.) curriculum established by P.O.S.T. pursuant to § 24-31-303(1)(h), C.R.S.	Producers
15	DOI	12/1/2022	1-2-13	Cash-Bonding Agent and Professional Cash-Bail Agent Provisions for Release of Qualification Bond	Revision	§10-1-109	Yes	Pursuant to § 12-7-103, C.R.S. as effective until July 1, 2012, Cash-Bonding Agents and Professional Cash-Bail Agents were required to post a cash qualification bond in the amount of \$50,000 to secure payment of defaulted bonds and to pay any final, non-appealable judgment for failure to return collateral, including costs and attorney's fees, if awarded. This regulation sets forth the terms and conditions for release of the qualification bond for those Cash-Bonding Agents and Professional Cash-Bail Agents whose license expired, was cancelled, surrendered, revoked other otherwise inactivated prior to July 1, 2012.	Cash-Bonding Agents and Professional Cash-Bail Agents
16	DOI	2/1/2022	2-1-2007	Concerning Issuance of a Certificate of Authority	Revision	§10-1-109 §10-14-505	Yes	The purpose of this regulation is to clarify the standards for issuing certificates of authority to transact insurance business in Colorado to insurers, fraternal benefit societies and interinsurance exchanges.	Property and casualty insurers

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
17	DOI	10/1/2022	2-1-2008	Concerning Risk Retention Groups and Purchasing Groups	Revision	§10-1-109 §10-3-1403	Yes	The purpose of this regulation is to regulate the formation and/or operation of risk retention groups or purchasing groups in this state formed pursuant to the provisions of the federal Liability Risk Retention Act of 1986, 15 U.S.C. § 3901 et seq ("RRA 1986"), to the extent permitted by such law.	Insurers
18	DOI	6/1/2022	2-1-10	Motor Vehicle Self-Insurance	Revision	§10-1-109 §10-4-601.5 §10-4-624 §42-7-501	Yes	Section 10-4-624 C.R.S., provides that any person in whose name more than twenty-five (25) motor vehicles are registered may qualify for self-insurance. This provision affords owners of fleets of motor vehicles a cost-effective method of complying with Colorado's motor vehicle financial responsibility requirements while affording coverage and protection to the general public. The purpose of this regulation is to set the filing requirements and standards for certification as a self-insurer under § 10-4-624, C.R.S. It is the opinion of the Commissioner that any owner of motor vehicles which must be registered should either obtain complying motor vehicle insurance or comply with this regulation.	Motor vehicle self-insurers
19	DOI	4/1/2022	2-2-2001	Concerning Public Entity Self-Insurance Pools	Revision	§10-1-109	Yes	The purpose of this regulation is to clarify the requirements for the formation and operation of public entity self-insurance pools.	Public entities forming a self-insurance pool
20	DOI	4/1/2022	2-2-2002	Concerning Employers Workers' Compensation Self-Insurance Pools	Revision	§8-44-205(9) §10-1-109.	Yes	The purpose of this regulation is to clarify the requirements for the formation and operation of employer's workers' compensation self-insurance pools.	Employers forming a self-insurance pool
21	DOI	2/1/2022	2-3-2001	Concerning the Formation and Operations of Captive Insurance Companies in Colorado	Revision	§10-1-109 §10-6-129	Yes	The purpose of this regulation is to set forth the formation, operation and reporting requirements for captive insurance companies formed pursuant to the Colorado Captive Insurance Company Act, Article 6 of Title 10, C.R.S., and to ensure that licensed captive insurance companies are financially sound.	Captive insurance companies
22	DOI	8/1/2022	3-1-2002	Statutory Deposits Quarterly Reports on Market Value	Revision	§10-1-109	Yes	The purpose of this regulation is to implement the market valuation requirement of § 10-3-235 (4) C.R.S., by the establishment of regular reporting method.	Insurers

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
23	DOI	5/1/2022	3-1-2007	Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition	Revision	§§ 10-1-109, 10-3-201(1)(b), 10-6-129, 10-14-505, and 10-16-109, C.R.S.	Yes	The purpose of this regulation is to set forth the standards which the Commissioner of Insurance may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors or the general public. This regulation shall not be interpreted to limit the powers granted the Commissioner by any laws or parts of laws of this state, nor shall this regulation be interpreted to supersede any laws or parts of laws of this state.	Insurers
24	DOI	11/1/2022	3-1-2008	Concerning Actuarial Opinions and Memorandums for Life Companies	Revision	§§10-1-108(7), 10-1-109, 10-7-114, and 10-14-505, C.R.S.	Yes	The purpose of this regulation is to prescribe: A. Guidelines and standards for statements of actuarial opinion, which are to be submitted in accordance with §§10-7-114 and 10-14-602, C.R.S. and for memorandums submitted in support thereof; B. Rules applicable to the appointment of an appointed actuary; and C. Guidance as to the meaning of "adequacy of reserves."	Life insurers and fraternal benefit societies
25	DOI	2/1/2022	3-1-2009	Minimum Reserve Standards for Individual and Group Health Insurance Contracts	Revision	§§ 10-1-109, 10-16-109 and 10-16-220, C. R.S.	Yes	The purpose of this regulation is to set forth minimum standards for reserves of insurers providing individual and group health insurance.	Insurers
26	DOI	8/1/2022	3-1-11	Risk-Based Capital (RBC) for Insurers	Revision	§§ 10-1-109, 10-3-201(1)(b), 10-6-129, and 10-14-604, C.R.S.	Yes	The purpose of this Regulation is to establish standards for the minimum capital and surplus to be maintained by insurers, captive insurers and fraternal benefit societies as provided by §§ 10-3-201(1)(b), 10-6-116, and 10-14-604, C.R.S. These standards provide for the early detection of a potentially hazardous or otherwise dangerous condition of an insurer in order to protect its insureds and the general public. This Regulation additionally provides for reporting, corrective measures, and enforcement actions available to the Commissioner.	Insurers
27	DOI	8/1/2022	3-1-12	Risk-Based Capital (RBC) for Health Organizations	Revision	10-16-310(3) 10-16-411(2)	Yes	The purpose of this Regulation is to establish standards for the minimum capital and surplus to be maintained by health organizations as provided by §§ 10-16-310 and 10-16-411, C.R.S. These standards provide for the early detection of a potentially hazardous or otherwise dangerous condition of a health organization in order to protect its enrollees/members and the general public. This Regulation additionally provides for reporting, corrective measures, and enforcement actions available to the Commissioner.	Health organizations

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
28	DOI	10/1/2022	3-1-13	Disclosure of Material Transactions	Revision	§10-1-109, 10-6-114 10-6-129 10-14-505	Yes	The purpose of this regulation is to establish filing requirements for certain domestic insurers for material transactions, which have the potential of creating a hazardous financial condition. It is necessary to monitor the financial condition and operation of an insurer so as to adequately protect its insureds and the public.	Insurers
29	DOI	7/1/2022	3-1-14	Alternative Mechanism for Carriers Entering into Contracts with Risk-bearing Entities	Revision	§10-1-109 §10-16-109 §10-16-708	Yes	The purpose for this regulation is to establish an acceptable alternative mechanism pursuant to §10-16-705(5)(b), C.R.S. This regulation establishes the terms of an alternative mechanism, which, if complied with, is deemed approved for purposes of §10-16-705(5)(b), C.R.S. Carriers are not limited to this one alternative mechanism. Other alternative mechanism plans can be submitted for consideration to the commissioner.	Insurers
30	DOI	4/1/2022	3-1-16	Custodial Agreements and the Use of Clearing Corporations	Revision	§ 10-1-109 §10-3-1203(2) §10-6-129, §10-14-505 § 10-16-109	Yes	The purpose of this regulation is to provide current criteria, procedures and clarification concerning the holding of securities or book-entry securities as investments or in meeting the statutory deposits or guaranty fund deposits pursuant to §§ 10-3-210, 10-6-116, 10-16-310, 10-16-412 and 10-16-505, C.R.S. Only custodial agreements complying with this regulation shall be acceptable to the Commissioner of Insurance.	Insurers
31	DOI	2/1/2022	3-5-2002	Title Insurer Assessment	Revision	§10-1-109 §10-3-207	Yes	The purpose of this regulation is to establish the standard to determine the amount each title insurer shall be assessed in accordance with § 10-3-207, C.R.S.	Title Insurers
32	DOI	12/1/2022	4-2-2002	Hospital Indemnity and Disability Income Policies	Revision	§10-1-109 §10-16-109	Yes	This regulation prohibits insurers from refusing to pay benefits under certain contracts because of hospitalization in government hospitals.	Insurers
33	DOI	2/1/2022	4-2-10	Reporting Requirements for Multiple Employer Welfare Arrangements (MEWAs)	Revision	§10-1-109	Yes	This regulation is intended to clarify the information to be filed under the provisions of § 10-3-903.5(7)(c), C.R.S., by Multiple Employer Welfare Arrangements (MEWAs) claiming exempt status from formal licensing requirements; and to clarify the responsibilities of licensed producers.	MEWAs
34	DOI	3/1/2022	4-2-27	Procedures for Reasonable Modifications to Individual and Small Group Health Plans	Revision	§10-1-109 §10-16-109	Yes	The purpose of this regulation is to establish procedures for the submission of reasonable modifications to grandfathered individual and small group health benefit plans, to non-grandfathered individual and small group health benefit plans, as outlined in § 10-16-105.1(5), C.R.S., and to pediatric stand alone dental plans.	Health insurers

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
35	DOI	12/1/2022	4-2-30	The Rules for Complying with Mandated Coverage of Hearing Aids and Prosthetics	Revision	§10-1-109	Yes	The purpose of this regulation is to provide health carriers the guidance necessary to comply with the requirement to provide coverage for prosthetics and hearing aids pursuant to §§10-16-104(14) and (19), C.R.S., respectively.	Health insurers
36	DOI	3/1/2022	4-2-42	Concerning Essential Health Benefits	Revision	§10-1-108(7) §10-1-10	No	The purpose of this regulation is to establish rules for the required inclusion of the essential health benefits in individual and small group health benefit plans in accordance with Article 16 of Title 10 of the Colorado Revised Statutes, and the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111- 148, 124 Stat. 119 (2010) and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010), together referred to as the "Affordable Care Act" (ACA).	Health insurers
37	DOI	2/1/2022	4-6-2008	Concerning Small Employer Group Health Benefit Plans	Revision	§10-1-109 §10-16-105.2(1)(a)(IV) §10-16-108.5(8) §10-16-109 §10-16-708	Yes	The purpose of this regulation is to establish rules for implementing Colorado's small group laws. This regulation concerns the applicability and scope of the small group provisions; carriers' obligations to provide coverage; employee eligibility requirements; the use of restrictive riders; rules relating to fair marketing; and carrier disclosure requirements.	Health insurers
38	DOI	2/1/2022	4-6-10	Employee Leasing Companies and Health Care Coverage	Revision	§10-1-109 §10-3-1110	Yes	The purpose of this regulation is to establish and implement rules for health carriers that issue and renew health plans to employee leasing companies and work-site employers.	Health insurers
39	DOI	9/1/2022	4-6-12	Mandatory Coverage of Mental Illness	Revision	§10-1-109 §10-16-109	Yes	The purpose of this regulation is to clarify the coordination of subsections (5) and (5.5) of § 10-16-104, C.R.S. (2012), concerning mental illness and biologically based mental illness (BBMI).	Insurers
40	DOI	10/1/2022	4-7-2001	Health Maintenance Organizations	Revision	§10-1-109 §10-16-109 §10-16-111 §10-16-403(2)(b)	Yes	The purposes of this regulation are to provide the requirements for licensure as a health maintenance organization (HMO) and establish standards for HMO organization and operations.	Health Maintenance Organizations
41	DOI	February 1, 2022	4-7-2002	Concerning the Laws Regulating Health Maintenance Organization Benefit Contracts and Services in Colorado	Revision	§10-16-109	Yes	The purpose of this regulation is to provide reasonable standards for the terms and provisions contained in Health Maintenance Organizations' ("HMOs") benefit contracts and evidences of coverage.	Health Maintenance Organizations
42	DOI	June 1, 2022	5-1-2001	Mass Merchandising of Property and Liability Insurance	Revision	§ 10-1-109	Yes	The purpose of this regulation is to prescribe rules to prevent abuses in connection with the sale of property and liability insurance in this state pursuant to mass marketing plans, while preserving for consumers the potential benefits of this form of marketing.	Property and liability insurers

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
43	DOI	July 1, 2022	5-1-2002	Application and Binder Forms	Revision	§10-1-109 §10-3-111	Yes	The purpose of this regulation is to implement rules that provide clear disclosure of the insurance company on the application form or on the binder. In addition, this regulation is designed to eliminate the unfair practice of providing false or misleading information by individuals who are not disclosing the name of the insurance company on an application form or a binder for insurance.	Property and casualty insurers
44	DOI	September 1, 2022	5-1-2006	Nationwide Inland Marine Definition	Revision	§ 10-1-109	Yes	The purpose of this regulation is to adopt a standard definition of “inland marine” insurance.	Property and casualty insurers
45	DOI	July 1, 2022	5-1-2008	Concerning Claims-made Insurance Policies	Revision	§10-1-109	Yes	The purpose of this regulation is to establish standards for the training of all persons engaged in the sale or consultation of claims-made	Casualty insurers
46	DOI	August 1, 2022	5-1-2009	Regulation to Require Reporting of Financial and Statistical Data by Property and Casualty Insurance Companies	Revision	§10-1-109 §10-4-404	Yes	The purpose of this regulation is to set forth the manner of reporting data by insurers to statistical agents, to prescribe reports to be submitted by statistical agents to the commissioner, and to prescribe certain conduct in connection therewith. This regulation does not apply to data reported directly by insurers to the commissioner.	Property and casualty insurers
47	DOI	April 1, 2022	5-1-12	Warranties and Service Contracts	Revision	§10-1-108(8) §10-1-10	Yes	The purpose of this regulation is to establish a distinction between a written agreement that is an insurance contract pursuant to § 10-1-102 (12), C.R.S. and a written agreement that meets the definition of a written warranty or service contract and is not subject to regulation by the Division of Insurance (Division). The Division has received numerous inquiries regarding contracts which may be insurance and are sold as warranties or service contracts. The definitions and rules contained herein set forth certain conditions which will cause a contract to be considered a contract of insurance, and thereby regulated by the Division, and warranty contracts and service contracts which may not be regulated unless specifically addressed in the Colorado statutes, rules and regulations.	Insurers
48	DOI	February 1, 2022	5-1-14	Penalties for Failure to Promptly Address Property and Casualty First Party Claims	Revision	§10-1-109 §10-3-1110	Yes	The purpose of this regulation is to describe the procedure and circumstances under which penalties will be imposed for failure to make timely decisions and/or payment on first party claims.	Property and casualty insurers

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
49	DOI	January 1, 2022	5-2-12	Concerning Automobile Insurance Consumer Protections	Revision	§10-1-109 §10-4-601.5	Yes	The purpose of this regulation is to interpret and implement the provisions of Part 6 of Article 4 of Title 10 of the Colorado Revised Statutes. In addition, this regulation provides rules governing the rejection of coverage, cancellation, nonrenewal, increase in premium, and reduction in coverage on complying policies of automobile insurance.	Auto insurers
50	DOI	November 1, 2022	6-5-2001	Concerning the Reporting of Suspected Insurance Fraud	Revision	§10-1-109 §10-4-1003	Yes	The purpose of this regulation is to facilitate the reporting of suspected insurance fraud, to aid in the detection, investigation and ultimate prosecution of those who commit insurance fraud in this state and to deter future fraudulent acts by improving regulatory oversight of licensed persons who commit insurance fraud. This regulation describes the procedure and circumstances under which all insurers shall, and individuals may, report suspected insurance fraud for the purpose of investigating, and enforcing laws prohibiting insurance fraud.	Insurers, nonprofit hospital, medical-surgical, and health service corporations, health maintenance organization, and licensed insurance producers
51	DOI	March 1, 2022	8-1-2005	Title Insurance Agent Licensing	Revision	§10-1-108(7) §10-1-1	Yes	The purpose of this regulation is to set forth the title insurance agent licensing requirements.	Title insurers
52	DPO	August 12, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.1)	Authority	New rule	§ 12-20-204 § 12-310-103(4)	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
53	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.2)	Scope and Purpose	New rule	§ 12-20-204 § 12-310-103(4)	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
54	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.3)	Applicability	New rule	§ 12-20-204 § 12-310-103(4)	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
55	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.1)	Clarification of Who is Required to Register for the Surgical Assistant and Surgical Technician Program	Revision	§ 12-20-204 § 12-310-102 § 12-310-103(4)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
56	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.2)	Declaratory Orders	Revision	§ 12-20-204 § 12-310-102 § 24-4-105(11)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
57	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.3)	Reporting Criminal Convictions, Judgements, and Administrative Proceedings	Revision	§ 12-20-204 § 12-310-103	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
58	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.4)	Regarding the Continuing Duty to Report Information to the Director's Office	Revision	§ 12-20-204 § 12-310-103	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
59	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.8)	Confidential Agreements to Limit Practice for Physical Condition or Disability, A Behavioral, Mental Health or Substance Use Disorder or an Intellectual and Developmental Disability	New rule	§ 12-20-204 § 12-30-108 § 12-310-103 § 12-310-108.5	No	The purpose of this proposed new rule is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
60	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.6)	Concerning Healthcare Provider Disclosures to Consumers About the Potential Effects of Receiving Emergency or NonEmergency Services from and Out of Networks Provider	Revision	§ 12-20-204 § 12-310-103 § 24-34-113	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
61	DPO	August 16, 2021	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.8)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	Revision	§ 12-20-204 § 12-30-115 § 12-310-103	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-092 (CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS WHO ASSIST SURGEONS, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES) and other general rule clean up to comply with the Secretary of State's Styling Manual.	Licensees, professional associations, relevant state agencies, and other key stakeholders
62	DPO	August 30, 2021	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.5)	Registration Maintenance and Reporting Changes	Revision	§ 12-20-204(1) § 12-145-107(1)(a) § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
63	DPO	August 30, 2021	Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (Rule 1.9)	Duty to Report Information	Revision	§ 12-20-204 § 12-210-107(2) § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
64	DPO	August 30, 2021	Office of Hearing Aid Provider Licensure 3 CCR 711-1 (Rule 1.8)	Duty to Report Information	Revision	§ 12-20-204 § 12-230-301(3) § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
65	DPO	August 30, 2021	Office of Respiratory Therapy Licensure 4 CCR 741-1 (Rule 1.7)	Duty to Report Information to the Director's Office	Revision	§ 12-20-204 § 12-300-115 § 24-34-107	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
67	DPO	August 31, 2021	Office of Direct-Entry Midwifery Registration 4 CCR 739-1 (Rule 1.2)	Standards for Education	Revision	§ 12-20-204(1) § 12-225-104(5) § 12-225-108(1)(a)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-101 (CONCERNING THE CONTINUATION OF THE REGISTRATION OF DIRECT-ENTRY MIDWIVES, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
68	DPO	August 30, 2021	Office of Direct-Entry Midwifery Registration 4 CCR 739-1 (Rule 1.17)	Administration of Medications	Revision	§ 12-20-204(1) § 12-225-104(5) § 12-225-108(1)(a)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-101 (CONCERNING THE CONTINUATION OF THE REGISTRATION OF DIRECT-ENTRY MIDWIVES, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2020 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
69	DPO	September 2, 2021	Office of Funeral Home and Crematory Registration 4 CCR 742-1 (Rule 1.7)	Custody and Responsibility	Revision	§ 12-20-204 § 12-135-401	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-006 (CONCERNING THE CONVERSION OF HUMAN REMAINS TO BASIC ELEMENTS WITHIN A CONTAINER USING AN ACCELERATED PROCESS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
70	DPO	September 10, 2021	Colorado Podiatry Board 3 CCR 712-21	Rule 330 - Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204(1) § 12-30-109(6) § 12-290-106(1)(a)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
71	DPO	September 10, 2021	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.4)	Rules of Administrative Procedure	Revision	§ 12-20-204(1) § 12-20-202(3)(a) § 12-120-104(1)(a) § 12-120-416 § 24-34-107	No	The purpose of this proposed revision is to implement Colorado House Bill 20-1326 (CONCERNING AN EXPANSION OF AN INDIVIDUAL'S ABILITY TO PRACTICE AN OCCUPATION IN COLORADO THROUGH CREATION OF AN OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM), to implement Colorado House Bill 21-1147 (CONCERNING SIMPLIFICATION OF THE REGULATORY REQUIREMENTS FOR CONTINUING EDUCATION OF PROFESSIONAL ARCHITECTS), and to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
72	DPO	September 10, 2021	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.8)	Reporting Change of Address, Telephone Numbers or Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
73	DPO	September 15, 2021	State Board of Examiners of Nursing Home Administrators 3 CCR 717-1 (Rule 1.1)	General Licensing Provisions	Revision	§ 12-20-204 § 12-265-107(1)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
74	DPO	September 17, 2021	State Board of Social Work Examiners 4 CCR 726-1 (Rule 1.8)	Reporting Change of Address, Telephone Number or Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
75	DPO	September 22, 2021	State Board of Accountancy 3 CCR 705-1 (Rule 1.6)	Certificate Requirements, Discipline, Maintenance and Status Changes	Revision	§ 12-20-204 § 12-100-105(1)(b) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
76	DPO	September 29, 2021	State Electrical Board 3 CCR 710-1 (Rule 1.11)	Renewal and Reinstatement	Revision	§ 12-20-204 § 12-105-106(1)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
77	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 1.00.18)	Patient Counseling	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 1.00.18 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
78	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 1.00.24)	Procurement of Drugs	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 1.00.24 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
79	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 2.01.10, 2.01.20)	Information to Appear on Each Order, Additional Information	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 2.01.10 and 2.01.20 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
80	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 3.00.21, 3.00.22)	Procuring, Prescribing and Dispensing Opiate Antagonists	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 3.00.21 and 3.00.22 to implement Colorado Senate Bills 21-011 and 21-122 concerning the expanded authority and utilization of opiate antagonists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
81	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 3.01.22)	Filling of Automated Cassettes	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 3.01.22 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
82	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 5.00.01, 5.00.10, 5.00.17, 5.00.19, 5.00.40, 5.00.50, 5.00.55, 5.00.60)	Outlets - Registration requirement updates to outsourcing facilities including 503Bs and 3rd Party Logistics Providers	Revision, New Rule	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 5.00.01, 5.00.10, 5.00.40, 5.00.50, 5.00.55 and 5.00.60 and the new Board Rules 5.00.17 and 5.00.19 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
83	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 7.00.30)	Compliance of Outlet	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 7.00.30 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, state agencies, and other key stakeholders
84	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 9.00.10)	Legal Proceedings - Reporting	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 9.00.10 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
85	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 14.00.50, 14.00.80)	Eligibility for registration and Consultant pharmacists	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 14.00.05 and 14.00.80 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
86	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 15.01.00, 15.09.11, 15.09.12, 15.09.14, 15.10.10)	Wholesaler Drug Distributor requirements	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 15.01.00, 15.09.11, 15.09.12 and 15.10.10 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
87	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 17.00.10)	Definitions - Pharmaceutical Care	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rule 17.00.10 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
88	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 21.00.20, 21.11.10, 21.21.70)	Casual sales and labeling requirements	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of these proposed revisions to Board Rules 21.00.20, 21.11.10 and 21.21.70 is to implement Colorado Senate Bill 21-094 concerning the continuation of the State Board of Pharmacy and making changes regarding the practice pharmacy.	Licensees, professional associations, relevant state agencies, and other key stakeholders
89	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 2.01.20)	Chart	Repeal/Revision	§ 12-20-204 § 12-280-101 § 12-280-107(1) § 12-280-108(3)(b)	No	The purpose of these proposed revisions is to correct the error where the original basis and purpose was published into Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
90	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 3.03.10)	MedPaks	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(1) § 12-280-108(3)(b)	No	The purpose of these proposed revisions is to correct and update how medpaks are required to be processed.	Licensees, professional associations, relevant state agencies, and other key stakeholders
91	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule Board Rule - Appendix C)	Appendix C	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(1) § 12-280-108(3)(b)	No	The purpose of this proposed revision is to correct a typographical error.	Licensees, professional associations, relevant state agencies, and other key stakeholders
92	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 29.00.50)	Pharmacy Technicians	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b) § 12-280-115.5(3)(b)(1) and (II)	No	The purpose of this proposed revision to Board Rule 29.00.50 is to establish a process for a provisional certificant to apply for a hardship extension to extend the validity of the provisional certification beyond eighteen months.	Licensees, professional associations, relevant state agencies, and other key stakeholders
93	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (Rule 15.02.10)	Wholesalers	Revision	§ 12-20-204 § 12-280-101 § 12-280-107(2) § 12-280-108(3)(b)	No	The purpose of the proposed revision to Board Rule 15.02.10 is to implement Colorado Senate Bill 21-077 concerning the use of social security numbers for applicants.	Licensees, professional associations, relevant state agencies, and other key stakeholders
94	DPO	September 30, 2021	State Board of Pharmacy 3 CCR 719-1 (23.00.00)	Prescription Drug Monitoring Program	Revision and response to OSA recommendations	§ 12-20-204 § 12-280-107(1)	No	The purpose of the proposed revisions and additions to Board Rule 23.00.00 is to resolve the Departments OSA PDMP Audit recommendations and our respective responses to improve the PDMP.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
95	DPO	October 1, 2021	State Board of Psychologist Examiners 4 CCR 721-1 (Rule 1.8)	Reporting Change of Address, Telephone Number, of Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
96	DPO	October 5, 2021	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.8)	Reporting Change of Address, Telephone Number or Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
97	DPO	October 12, 2021	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.4)	General Rules	Revision	§ 12-110-102(3) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
98	DPO	October 14, 2021	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.17)	Reporting Change of Address, Telephone Number or Name	Revision	§ 12-20-204 § 12-315-106(5)(g) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
99	DPO	October 14, 2021	State Board of Veterinary Medicine 4 CCR 727-1 (Rule TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-315-106(5)(g) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
100	DPO	October 15, 2021	State Board of Unlicensed Psychotherapists 4 CCR 734-1 (Rule 1.8)	Reporting Change of Address, Telephone Number, or Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
101	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.1)	Rules and Regulations for the Licensure of Practical and Professional Nurses	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to clarify and update the rule for Reinstatement and Reactivation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
102	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.2)	Rules and Regulations for Approval of Nursing Education Programs	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to clarify and update the rule for Establishing a Nursing Education Program and Withdrawal of Full Approval of a Nursing Education Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
103	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.5)	Rules and Regulations for Licensure of Psychiatric Technicians	Revision	§ 12-20-202 § 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to implement Colorado House Bill 20-1326 (CONCERNING AN EXPANSION OF AN INDIVIDUAL'S ABILITY TO PRACTICE AN OCCUPATION IN COLORADO THROUGH CREATION OF AN OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM).	Licensees, professional associations, relevant state agencies, and other key stakeholders
104	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.10)	Rules and Regulations for Certification as a Nurse Aide	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to correct incorrect statutory citations.	Licensees, professional associations, relevant state agencies, and other key stakeholders
105	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.13)	Rules and Regulations Regarding the Delegation of Nursing Tasks	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to implement Colorado Senate Bill 21-056 (CONCERNING EXPANSION OF THE OPPORTUNITIES TO ADMINISTER MEDICAL MARIJUANA AT SCHOOL TO A STUDENT WITH A VALID MEDICAL MARIJUANA RECOMMENDATION, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
106	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.14)	Rules and Regulations to Register Professional Nurses Qualified to Engage in Advanced Practice Registered Nursing	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to correct incorrect statutory citations.	Licensees, professional associations, relevant state agencies, and other key stakeholders
107	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.15)	Rules and Regulations for Prescriptive Authority for Advanced Practice Registered Nurses	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of these proposed revisions is to clarify and update the rule regarding the 750 mentorship for prescriptive authority for advanced practice nurses.	Licensees, professional associations, relevant state agencies, and other key stakeholders
108	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.16)	Duty to Report Requirements	Revision	§ 12-20-204 § 12-255-107(1)(j)	No	The purpose of this proposed revision is to strike the requirement to only report felony convictions as it conflicts with statute.	Licensees, professional associations, relevant state agencies, and other key stakeholders
109	DPO	October 27, 2021	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-255-107(1)(j) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
110	DPO	October 29, 2021	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
111	DPO	November 4, 2021	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (Rule 1.8)	Reporting Change of Address Telephone Number or Name	Revision	§ 12-20-204 § 12-245-204(4)(a) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING).	Licensees, professional associations, relevant state agencies, and other key stakeholders
112	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.6)	Licensure of Dentists and Dental Hygienists	Revision	§ 12-20-204 § 12-220-105(3) § 24-34-107	No	The purpose of the proposed revision is to implement Colorado Senate Bill 21-077 (CONCERNING THE ELIMINATION OF VERIFICATION OF AN INDIVIDUAL'S LAWFUL PRESENCE IN THE UNITED STATES AS A REQUIREMENT FOR INDIVIDUAL CREDENTIALING) and to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
113	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (TBD)	Rules Regarding the Use of Benzodiazepine	Revision	§ 12-20-204 § 12-220-105(3) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
114	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.13)	Limited Prescriptive Authority for Dental Hygienists	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct a typographical error.	
115	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.17)	Advertising	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
116	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.21)	Fining Schedule for Violations of the Dental Practice Act	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
117	DPO	November 4, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.29)	Confidential Agreements to Limit Practice of Physical or Mental Illness	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders
118	DPO	November 10, 2021	Colorado Dental Board 3 CCR 709-1 (Rule 1.30)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	Revision	§ 12-20-204 § 12-220-105(3)	No	The purpose of this proposed revision is to remove unnecessary language.	Licensees, professional associations, relevant state agencies, and other key stakeholders
119	DPO	November 18, 2021	State Board of Examiners of Nursing Home Administrators 3 CCR 717-1 (Rule 1.4)	Change of Name and Address	Revision	§ 12-20-204 § 12-265-107(1)(a)	No	The purpose of this proposed revision is to correct an error identified by the Office of Legislative Legal Services in the Rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
120	DPO	November 18, 2021	Colorado Medical Board 3 CCR 713-22 (Rule 120)	Rule 120 - Demonstration of Continued Competency By Physician Applicants for Licensure Pursuant to the Occupational Credential Portability Program, Reinstatement of and Expired License, Or Reactivation of a License	Revision	§ 12-20-204 § 12-240-106(1)(a) § 12-20-203(3)	No	The purpose of these proposed revisions is to implement Colorad House Bill 20-1326 (CONCERNING AN EXPANSION OF AN INDIVIDUAL'S ABILITY TO PRACTICE AN OCCUPATION IN COLORADO THROUGH CREATION OF AN OCCUPATIONAL CREDENTIAL PORTABILITY PROGRAM).	Licensees, professional associations, relevant state agencies, and other key stakeholders
121	DPO	November 18, 2021	Colorado Medical Board 3 CCR 713-22 (TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-240-106(1)(a) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
122	DPO	November 18, 2021	State Board of Optometric Examiners 4 CCR 728-1 (TBD)	Rules Regarding the Use of Benzodiazepine	New Rule	§ 12-20-204 § 12-275-108(1)(b) § 12-30-109(6)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1276 (CONCERNING THE PREVENTION OF SUBSTANCE USE DISORDERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
123	DPO	Winter 2021	Office of Barber and Cosmetology Licensure 4 CCR 731-1 (Rule 1.4)	Licensure by Endorsement	Revision	§ 12-20-204 § 12-105-106 (1)(a)	No	The purpose of this proposed revision is to update the rule that currently conflicts with the statute regarding military spouses.	Licensees, professional associations, relevant state agencies, and other key stakeholders
124	DPO	Fall/Winter 2021	Office of Private Investigator Licensing 4 CCR 750-1 (All rules)	Private Investigator Licensure Rules and Regulations	Repeal	§ 12-20-204 § 12-160-109(2)(a)	No	The Office of Private Investigator Licensing went through Sunset Review by the legislature in 2020 and the Governor vetoed Colorado House Bill 20-1207 (CONCERNING THE CONTINUATION OF THE REGULATION OF PRIVATE INVESTIGATORS), which requires the current rules to be repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders
125	DPO	Fall/Winter 2021	Office of Private Investigator Voluntary Licensure 4 CCR 746-1 (All rules)	Rules and Regulations	Repeal	§ 12-20-204	No	The purpose of this proposed repeal is to remove rules that are no longer effective.	Licensees, professional associations, relevant state agencies, and other key stakeholders
126	DPO	Spring 2022	State Board of Addiction Counselor Examiners 4 CCR 744-1 (TBD)	Continuing Professional Competence	Revision	§ 12-20-204 § 12-245-204(4)(a)	No	The purpose of this proposed new rule is to implement Colorado House Bill 21-1305 (CONCERNING THE PRACTICE OF MENTAL HEALTH PROFESSIONALS, AND, IN CONNECTION THEREWITH, CLARIFYING EDUCATION AND HOURS OF PRACTICE REQUIRED FOR LICENSURE OR CERTIFICATION AS AN ADDICTION COUNSELOR; AND ESTABLISHING SUPERVISION PRIVILEGES FOR CERTIFIED AND LICENSED ADDICTION COUNSELORS).	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
127	DPO	Spring/Summer 2022	Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (TBD)	Compact Rules	New Rules	§ 12-20-204 § 12-210-107(2)	No	The purpose of these proposed new rules is to implement Colorado Senate Bill 21-021 (CONCERNING THE ENACTMENT OF THE "AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
128	DPO	Spring/Summer 2022	Office of Speech-Language Pathology Certification 4 CCR 748-1 (TBD)	Compact Rules	New Rules	§ 12-20-204(1) § 12-305-115	No	The purpose of these proposed new rules is to implement Colorado Senate Bill 21-021 (CONCERNING THE ENACTMENT OF THE "AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
129	DPO	Spring/Summer 2022	Office of Speech-Language Pathology Certification 4 CCR 748-1 (TBD)	Rules and Regulations for Speech-Language Pathologists	New Rule, Revision, Repeal	§ 12-20-204(1) § 12-305-115	No	The Speech-Language Pathology Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	
130	DPO	Spring/Summer 2022	Rules and Regulations Regarding Radon Professionals CCR TBD	TBD	New Rules	§ 12-20-204 § 12-165-105(1)(a)	No	The purpose of these proposed new rules will be to implement Colorado House Bill 21-1195 (CONCERNING THE REGULATION OF RADON PROFESSIONALS, AND, IN CONNECTION THEREWITH, REQUIRING LICENSURE TO PRACTICE AS A RADON MEASUREMENT PROFESSIONAL OR RADON MITIGATION PROFESSIONAL, AND MAKING AN APPROPRIATION).	Licensees, professional associations, relevant state agencies, and other key stakeholders
131	DPO	Spring/Summer 2022	Colorado Podiatry Board 3 CCR 712-TBD	Multiple Rules	New Rule, Revision, Repeal	§ 12-20-204 § 12-290-106(1)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S. Stakeholders are also requesting the Board review Rule 290 and possible revisions to the scope of practice of podiatrists.	Licensees, professional associations, relevant state agencies, and other key stakeholders
132	DPO	Spring/Summer 2022	Landscape Architects Board 4 CCR 729-1	Bylaws and Rules of the State Board of Landscape Architects	New Rule, Revision, Repeal	§ 12-20-204 § 12-130-107(1)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
131	DPO	Spring/Summer 2022	Landscape Architects Board 4 CCR 729-1	Bylaws and Rules of the State Board of Landscape Architects	Revision	§ 12-20-204 § 12-130-107(1)(a) § 12-20-202	No	The purpose of this potential revision is to implement Colorado House Bill 20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders
132	DPO	Spring/Summer 2022	State Electrical Board 3 CCR 710-1(TBD)	State Electrical Board Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-105-106(1)(a) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
133	DPO	Spring/Summer 2022	State Board of Accountancy 3 CCR 705-1 (TBD)	State Board of Accountancy Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-100-105(1)(b) § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
134	DPO	Spring/Summer 2022	State Board of Accountancy 3 CCR 705-1 (Rule 1.6)	Certificate Requirements, Discipline, Maintenance, and Status Changes	Revision	§ 12-20-204 § 12-100-105	No	The purpose of this proposed revision is to eliminate confusion with applicants and licensees who are licensed in a different state and how that applicant or licensee can use titles within Colorado. Colorado is an outlier compared to other state boards of accountancy with this rule because Colorado requires CPAs from other states to add the name of its state or state certification when holding out, unless it is applying Rule 1.11 (Practice Privilege/Mobility).	Licensees, professional associations, relevant state agencies, and other key stakeholders
135	DPO	Spring/Summer 2022	Director of Professions and Occupations - Professional Review Program 4 CCR 747-1	Registration Requirements for Governing Boards	New Rule, Revision, Repeal	§ 12-20-204 § 24-4-103.3	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
136	DPO	Summer 2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule TBD)	State Board of Veterinary Medicine's Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-315-106(5)(g)	No	The Veterinary Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
137	DPO	Summer 2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.18(A)(9))	Veterinary Medical Ethics and Code of Conduct	Revision	§ 12-20-204 § 12-315-106(5)(g) § 12-315-119(3)(a)	No	The purpose of this proposed revision is to consider implementation of a recommendation made by a Board of Veterinary subcommittee in 2020. The current rule does not specify the type of records required to maintain standard of practice.	Licensees, professional associations, relevant state agencies, and other key stakeholders
138	DPO	Summer 2022	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.9)	Academic License	Revision	§ 12-20-204 § 12-315-106(5)(g)	No	The purpose of this proposed revision is to address the discrepancy with the statute. Section 12-315-108 (3), C.R.S. states that Academic Veterinarians do not have to meet the requirements of 12-315-107, C.R.S. The current rule states that the applicant must meet the requirements of 1.7.(B) including successfully completed the NAVLE.	Licensees, professional associations, relevant state agencies, and other key stakeholders
139	DPO	Summer 2022	State Board of Optometric Examiners 4 CCR 728-1 (TBD)	State Board of Optometric Examiners Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-275-108(1)(b)	No	The Optometry Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
140	DPO	Summer 2022	State Board of Optometric Examiners 4 CCR 728-1 (TBD)	TBD	New Rule	§ 12-20-204 § 12-275-108(1)(b) § 12-275-128(2)(a)	No	The purpose of this proposed revision is to update the exemption for unemployed, retired, and certain other optometrists from the requirement to carry professional liability insurance. Such exemptions currently exist in the Rules for the Medical Board, Dental Board, Podiatry Board and Chiropractic Board.	Licensees, professional associations, relevant state agencies, and other key stakeholders
141	DPO	Summer 2022	Massage Therapy Licensure 3 CCR 722-1 (TBD)	Massage Therapy Licensure Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204 § 12-235-118	No	The Massage Therapy Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
142	DPO	Summer 2022	Office of Acupuncture Licensure 4 CCR 738-1 (TBD)	Office of Acupuncture Licensure Rules and Regulations	New Rule, Revision, Repeal	§ 12-20-204(1) § 12-200-106(3)	No	The Acupuncture Practice Act will be reviewed by the legislature in 2022 through the Sunset Review and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders
143	DPO	Summer 2022	Colorado Dental Board 3 CCR 709-1 (Rule 1.14)	Anesthesia	Revision	§ 12-20-204 § 12-220-106(1)(a) (II-III), and (f) § 12-220-305(1)(p) and (q) § 12-220-306 § 12-220-504(1)(c) § 12-220-501(3)(a) (V) § 12-220-201(1)(cc) and (II) § 12-220-411	No	The purpose of these proposed revisions are to review and update how anesthesia applications are received and approved by the Board.	Licensees, professional associations, relevant state agencies, and other key stakeholders
144	DPO	Summer 2022	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rules 1.1(A) and 1.3(A) (7))	Preamble and Rules of Conduct	Revision	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of these proposed revisions are to update the preamble of the rules to reflect the changes made to the structure of the statute during the recodification of Title 12.	Licensees, professional associations, relevant state agencies, and other key stakeholders
145	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rules 1.4)	Rules of Administrative Procedure	Revision, Repeal	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of these proposed revisions and/or repeals are to repeal sections of the rule that may not be necessary because of direct testing for examinations, which requires candidates to take and pass all examinations before they can submit an application.	Licensees, professional associations, relevant state agencies, and other key stakeholders
146	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.4)	Rules of Administrative Procedure	Revision	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to change to an updated reference to References and Verification for Qualifying Work Experience, specifically the experience portfolio.	Licensees, professional associations, relevant state agencies, and other key stakeholders
147	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is for professional land surveyors to consider closure clause to address recent issues with failing to close corners that established where a survey line intersects a previously fixed boundary at a point between corners.	Licensees, professional associations, relevant state agencies, and other key stakeholders
148	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is for professional land surveyors to solicit feedback from stakeholders whether rules are needed to address the use of range boxes to protect monuments as many states have adopted such rules.	Licensees, professional associations, relevant state agencies, and other key stakeholders
150	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is regarding continuing education for architects and for the Board to consider whether to add service on a state licensing Board as a way of earning continuing education credit.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
151	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to define "Plot Plans" that are used in construction and the work within these plans has expanded to engineering and land surveying and need to be defined to protect consumers by ensuring the work meets standards.	Licensees, professional associations, relevant state agencies, and other key stakeholders
152	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.4)	Rules of Administrative Procedure	Revision	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed revision is to align the rule with the statute as it relates to the experience requirement, specifically LSI.	Licensees, professional associations, relevant state agencies, and other key stakeholders
153	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to define effective date for settlements and/or judgements to clarify reporting requirements.	Licensees, professional associations, relevant state agencies, and other key stakeholders
154	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	New	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	The purpose of this proposed new rule is to explore inclusion of co-op experience (internships) for acceptable engineering and/or land surveying experience.	Licensees, professional associations, relevant state agencies, and other key stakeholders
155	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	TBD	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	At the 2021 Annual meeting of the National Council of Architect Registration Board, of which Colorado is a member, the membership will consider major revision to the NCARB model laws. Once adopted by the membership, Colorado, along with other states will consider these revisions against our rules to ensure improvements in licensure mobility and consistency in enforcement are gained where practicable.	Licensees, professional associations, relevant state agencies, and other key stakeholders
156	DPO	TBD	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (TBD)	TBD	TBD	§ 12-20-204(1) § 12-120-104 § 12-120-104(1)(a)	No	At the 2021 Annual meeting of the National Council of Examiners for Engineers and Surveyors, of which Colorado is a member, the membership consider revision to the NCEES model laws. Once adopted by the membership, Colorado, along with other states will consider these revisions against our rules to ensure improvements in licensure mobility and consistency in enforcement are gained where practicable.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
157	DPO	TBD	Passenger Tramway Safety Board 3 CCR 718-1	Multiple Rules	New Rule, Revision	§ 12-150-105(1)(a)	No	The purpose of these proposed new rules and revisions are to update ANSI incorporation in Section 4, revise Section 23 to expand the Board's authority over incidents that occur in loading and unloading zones, consider improvements after Committee work related to conveyor maintenance, documenting deficiencies and observations in inspection reports, maintenance personnel, minimum operating personnel, ropeway event and data recorder, and summer ramps.	Licensees, professional associations, relevant state agencies, and other key stakeholders
158	DPO	TBD	Passenger Tramway Safety Board 3 CCR 718-1	All Rules	New Rule, Revision, Repeal	§ 24-4-103.3 § 12-150-105(1)(a)	Yes	The purpose of these potential new rules, revisions, and or repeals is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders
159	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.2)	Standards	Revision	§ 12-20-204 § 12-155-105(1)(f)	No	The purpose of this proposed revision is to reconsider the current reference to the five minute allowance as may not not sufficient for adequate supervision.	Licensees, professional associations, relevant state agencies, and other key stakeholders
160	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.2)	Standards	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is to revise an incorrect incorporation by reference number from the International Residential Code.	Licensees, professional associations, relevant state agencies, and other key stakeholders
161	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rules 1.3 and 1.4)	Apprentice Registration and Recordkeeping and Applications and Licensing	New Rule, Revision, Repeal	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of these proposed revisions, new rules, or repeals are to clarify annual reporting requirements that will take effect July 1, 2022 and were adopted to implement Colorado Senate Bill 20-120.	Licensees, professional associations, relevant state agencies, and other key stakeholders
162	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is to update and revise the remaining references regarding direct testing.	Licensees, professional associations, relevant state agencies, and other key stakeholders
163	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is to change the reference to qualifying for examinations to qualifying for licensure regarding direct testing.	Licensees, professional associations, relevant state agencies, and other key stakeholders
164	DPO	TBD	State Plumbing Board 3 CCR 720-1 (Rule 1.4)	Applications and Licensing	Revision	§ 12-20-204 § 12-155-105(1)(e)	No	The purpose of this proposed revision is regarding notice of change of address and whether to revise "written requirement" to include notification through the online portal.	Licensees, professional associations, relevant state agencies, and other key stakeholders
165	DPO	TBD	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.6(F)(6))	Requirements	Revision	§ 12-110-107	No	The purpose of the proposed revision is to consider changes to the prohibited substances list.	Licensees, professional associations, relevant state agencies, and other key stakeholders
166	DPO	TBD	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.16(D)(1))	Requirements for Elimination Bouts	Revision	§ 12-110-107	No	The purpose of the proposed revision is to consider changes to set the standard round length.	Licensees, professional associations, relevant state agencies, and other key stakeholders

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
167	DPO	TBD	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.17(U))	Requirements for Officials	Revision	§ 12-110-107	No	The purpose of the proposed revision is to consider changes to set the minimum number of judges.	Licensees, professional associations, relevant state agencies, and other key stakeholders
168	DPO	TBD	State Board of Pharmacy 3 CCR 719-1 (Rule 23)	Prescription Drug Monitoring Program	New	§ 12-20-204 § 12-280-107(1) § 12-280-404(2)(b)	No	The purpose of the potential new section in Board Rule to Rule 23 is to implement Colorado House Bill 21-1012 (CONCERNING EXPANSION OF THE PRESCRIPTION DRUG MONITORING PROGRAM TO TRACK INFORMATION REGARDING ALL PRESCRIPTION DRUGS PRESCRIBED IN COLORADO, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION), which expands the Prescription Drug Monitoring Program to collect dispensation data on all prescription drugs (not just controlled substances).	Licensees, professional associations, relevant state agencies, and other key stakeholders
169	DPO	TBD	State Board of Pharmacy 3 CCR 719-1 (Rule 23)	Prescription Drug Monitoring Program	New	§ 12-20-204 § 12-280-107(1) § 12-280-404(2)(b)(l)	No	The purpose of the potential new section in Board Rule to Rule 23 is to implement Colorado Senate Bill 21-098 (CONCERNING THE CONTINUATION OF THE PRESCRIPTION DRUG MONITORING PROGRAM), which expands the Prescription Drug Monitoring Program to collect dispensation data on some prescription drugs (not just controlled substances) as determined by the Board.	Licensees, professional associations, relevant state agencies, and other key stakeholders
170	PUC	April	723-3	Electric	Revision	§40-2-108	No	To update the Renewable Energy Standard rules to include changes from recent legislation and business practices.	Electric Investor Owned Utilities and stakeholders
171	PUC	December	723-3	Electric	Revision	§40-2-108	No	To update the Electric Resource Planning Rules to include changes from recent legislation and the most recent ERP processes.	Electric Investor Owned Utilities and stakeholders
172	PUC	October	723-3 & 723-1	Electric and maybe & Practice and Procedure	New	SB21-272	No	To incorporate the requirements of SB272 regarding analysis of the impact of Commission decisions on disproportionately impacted communities, outreach to those communities, and definitions.	All public utilities and stakeholders
173	PUC	September	723-3	Electric	Revision	SB21-072 40-2-108,	No	To update the Transmission planning rules regarding recommendations from past reviews and to incorporate guidance pursuant to SB21-72 regarding transmission markets.	Electric Investor Owned Utilities and stakeholders
174	PUC	June		Transportation	Revision	§40-2-108	Yes	To update rules regarding safety and regulation of passenger carriers.	Passenger Carriers
175	PUC	June	723-11	Gas Pipeline Safety	Revision	§40-2-108, SB21-108 changes to federal rules	No	To update rules regulating gas pipeline safety to incorporate changes from SB21-108 - GIS, civil penalties, annual reporting and other.	Natural Gas companies
176	PUC	May	723-7	Rail	Revision	Changes required by federal rules	No	To update rules regarding the State Safety Oversight Program	Rail Fixed Guideway Companies

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
177	PUC	December	723-6	Transportation	Revision	§40-2-108	No	To update towing and booting rules based on changes in business practices and incorporation of towing task force recommendations.	Towing and Booting Companies
178	PUC	May	723-5	Water	Revision	§40-2-108	Yes	To update the rules regulating water companies and accounting standards.	Water companies regulated by the Commission
179	DRE	on-going through 2022	4-725-1	Rules regarding Real Estate Brokers	Revision	12-10-219(4) and 12-10-220, C.R.S.	No	The purpose of this proposed rule-making will be	The Division will work with the following stakeholders: 1) Colorado Association of Realtors; 2) Denver Metro Commercial Association of Realtors; 3) Institute of Real Estate Management; 4) Building Owners and Managers Association; 5) National Association of Residential Property Managers; 6) Colorado Bar Association; and 7) licensed practitioners.
180	DRE	on-going through 2022	4-725-2	Rules of the Colorado Board of Real Estate Appraisers	Revision	12-10-604(1)(a)(I), C.R.S.	No	The Board will conduct rule-making to incorporate the recommendations found in the 2021 Sunset review conducted by the Colorado Office of Policy, Research and Regulatory Reform. Also comply with any federal mandates regarding any licensing, education and practice standards as necessary.	The Division will work with the following stakeholders: 1) Colorado Coalition of Appraisers; 2) Colorado Association of Real Estate Appraisers (North & South Chapters); 3) Appraisal Institute; 4) Representatives of Appraisal Management Companies; 5) American Society of Farm Managers and Rural Appraisers; 6) Appraisal Sub-Committee; and 7) Licensed and Certified

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
181	DRE	on-going through 2022	4-725-3	Rules regarding Mortgage Loan Originators and Mortgage Companies	Revision	12-10-703(2)(a), 12-10-711(11), and 12-10-712(3), C.R.S.	No	The purpose of this potential rule-making will be to amend, repeal and add new administrative rules as a result of any federal mandates. This will include reviewing the definitions, licensure requirements, application processes, education requirements, professional standards, declaratory orders and exceptions of initial decisions, and the nationwide multistate licensing system and registry as needed.	The Division will work with the following stakeholders: 1) Colorado Mortgage Lenders Association; 2) Colorado Association of Mortgage Professionals; 3) Rocky Mountain Home Association; 4) licensed practitioners; 5) mortgage company compliance managers; 6) Board of Mortgage Loan Originators; and 7) NMLS
182	DRE	Summer and Fall of 2022	4-725-5	Rule Regarding the HOA Information and Resource Center	New	12-10-801(5), C.R.S.	No	The purpose of this proposed rule-making will be to	The Division will work, if needed, with the following stakeholders: 1) Community Association Institute (Denver & Southern Chapters); 2) Colorado Legislative Action Committee; 3) Owner Association Attorneys 4) Education Providers; 5) Representatives from small & large management companies; 6) Homeowners living in HOAs; and 7) Board members of HOAs.
183	DRE	on-going through 2022	4-725-6	Rule Regarding Subdivisions and Timeshares	Revision	12-10-506(5) and 12-10-506(6), C.R.S.	No	The purpose of this potential rule-making will be to	The Division will work, if needed, with the following stakeholders: 1) Community Association Institute (Denver & Southern Chapters); 2) Colorado Legislative Action Committee; 3) Owner Association Attorneys 4) Education Providers; 5) Representatives from small & large management companies; 6) Homeowners living in HOAs; and 7) Board members of HOAs.

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
184	DRE	Fall and Winter of 2022	4-725-7	Reenact Rules regarding Community Association Managers	New	Unknown at this time	No	The Division will conduct rule-making to incorporate the recommendations found in the 2021 Sunrise review conducted by the Colorado Office of Policy, Research and Regulatory Reform. The purpose of this proposed rule-making will be to evaluate if there is a need to add new administrative rules to implement any new legislation signed into law regarding the regulation of Community Association Managers.	The Division will work, if needed, with the following stakeholders: 1) Community Association Institute (Denver & Southern Chapters); 2) Colorado Legislative Action Committee; 3) Owner Association Attorneys 4) Education Providers; 5) Representative from small & large management companies.
185	DOS	ongoing through 2022	3-704-1	Investment Advisor Licensing	New	§11-51-704	No	The purpose of this proposed rule making is to implement a continuing education program for investment adviser representatives (IARs) who are licensed in Colorado. This rule will be based on a model rule adopted by the North American Securities Administrators Association (NASAA).	The Division will work with the following stakeholders: 1) Colorado Financial Planners Association (FPA), 2) Financial Industry Regulation Authority (FINRA), 3) National Association of Insurance and Financial Advisors (NAIFA) Colorado Chapter, 4) Securities Industry and Financial Markets Association (SIFMA), 5) Society of Financial Services Professionals, 6) Securities and Insurance Licesning Association (SILA), and 6) licensed broker dealer and investment adviser firms.

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
186	DOS	ongoing through 2022	3-704-1	Investment Advisor books and records	Revision	§11-51-704	No	The purpose of this proposed rule making is to provide additional specificity in the required written policies and procedures of investment advisers. The rule will promote uniformity and facilitate compliance with state securities laws. This rule will be based on a model rule adopted by the North American Securities Administrators Association (NASAA).	The Division will work with the following stakeholders: 1) Colorado Financial Planners Association (FPA), 2) Financial Industry Regulation Authority (FINRA), 3) National Association of Insurance and Financial Advisors (NAIFA) Colorado Chapter, 4) Securities Industry and Financial Markets Association (SIFMA), 5) Society of Financial Services Professionals, 6) Securities and Insurance Licesning Association (SILA), and 6) licensed broker dealer and investment adviser firms.
187	DOS	ongoing through 2022	3 CCR 704-1	Broker Dealers Dishonest and Unethical Conduct	Revision	§11-51-704	No	The purpose of this proposed rule making is to adopt a standard of conduct for broker-dealers that is consistent with the new federal standard adopted by the SEC in Regulation Best Interest.	The Division will work with the following stakeholders: 1) Colorado Financial Planners Association (FPA), 2) Financial Industry Regulation Authority (FINRA), 3) National Association of Insurance and Financial Advisors (NAIFA) Colorado Chapter, 4) Securities Industry and Financial Markets Association (SIFMA), 5) Society of Financial Services Professionals, 6) Securities and Insurance Licesning Association (SILA), and 6) licensed broker dealer and investment adviser firms.

REFERENCE #	DIVISION	ANTICIPATED HEARING DATE	RULE NUMBER	RULE TITLE	NEW RULE, REVISION, REPEAL	STATUTORY OR OTHER BASIS FOR ADOPTION OR CHANGE RULE	PART OF MANDATORY RULE REVIEW	PURPOSE OF PROPOSED RULE	STAKEHOLDERS
188	DOS	ongoing through 2022	3 CCR 704-1	Investment Advisors and Broker Dealers	Repeal	§11-51-704	No	The purpose of this proposed rule making is to repeal the rule that requires all licensed firms to submit annually the email address of all representatives licensed in Colorado. The rule is meant to reduce the regulatory burden on firms.	The Division will work with the following stakeholders: 1) Colorado Financial Planners Association (FPA), 2) Financial Industry Regulation Authority (FINRA), 3) National Association of Insurance and Financial Advisors (NAIFA) Colorado Chapter, 4) Securities Industry and Financial Markets Association (SIFMA), 5) Society of Financial Services Professionals, 6) Securities and Insurance Licesning Association (SILA), and 6) licensed broker dealer and investment adviser firms.

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
1	BAN	3-701-4	PDP11	§ 11-102-104 (1)(a)	Revision	Yes	To amend 3-CCR 701-4 PDP11 to require written notification from an EPD if they no longer meet the criteria.	PDPA financial institutions	Adopted	5/20/2021	N/A
2	BAN	3-701-4	PDP8	§ 11-102-104 (1)(a)	Revision	Yes	To amend 3-CCR 701-4 PDP8 and reinstate section (D) that was removed once previous emergency rule language had expired.	PDPA financial institutions	Adopted	5/20/2021	N/A
3	BAN	3-701-4	PDP7	§ 11-102-104 (1)(a)	Revision	Yes	To amend Rule PDP7 to simplify and standardize the Monthly Report requirements to ensure consistency of reporting, examinations, and assessments among eligible public depositories (EPD).	PDPA financial institutions	Adopted	5/20/2021	N/A
4	BAN	3-701-4	PDP4	§ 11-102-104 (1)(a)	Revision	Yes	The amendment of 3-CCR 701-4 PDP4 is to value Uniform Mortgage-Backed Securities (UMBS) and Supers Securities (Supers) issued by the Federal Home Loan Mortgage Corporation (FHLMC) or Federal National Mortgage Association (FNMA) consistently with current and previously issued FHLMC and FNMA mortgage-backed pass-through securities (MBS).	PDPA financial institutions	Adopted	5/20/2021	N/A
5	BAN	3-701-4	PDP7	§ 11-102-104 (1)(a)	Revision	Yes	The amendment of 3-CCR 701-4 PDP7 is to eliminate the notary requirement and to affirm the use of electronic signatures on the Monthly Public Depository Liability Report.	PDPA financial institutions	Adopted	10/15/2020	N/A
6	BAN	3-701-7	MO3	§ 11-102-104 (1)(a)	Admin Change by SOS	No	Administrative filing by the Secretary of State for removal of agency temporary/emergency rules, adopted 03/31/2020 and filed under tracking number 2020-00186, that expired 07/29/2020.	Money Transmitters	Adopted	8/24/2020	N/A
7	BAN	3-701-6	TC20	§ 11-102-104 (1)(a)	Admin Change by SOS	No	Administrative filing by the Secretary of State for removal of agency temporary/emergency rules, adopted 03/31/2020 and filed under tracking number 2020-00180, that expired 07/29/2020.	Trust Companies	Adopted	8/24/2020	N/A
8	BAN	3-701-4	PDP7	§ 11-102-104 (1)(a)	Emergency	No	Emergency rulemaking to extend the temporary waiver of the notary requirement of the Monthly Public Depository Liability Report due to the ongoing Covid-19 pandemic and the recent extension of the Governor's Executive Orders regarding the pandemic.	PDPA financial institutions	Adopted	7/28/2020	N/A
9	DOI	2-1-2003	Financial Responsibility Requirements for Health Care Professionals	§10-1-109, 13- 64-301, and 12- 40-126,	Revision		The purpose of amending this regulation is to clarify for the applicant the documents and information that are acceptable to the Commissioner to establish financial responsibility in compliance with § 13-64- 301(1)(a),(a.5),(c), (d) and (e), C.R.S. and 12- 40-126 (1)(b), (c) and (d), C.R.S.	Health care professionals	Reviewed – no changes	N/A	N/A
10	DOI	2-1-11	Viatical Settlements	§10-1-109 and 10-7-615	Revision		The purpose of this regulation is to implement the Viatical Settlements Act, part 6, article 7, title 10, C.R.S. which governs viatical settlements and licensing requirements of viatical settlement providers and protects the rights of a life insurance policyowner seeking a viatical settlement.	Viatical settlement providers	Ongoing	N/A	N/A
11	DOI	2-4-2001	Concerning Surplus Lines Insurance Issued by Non Admitted Insurers	§10-1-109 and 10-5-117,	Revision		The purpose of this regulation is to establish standards regarding the placement of insurance by producers and the qualification of insurers pursuant to the Colorado Nonadmitted Insurance Act, § 10-5-101, et seq., C.R.S. and the "Nonadmitted and Reinsurance Reform Act of 2010",15 U.S.C. sec 8201 et. seq., as amended. This regulation also serves to further protect Colorado insurance consumers by setting forth necessary disclosure requirements for surplus lines insurance contracts.	Insurers	Ongoing	N/A	N/A
12	DOI	2-5-2001	Consumer Goods Service Contract Provider Registration	§10-1-109 and 10-4-1609(5),	Revision		The purpose of this regulation is to establish the requirements for the registration of providers of service contracts pursuant to the requirements of § 10-4-1603(9) (b), C.R.S.	Providers of service contracts and co	Ongoing	N/A	N/A
13	DOI	3-1-2001	Fidelity Bond Requirement s	§10-1-108(7), 10-1-109, 10-6-129, 10-14-505 and 10-16-109	Revision		The purpose of this regulation is to prescribe the minimum amount of fidelity coverage required to be maintained by insurers for money or other property, which may be lost because of theft or dishonest acts of its officers, directors and employees.	Colorado domestic insurers, Colorado benefit societies, health maintenance insurance pool, limited service licens health service corporations.	Reviewed – no changes	N/A	N/A
14	DOI	3-1-2005	Concerning Enterprise Zone Credit Against Premium Tax	§§ 10-1-109, and 39-30-108(2), C.R.S	Revision		The purpose of this regulation is to assure the orderly implementation of the premium tax credit provisions set forth in the Urban and Rural Enterprise Zone Act. This regulation sets forth the criteria for filing and documenting a claim for credit or refund of premium tax.	Insurance industry	Ongoing	N/A	N/A
15	DOI	3-1-15	Premium Deficiency Reserve Standards for Individual and Group health Benefit Plans	§§ 10-1-108, 10- 1-109, 10-3-109, 10-3-208, 10-16- 109, and 10-16-220, C.R.S.	Revision		The purpose of this regulation is to establish minimum standards for determining when a Premium Deficiency Reserve is necessary, for companies providing individual and group health coverage, and to implement rules for calculating the reserve.	Companies issuing any line of health	Adopted	3/15/21	N/A
16	DOI	3-3-2001	Assumption Reinsurance Agreements	§§ 10-1-108(7) and 10-1-109, C.R.S	Revision		The purpose of this regulation is to clarify the filing and other requirements regarding insurers gaining approval to reinsure risks through the transfer and novation of contracts of notice and disclosure insurance by way of assumption reinsurance. It defines assumption reinsurance and establishes notice and disclosure requirements which protect and define the rights and obligations of policyholders, regulators and the parties to assumption reinsurance agreements.	Insurers who assume or transfers the to an assumption.	Ongoing	N/A	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mabdatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
17	DOI	3-3-2004	Life and Health Reinsurance Agreements	§§ 10-1-108(7), 10-1-109(1), 10-3- 529 (4), 10-3-705, 10-3- 1110, 10-6- 129, 10-14- 505 and 10-16-109, C.R.S.	Revision		The purpose of this regulation is to establish requirements for acceptable reinsurance agreements to ensure that ceding insurers operate in a sound financial manner; correctly report their financial condition on required financial statements; and properly reduce liabilities or establish assets for reinsurance ceded. These requirements are necessary to protect the ceding insurers' policy and contract holders and the people of the state of Colorado.	Life, fraternal and health insurers and	Ongoing	N/A	N/A
18	DOI	3-3-2005	Property and Casualty Reinsurance Agreements	§§ 10-1-108(7), 10-1-109(1), 10-3- 529 (4), 10-3-705, 10-6- 129, 8-44- 205(9), C.R.S.	Revision		The purpose of this regulation is to establish requirements for acceptable reinsurance agreements to ensure that ceding insurers operate in a sound financial manner; correctly report their financial condition on required financial statements, and properly reduce liabilities or establish assets for reinsurance ceded. These requirements are necessary to protect the ceding insurers' policy and contract holders and the people of the State of Colorado.	Domestic property and casualty insurance entity self-insurance pools	Ongoing	N/A	N/A
19	DOI	4-1-2007	For Recognizing a New Annuity Mortality Table for Use in Determining Liabilities for Annuities	§§ 10-1-109 and 10-7- 309(2)(a), C.R.S.	Revision		The purpose of this regulation is to recognize the following mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 Table "a," the 1983 Group Annuity Mortality (1983 GAM) Table, the Annuity 2000 Mortality Table, 2012 IAR Mortality Table (2012 IAR) and the 1994 Group Annuity Reserving (1994 GAR) Table.	Life and fraternal insurers	Reviewed – no changes	N/A	N/A
20	DOI	4-1-11	Concerning Suitability in Annuity Transactions	§§ 10-1-109(1) and 10-3-1110(1), Colorado Revised Statutes.	Revision		The purpose of this regulation is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.	Insurers, producers, and consumers	Ongoing	N/A	N/A
21	DOI	4-2-2006	Concerning the Definition of the Term "Complication s of Pregnancy"	§§ 10-1-109, 10- 3- 1110 and 10-16- 109 and, C.R.S.	Revision		The purpose of this regulation is to standardize the definition of the term “complications of pregnancy” as used in sickness and accident insurance policies covering residents of this state consistent with the commonly perceived connotation of this term by the general public.	Health insurance companies and consumers	Reviewed – no changes	N/A	N/A
22	DOI	4-2-17	Prompt Investigation of Health Claims Involving Utilization Review And Denial Of Benefits and Rules Related To Internal Claims And Appeals Processes	§§ 10-1-109, 10- 3- 1110, 10-16- 109, and 10-16- 113(2) and (10), C.R.S.	Revision		The purpose of this regulation is to set forth guidelines for carrier compliance with the provisions of §§ 10-3-1104(1)(h), 10-16- 409(1)(a), and 10-16-113, C.R. S., in situations involving utilization review and certain denials of benefits for treatment, as well as rescission, cancellation, or denial of coverage based on an eligibility determination, as described herein. Among other things, § 10-3- 1104 (1)(h), C.R.S., requires carriers to adopt and implement reasonable standards for the prompt investigation of claims arising from health coverage plans; promptly provide a reasonable explanation of the basis in the health coverage plan in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; and refrain from denying a claim without conducting a reasonable investigation based upon all available information. This regulation is designed to provide minimum standards for handling appeals and grievances involving utilization review determinations, certain denials of benefits for treatments excluded by health coverage plans, and as otherwise required by § 10-16-113, C.R.S.	Health insurance companies	Adopted	3/1/21	N/A
23	DOI	4-2-20	Concerning The Summary of Benefits And Coverage Form And The Colorado Supplement to The Summary Of Benefits And Coverage Form	§§ 10-1-109, 10- 16- 108.5(11)(b), and 10-16-109, C.R.S.	Revision		The purpose of this regulation is to coordinate the requirements of § 10-16-108.5 (11), C.R.S. and certain provisions of the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, 124 Stat. 119 (2010) and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029 (2010), together referred to as the “Affordable Care Act” (ACA). This regulation also sets out procedures for carriers to make available the required Summary of Benefits and Coverage (SBC) and a Colorado Supplement to the Summary of Benefits and Coverage (COSSBC) Form for each policy, “contract, and plan of health benefits that either covers a Colorado resident or is marketed to a Colorado resident or such resident’s employer.”	Health insurance companies	Adopted	8/1/21	N/A
25	DOI	4-2-29	Concerning the Rules for Standardized Cards Issued to Persons Covered by Health Benefit Plans	§§ 10-1-109 and 10-16- 135, C.R.S.	Revision		The purpose of this regulation is to provide carriers the guidance necessary to comply with the statutory requirements regarding the issuance and use of health benefit plan identification cards, pursuant to § 10-16-135, C.R.S. and to align state law with the requirements imposed by the No Surprises Act, part of the Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, §§ 101–118, 134 Stat. 1182 (2020), and codified in 42 U.S.C. § 300gg-111(e).	Health insurance companies and consumers	Adopted	1/15/22	N/A
26	DOI	4-2-31	Annual Health Reporting and Data Retention Requirements	§§ 10-1-109, 10- 3-109, 10-16-109 and 10-16- 111(4), C.R.S.	Revision		The purpose of this regulation is to define uniform reporting, filing and data retention requirements for the hospital reimbursement rate report and the Annual Cost Report.	Health insurance companies	Adopted	1/15/21	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
27	DOI	4-2-38	Contraceptive Be	§§ 10-1-109 and 10-16-104(3)(a)(I) C.R.S.	Revision		The purpose of this regulation is to implement Colorado insurance law and ensure carriers are providing coverage for contraception in policies in the same manner as any other sickness, injury, disease or condition is otherwise covered under the policy or contract.	Health insurance companies and con	Ongoing		N/A
28	DOI	4-2-39	Concerning Premium Rate Setting for Non-Grandfathered Individual, Small And Large Group Health Benefit Plans	§§ 10-1-109(1), 10-3-1110(1), 10- 16-107 and 10-16- 109, C. R.S.	Revision		The purpose of this regulation is to provide the necessary guidance to carriers to ensure that health insurance rates comply with Colorado's health benefit plan rating laws. This regulation replaces Repealed Colorado Insurance Regulation 4-2-39 that had become effective on October 15, 2018.	Health insurance companies	Adopted	5/15/21	N/A
29	DOI	4-2-45	Uniform Individual and Small Group Health Benefit Plan Applications	§§ 10-1-109, 10-16-107.5(1), and 10-16-109, C.R.S.	Revision		The purpose of this regulation is to promulgate rules concerning the uniform individual and small group health benefit plan applications.	Health insurance companies	Adopted	11/1/21	N/A
30	DOI	4-2-46	Concerning Premium Rate set	§§ 10-1-109(1), 10-16-107 and 10- 16-109, C.R.S.	Revision		The purpose of this regulation is to establish and implement rules for setting premiums for grandfathered individual, small group and	Health insurance companies and consumers	Reviewed – no changes	N/A	N/A
31	DOI	4-2-46	Grandfathered Individual, Small Group, and Large Group Health Benefit plans and Student Health Coverage	§§ 10-1-109(1), 10-16-107 and 10- 16-109, C.R.S.	Revision		large group plans. Article 16, as it existed prior to the effective date of HB 13-1266, applies to grandfathered health benefit plans, unless grandfathered health benefit plans are specifically addressed in Article 16 as amended by House Bill 13-1266.	Health Insurance Companies and Consumers	Reviewed – no changes	N/A	N/A
32	DOI	4-2-47	Concerning the Required Benefit for Applied Behavior Analysis Therapy for the Treatment of Autism Spectrum Disorders	§§ 10-1-109, 10- 16-104(1.4)(b) and 10-16-109, C.R.S.	Revision		The purpose of this regulation is to establish the requirements for the benefit provided by carriers for applied behavior analysis (ABA) therapy for the treatment of autism spectrum disorders in children.	Health insurance companies and consumers	Reviewed – no changes	N/A	N/A
33	DOI	4-2-51	Carrier Discontinuance of a Health Benefit Plan and a Student Health Plan	§§ 10-1-109, 10- 16-105.1(6)(a), 10-16-105.7(3)(c), and 10-16-109, C.R.S.	Revision		The purpose of this regulation is to establish standards for carriers in discontinuing health benefit plans pursuant to the requirements of Colorado law.	Health insurance companies and consumers	Ongoing	N/A	N/A
34	DOI	4-2-58	Non Discriminatory Cost-Sharing And Tiering Requirements For Prescription Drugs	§§ 10-3-1110, 10- 16-108.5(8), 10- 16-109, C.R.S.	Revision		The purpose of this regulation is to establish rules for carriers regarding non-discriminatory cost-sharing and tiering requirements for prescription drugs.	Health insurance companies	Adopted	6/1/21	N/A
35	DOI	4-2-71	Concerning Carrier Care Management Protocols for The Colorado Reinsurance Program	§§ 10-1-109(1), 10-16-109, and 10-16-1105(5), C.R.S.	Revision		The purpose of this regulation is to amend the carrier submission requirements for the Reinsurance Program Care Management Protocols, pursuant to § 10-16-1105(5), C.R.S. Care Management Protocols are intended to promote more cost-effective health care and to be fair to federal taxpayers by restraining growth in federal health care spending commitments. Eligible Carriers are required to submit Care Management Protocols to confirm their strategies for managing claims within the	Health insurance companies	Adopted	6/15/21	N/A
36	DOI	4-2-72	Concerning Strategies To Enh Health Insurance Affordability	§§ 10-1-108(7), 10-1-109(1), 10- 16-107(3.5), and 10- 16-109, C.R.S.	New	No	The purpose of the regulation is to establish standards for health insurance carriers to enhance the affordability of their products by implementing payment system reforms. These reforms reduce overall health care costs by increasing utilization of primary and preventive care and value-based alternative payment models. The regulation establishes requirements for carrier investments in primary care, per the requirements of HB19- 1233, and targets for carrier total medical expenditures in alternative payment models.	Health insurance companies and consumers	Adopted	1/15/21	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
37	DOI	4-2-73	Concerning Human Immunodeficiency Virus (HIV) Pre-exposure Prophylaxis Prescription Drugs	§§ 10-1-109(1), 10-16-104(18)(b)(X), and 10-16-109, C.R.S.	New	No	The purpose of this regulation is to establish the requirements for health benefit plans to provide coverage for human immunodeficiency virus (HIV) pre-exposure prophylaxis (PrEP) as PrEP is an A recommendation of the United States Preventive Services Taskforce (USPSTF).	Health insurance companies and consumers	Adopted	1/1/21	N/A
38	DOI	4-2-74	Concerning Data Reporting Requirements for Out-of-Network Reimbursements	§§ 10-1-109(1), 10-16-109, and 10-16-704(14), and 10-16-708, C.R.S.	Revision	No	The purpose of this regulation is to establish data reporting requirements for carriers concerning the use of out-of-network providers and facilities and the impact on premium affordability as required by HB 19- 1174, 10-16-704(14), C.R. S.	Health insurance companies	Adopted	12/1/21	N/A
39	DOI	4-2-75	Carrier Reporting Requirements On Availability Of Medication Assisted Treatment (MAT) Providers	§§ 10-1-109 and 10-16-710(2), C.R.S	New	No	The purpose of this regulation would be to establish carrier reporting requirements on MAT access for substance use disorders, as required by SB20-007.	Health insurance companies, providers, and consumers	Adopted	6/1/21	N/A
40	DOI	4-2-76	Concerning The Health Insurance Affordability	§§ 10-1-108(7), 10-1-109, 10-16- 109, 10-16-1205(1)(a)(I), and	New	No	The purpose of this regulation is to establish the process by which the Health Insurance Affordability Enterprise will assess and collect the Health Insurance Affordability Fee annually from carriers, pursuant to § 10-16-	Health insurance companies	Adopted	6/1/21	N/A
41	DOI		Fee Assessment And Collection Process	10-16-1207(5), C.R.S.			1205(1)(a)(I), C.R.S. This regulation replaces Emergency Regulation 21-E-01 in its entirety.	Health insurance companies			N/A
42	DOI	4-2-77	Concerning Payments to Carriers for the Reinsurance Program	§§ 10-16-1104(1)(i), 10-16-1105(1)(d); 10-16-1105(1)(e); 10-16-1105(3)(c); and 10-16-1105(4)(d), C.R. S.	Revision		The purpose of this regulation is to establish the process and timeline by which the Division of Insurance will notify carriers and disburse reinsurance payments to carriers for the applicable benefit year.	Health insurance companies	Adopted	12/1/21	N/A
43	DOI	4-2-78	Concerning Cost Sharing Reduction Enhancements	§§ 10-1-108(7), 10-1-109(1), 10-16-1207(5), and 10-16-109, C.R.S.	New	No	The purpose of this regulation is to provide standards for including payments to carriers pursuant to C.R.S. § 10-16-1205(1)(b)(II) in rate filings for health benefit plans regulated by the Colorado Division of Insurance.	Health insurance companies	Adopted	9/1/21	N/A
44	DOI	4-3-2001	Minimum Standards for Medicare Supplement Policies	§§ 10-18-103(2), 10-18-104, 10-18- 106 and 10-1-109, C.R.S.	Revision		The purpose of this regulation is to provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement policies; to facilitate public understanding and comparison of such policies; to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or with the settlement of claims; to provide for full disclosure in the sale of accident and sickness insurance coverage to persons eligible for Medicare; and to comply with the mandate of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) which prohibit the sale of Medicare supplement benefit policies that cover Medicare Part B deductibles to "newly eligible" Medicare beneficiaries defined as those individuals who become eligible for Medicare due to age, disability or end-stage renal disease, on or after January 1, 2020.	Health insurance companies	Adopted	3/15/21	N/A
45	DOI	4-4-2001	Concerning Requirements for Long-term Care Insurance	§§ 10-1-109(1), 10-7-113(3), 10-16-107(1), 10-19- 106, 10-19-113.7 and 10-3-1110(1), C.R.S.	Revision		The purpose of this regulation is to promote the public interest and the availability of long term care insurance policies, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care insurance coverages, and to facilitate flexibility and innovation in the development of long-term care coverage.	Long-term care insurance companies	Ongoing	N/A	N/A
46	DOI	4-4-2004	Concerning Long-term Care Partnership Program	§ 10-19-113.7, C.R.S.	Revision		The purpose of this regulation is to implement rules and assist in the development of the Colorado Long-Term Care Partnership (LTCP) Program in Colorado.	Issuers of Colorado LTCP policies and producers	Ongoing	N/A	N/A
47	DOI	4-9-2002	Credit Insurance	§§10-1-109, 10-10-109(2.5)(c) and 10-10-114, C.R.S.	Revision		The purpose of this regulation is to implement component rating and provide standards to enforce the provisions of Article 10 of Title 10, C.R.S., regarding all forms of credit insurance.	Credit insurance companies	Reviewed – no changes	N/A	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
48	DOI	5-1-15	Notification of Additional Insureds Whose Interests are Affected by a Claim Under a General Liability Policy	§§ 10-1-109 and 10-1-131, C.R.S.	Revision		The purpose of this regulation is to implement rules concerning notification to additional insureds whose interests are affected by a claim on a general liability policy.	Insurance companies and consumers	Reviewed – no changes	N/A	N/A
49	DOI	5-1-17	Availability of Fire Insurance During Wildfires	§§ 10-1-109 and 10-4-110.9(4), C.R.S.	Revision		The purpose of this regulation is to provide a rule to implement standards concerning the availability of fire insurance during wildfires within a federally designated disaster area in Colorado.	Insurance companies and consumers	Reviewed – no changes	N/A	N/A
50	DOI	5-1-20	Rate Capping And Transition Plan Practices For Property And Casualty Insurance	§§ 10-1-109, 10-3-1104(1)(f)(II), 10-3-1110, 10-4-403, and 10-4-404.5, C.R.S.	New	No	The purpose of this regulation is to address the filings of property and casualty insurers instituting any practice involving rate change limitations (caps, ceilings and/or floors) to new and/or existing policyholders in order to facilitate the transition to rate parity between policyholders of the same class and hazard and avoid unfairly discriminatory rating.	Property and casualty insurers	Adopted	8/1/21	N/A
51	DOI	6-3-2002	Concerning the Use of Independent Contractors for Informal Investigations and Appeal Process for Expenses	§§ 10-1-109 and 10-1-208, C.R.S.	Revision		This regulation sets the requirements for using independent contractors for informal investigations, and provides a process to appeal the expenses and fees charged by such independent contractors.	Insurance companies	Ongoing	N/A	N/A
53	DOI	8-1-2002	Title Insurance Consumer Protection	§§ 10-1-108(7), 10-1-109, 10-3-131, and 10-3-1110, C.R.S.	Revision		The purpose of this regulation is to ensure that consumers receive the benefits of competition in the area of title insurance and to ensure consumer protection.	Title insurance companies and consumers	Ongoing	N/A	N/A
54	DOI	n/a	Concerning Insurance Coverage for Infertility	§§ 10-1-109 and 10-16-104(23)(d), C.R.S	New	No	The purpose of this regulation would be to implement, if necessary, the requirements of HB20-1158, Concerning Insurance Coverage for Infertility	Health insurance companies, providers, and consumers	Ongoing	N/A	N/A
52	DOI	7-1-2001	Registration Requirements, Fees for Cash Bonding Agents and Professional Cash-Bail Agents	10-1-109(1), 10-23-102, and 10-23-104			This regulation sets forth the procedures and fees related to obtaining, maintaining, renewing and reinstating registration as a Cash-Bonding Agent or Professional Cash-Bail Agent with the Division. This regulation sets forth the format for filing the premium fee statement required by 10-23-104(1)(d) and paying the associate premium fee required by 10-23-104	Cash Bonding Agents	Adopted	3/15/21	N/A
53	DPO	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.2)	APPLICABILITY OF RULES	§ 12-110-102(3) § 12-110-107	Revision	No	The purpose of the proposed rule revision is to update the incorporation by reference of the Association of Boxing Commissions rules, specifically the Mixed Martial Arts rules.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/13/21	N/A
54	DPO	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 1.6)	MODIFICATION OF BOUT RESULT	§ 12-110-102(3) § 12-110-107	Revision	No	The purpose of this proposed revision is to include a process for modification of bout result.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/13/21	N/A
55	DPO	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 2.1)	LICENSE TO FIGHT APPLICATIONS	§ 12-110-102(3) § 12-110-107	Revision	No	The purpose of this proposed revision is to clarify that all participants need a license to engage in combative sports.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/13/21	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
56	DPO	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 3.6(F))	ADVANCED NOTIFICATION, RANDOM, OR FOR-CAUSE TESTING OF PARTICIPANTS	§ 12-110-102(3) § 12-110-107	Revision	No	The purpose of this proposed revision is to update the incorporation by reference of the World Anti-Doping Agency to the most current version.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/13/21	N/A
57	DPO	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 7.1)	REQUIREMENTS FOR PROFESSIONAL MIXED MARTIAL ARTS (MMA) AND MARTIAL ARTS (MA) PARTICIPANTS	§ 12-110-102(3) § 12-110-107	Revision	No	The purpose of this proposed revision is to update the incorporation by reference of the Association of Boxing Commissions rules and the Combative Sports Unified Rules of Mixed Martial Arts to be consistent with the Association of Boxing Commissions rules as it relates to mixed martial arts.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/13/21	N/A
58	DPO	Colorado Combative Sports Commission 4 CCR 740-1 (Rule 7.1)	WEIGHT CLASSES	§ 12-110-102(3) § 12-110-107	Revision	No	The purpose of this proposed revision is to update the incorporation by reference of the Association of Boxing Commissions rules and the Combative Sports Unified Rules of Mixed Martial Arts to be consistent with the Association of Boxing Commissions rules as it relates to the weight class rule for elimination fights.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/13/21	N/A
59	DPO	State Board of Licensure for Architects, Professional Engineers, and Land Surveyors 4 CCR 730-1 (Rule 1.7)	Sealing Requirements for Architects	§ 12-20-204 § 12-120-104(1)(a)	Revision	No	The purpose of the proposed changes to Board Rule 1.7 (Sealing Requirements for Architects) is to allow licensees the ability to utilize advancements in technologies within digital signature platforms.	Licenseses, professional associations, state agencies, and other key stakeholders	Adopted	7/10/20	N/A
60	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 30.00.00)	COVID-19 HEALTH RESPONSE RULE	§ 12-20-204 § 12-280-107(1) § 12-240-107(6)(a) § 12-280-108(3)	Revision	No	The purpose of these proposed revisions is to permanently adopt the changes to the COVID-19 Health Response Rule.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	7/16/20	N/A
61	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 30.04.00)	Colorado Cancer Drug Repository Program	§ 12-20-204 § 12-280-107(1) § 12-240-107(6)(a)	Repeal	No	The purpose of this proposed repeal of Rule 3.04.00 (Colorado Cancer Drug Repository Program) is to implement Colorado Senate Bill 19-081, which repeals the statutory provisions and basis of Rule 3.04.00.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	7/16/20	N/A
62	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.1)	AUTHORITY	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-315-104	New Rule	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
63	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.2)	SCOPE AND PURPOSE	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g)	New Rule	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
64	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.3)	APPLICABILITY	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g)	New Rule	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
67	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.4)	DEFINITIONS	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-315-104	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
68	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.5)	DENTISTRY	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-315-104(20)	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
69	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.6)	SUPERVISION	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-315-104(20)	New Rule, Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
70	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.3)	LICENSE AND APPLICATION PROVISIONS	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-315-107	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
71	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.6)	LICENSURE BY ENDORSEMENT	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-315-109	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
72	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.7)	ACADEMIC LICENSE	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-315-108	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
73	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.8)	EDUCATION, TRAINING, OR SERVICE GAINED DURING MILITARY SERVICE AND MILITARY SPOUSES	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-20-202 § 12-20-304	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
74	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.9)	INACTIVE STATUS AND REACTIVATION OF A LICENSE	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-20-203 § 12-315-111	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
75	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.10)	REINSTATEMENT REQUIREMENTS FOR EXPIRED LICENSES	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-20-202 § 12-315-110(1)	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
76	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.11)	REVOCATION	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-20-404(3)	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
77	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.12)	RENEWAL REQUIREMENTS	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-20-202 § 12-315-110(1)(a)	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
78	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.13)	CONTINUING EDUCATION REQUIREMENTS	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-315-110	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
79	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.14)	SUBSTANCE USE PREVENTION TRAINING FOR LICENSE RENEWAL, REACTIVATION OR REINSTATEMENT	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g) § 12-315-114	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
80	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.15)	REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g)	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
81	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.3)	VETERINARY MEDICAL CODE OF ETHICS	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(g)	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
82	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.7)	TRANSRECTAL PROCEDURES, EMBRYO TRANSFER, UTERINE LAVAGES, AND REPRODUCTIVE PROCEDURES	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(c) and (g)	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
83	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.5)	WAIVER OF VETERINARIAN-CLIENT-PATIENT RELATIONSHIP FOR ADMINISTERING, DISTRIBUTING, DISPENSING, OR PRESCRIBING IN AN URGENT SITUATION ONLY	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(c) and (g)	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
84	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.7)	FINING SCHEDULE FOR VIOLATIONS OF THE VETERINARY PRACTICE ACT AND BOARD RULES	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(c) § 12-315-112(6)	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/2020	N/A
85	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.8)	DECLARATORY ORDERS	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(c) § 24-4-105(11)	Revision	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
86	DPO	State Board of Veterinary Medicine 4 CCR 727-1 (Rule 1.23)	REPORTING CONVICTIONS, JUDGMENTS, AND ADMINISTRATIVE PROCEEDINGS	§ 24-4-103.3 § 12-20-204 § 12-315-106(5)(c) § 12-315-112(1)(n), (o), (p), and (q)	New Rule	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/20/20	N/A
87	DPO	Office of Fantasy Contest Operator Licensing and Registration 4 CCR 751-1 (All Rules)	Office of Fantasy Contest Operator Licensing and Registration	§ 12-125-104(1)	Repeal	No	The purpose of this repeal is to implement HB20-1286, which transfers the regulation of Fantasy Contest Operators from the Department of Regulatory Agencies, Division of Professions and Occupation to the Department of Revenue, Division of Gaming, effective September 1, 2020.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	08/31/2020	N/A
88	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 2.01.20)	Additional Information.	§ 12-20-204 § 12-280-107(1) § 12-240-107(6)(a) § 12-280-101	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
89	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 3.01.22)	Filling of automated cassettes.	§ 12-20-204 § 12-280-107(1) § 12-240-107(6)(a) § 12-280-101	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
90	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 3.00.81)	Definitions.	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
91	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 5.00.40)	Transfer of Ownership.	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
92	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 5.00.50)	Relocation.	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
93	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 7.00.30)	Compliance of Outlet:	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
94	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 10.00.60)	Inspection.	§ 12-20-204 § 12-280-107(1) § 12-280-101	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
95	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 11.08.00)	List of Employees	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
96	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 14.00.40)	Application Procedure	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
97	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 15.01.11)	Minimum required information for registration.	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
98	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 15.01.14)	Change of name, location, or ownership, or designated representative.	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
99	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 15.01.17)	When a wholesaler changes location,the outlet shall submit an application on a form provided by the Board prior to outlet relocation	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
100	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 11.08.50)	List of Employees - Pharmacy Technicians and Provisional Pharmacy Technicians	§ 12-20-204 § 12-280-107(1)	New Rule	No	The purpose of these proposed revisions is to provide general clean up, update technological references in lieu of advancements, and provide more clarity surrounding the role of pharmacy technicians.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
101	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 14.05.11)	A county health department registered as an other outlet may distribute prescription drugs to another registered other outlet owned or operated by that county health department.	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of these proposed revisions is to implement HB20-1050, concerning the distribution of drugs by other outlet pharmacies.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
102	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 14.05.20)	Records of distribution (casual sales) of controlled substances and prescription drugs.	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of these proposed revisions is to implement HB20-1050, concerning the distribution of drugs by other outlet pharmacies.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
103	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 17.00.50 (c))	Evidence Based Healthcare Services Pursuant to Statewide Protocol	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of this proposed revision is to implement HB20-1061, concerning pharmacists' ability to provide HIV infection prevention medications to patients.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
104	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 14.00.05)	Eligibility for Registration	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of this proposed revision is to implement SB20-136, concerning an omnibus bill that conforms and updates obsolete federal references.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
105	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 24.00.50)	A pharmacist or pharmacy intern who is addicted to, dependent on, or engages in the habitual or excessive use of intoxicating liquors a habit-forming drug, or a controlled substance as defined in section 12-280-126(1)(e), C.R.S., shall seek assistance from the Diversion Program as governed by section 12-280-204, C.R.S.	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of this proposed revision is to implement 20-007, concerning treatment for substance use disorders.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/17/2020	N/A
106	DPO	State Board of Social Work Examiners 4 CCR 726-1 (Rule 1.1)	DEFINITIONS	§ 12-20-204 § 12-245-204(4)(a)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/18/20	N/A
107	DPO	State Board of Social Work Examiners 4 CCR 726-1 (Rule 1.6)	INFORMATION REQUIRED TO BE REPORTED TO THE BOARD (C.R.S. § 12-245-226(8))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-226(8)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/18/20	N/A
108	DPO	State Board of Social Work Examiners 4 CCR 726-1 (Rule 1.12)	LICENSURE BY ENDORSEMENT (C.R.S. § 12-245-207)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-207 § 12-20-203(3)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act. These revisions also implement HB20-1326 relating to endorsements, removing the credential endorsement requirements, and creating the Occupational Credential Portability Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/18/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
109	DPO	State Board of Social Work Examiners 4 CCR 726-1 (Rule 1.14)	LICENSURE BY EXAMINATION (C.R.S. § 12-245-404)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-404	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/18/20	N/A
110	DPO	State Board of Social Work Examiners 4 CCR 726-1 (Rule 1.18)	CONTINUING PROFESSIONAL COMPETENCE (C.R.S. § 12-245-410)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-410	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/18/20	N/A
111	DPO	State Board of Social Work Examiners 4 CCR 726-1 (Rule 1.22)	STUDENTS ENROLLED IN A SCHOOL PROGRAM AND PRACTICING AS PART OF A SCHOOL PRACTICUM OR CLINICAL PROGRAM (§ 12-245-217(2) (g C.R.S.))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-217(2)	New Rule	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/18/20	N/A
112	DPO	State Board of Social Work Examiners 4 CCR 726-1 (Rule 1.23)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT (C.R.S. § 12-30-115)	§ 12-20-204 § 12-245-204(4)(a) § 12-30-115	New Rule	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act. This new rule also implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/18/20	N/A
113	DPO	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.6)	INFORMATION REQUIRED TO BE REPORTED TO THE BOARD (C.R.S. § 12-245-226(8))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-226(8)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/25/20	N/A
114	DPO	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.7)	NON-CLINICAL SUPERVISORY RELATIONSHIPS AND CLINICAL SUPERVISION OF MENTAL HEALTH PRACTITIONERS OTHER THAN LICENSED PROFESSIONAL COUNSELOR APPLICANTS (C. R.S. §§ 12-245-222(2), 12-245-224(1)(n), except as provided in Rule 1.14)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-222(2) § 12-245-224(1)(n),	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/25/20	N/A
115	DPO	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.12)	LICENSURE BY ENDORSEMENT (C.R.S. § 12-245-207)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-207 § 12-20-203(3)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act. These revisions also implement HB20-1326 relating to endorsements, removing the credential endorsement requirements, and creating the Occupational Credential Portability Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/25/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
116	DPO	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.14)	LICENSURE BY EXAMINATION (C.R.S. § 12-245-604)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-604	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/25/20	N/A
117	DPO	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.22)	STUDENTS ENROLLED IN A SCHOOL PROGRAM AND PRACTICING AS PART OF A SCHOOL PRACTICUM OR CLINICAL PROGRAM (§ 12-245-217(2) (g), C.R.S.)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-604	New Rule	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/25/20	N/A
118	DPO	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.23)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT (C.R.S. § 12-30-115)	§ 12-20-204 § 12-245-204(4)(a) § 12-30-115	New Rule	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act. This new rule also implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/25/20	N/A
119	DPO	Office of Hearing Aid Provider Licensure 3 CCR 711-1 (Rule 1.1)	Original Licensure	§ 12-20-204 § 12-230-301(3) § 12-230-201	Revision	No	The purpose of this proposed revision is for the Director to implement any required changes as a result of the Sunset Review (HB20-1218) by the legislature of the Hearing Aid Provider Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
120	DPO	Office of Hearing Aid Provider Licensure 3 CCR 711-1 (Rule 1.2)	Licensure by Endorsement	§ 12-20-204 § 12-230-301(3) § 12-20-202(3)	Revision	No	The purpose of this proposed revision is for the Director to implement any required changes as a result of the Sunset Review (HB20-1218) by the legislature of the Hearing Aid Provider Practice Act. The purpose of this revision is also to implement HB20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
121	DPO	Office of Hearing Aid Provider Licensure 3 CCR 711-1 (Rule 1.4)	Requirement for Reinstatement	§ 12-20-204 § 12-230-301(3) § 12-20-202(1)(a)	Revision	No	The purpose of this proposed revision is for the Director to implement any required changes as a result of the Sunset Review (HB20-1218) by the legislature of the Hearing Aid Provider Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
122	DPO	Office of Hearing Aid Provider Licensure 3 CCR 711-1 (Rule 1.6)	Written Disclosures to Purchasers	§ 12-20-204 § 12-230-301(3) § 12-230-502 § 6-1-701(1)(c)(I)(A)	Revision	No	The purpose of this proposed revision is for the Director to implement any required changes as a result of the Sunset Review (HB20-1218) by the legislature of the Hearing Aid Provider Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
123	DPO	Office of Hearing Aid Provider Licensure 3 CCR 711-1 (Rule 1.12)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204 § 12-230-301(3) § 12-30-115	New Rule	No	The purpose of this new rule is to implement SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
124	DPO	Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (Rule 1.2)	Licensure by Endorsement	§ 12-20-204 § 12-210-107(2) § 12-20-202(3)	Revision	No	The purpose of this proposed revision is for the Director to implement any required changes as a result of the Sunset Review (HB20-1219) by the legislature of the Audiology Practice Act. The purpose of this revision is also to implement HB20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
125	DPO	Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (Rule 1.6)	Written Disclosures to Purchasers	§ 12-20-204 § 12-210-107(2) § 12-210-109(4) § 12-210-202(1)(e) § 6-1-701(1)(c)(I)(A)	Revision	No	The purpose of this proposed revision is for the Director to implement any required changes as a result of the Sunset Review (HB20-1219) by the legislature of the Audiology Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
126	DPO	Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (Rule 1.13)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204 § 12-210-107(2) § 12-30-115	Revision	No	The purpose of this new rule is to implement SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
127	DPO	Division of Professions and Occupations - Office of Naturopathic Doctor Registration Program 4 CCR 749-1 (Rule 1.7)	Medicines and devices used in the practice of naturopathic medicine	§ 12-20-204 § 12-250-105(1)(a)	Revision	No	The purpose of this proposed revision is for the Director to implement House Bill 20-1212 (Sunset Review that Continues Regulation of Naturopathic Doctors),	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
128	DPO	Division of Professions and Occupations - Office of Naturopathic Doctor Registration Program 4 CCR 749-1 (Rule 1.19)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204 § 12-250-105(1)(a) § 12-30-115	New Rule	No	The purpose of this new rule is to implement SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
129	DPO	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.1)	Authority	§ 24-4-103.3 § 12-20-204(1) § 12-145-107(1)(a),	New Rule	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
130	DPO	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.2)	Scope and Purpose	§ 24-4-103.3 § 12-20-204(1) § 12-145-107(1)(a),	New Rule	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
131	DPO	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.1)	Definitions	§ 24-4-103.3 § 12-20-204(1) § 12-145-107(1)(a),	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
132	DPO	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.2)	Registration Application and Issuance	§ 24-4-103.3 § 12-20-204(1) § 12-145-107(1)(a),	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
133	DPO	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.3)	Registration Maintenance and Reporting Changes	§ 24-4-103.3 § 12-20-204(1) § 12-145-107(1)(a),	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
134	DPO	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.4)	Responsibilities, Professional Conduct and Prohibited Conduct	§ 24-4-103.3 § 12-20-204(1) § 12-145-107(1)(a),	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
135	DPO	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.5)	Specific Requirements for Outfitting Services	§ 24-4-103.3 § 12-20-204(1) § 12-145-107(1)(a),	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
136	DPO	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.6)	Records Management & Contract Requirements	§ 24-4-103.3 § 12-20-204(1) § 12-145-107(1)(a),	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
137	DPO	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.7)	Disclosures & Reporting Requirements	§ 24-4-103.3 § 12-20-204(1) § 12-145-107(1)(a),	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
138	DPO	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.8)	Advisory Committee	§ 24-4-103.3 § 12-20-204(1) § 12-145-107(1)(a),	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
139	DPO	Office of Outfitters Registration 4 CCR 733-1 (Rule 1.9)	Petitions for Declaratory Orders	§ 24-4-103.3 § 12-20-204(1) § 12-145-107(1)(a),	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
140	DPO	Office of Respiratory Therapy Licensure 4 CCR 741-1 (Rule 1.1)	Authority	§ 24-4-103.3 § 12-20-204(1) § 12-300-115	New Rule	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
141	DPO	Office of Respiratory Therapy Licensure 4 CCR 741-1 (Rule 1.2)	Purpose	§ 24-4-103.3 § 12-20-204(1) § 12-300-115	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
142	DPO	Office of Respiratory Therapy Licensure 4 CCR 741-1 (Rule 1.4)	Reporting Convictions and Other Adverse Actions	§ 24-4-103.3 § 12-20-204(1) § 12-300-115	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
143	DPO	Office of Respiratory Therapy Licensure 4 CCR 741-1 (Rule 1.11)	Required Disclosure to Patients - Conviction or of Discipline Based on Sexual Misconduct	§ 24-4-103.3 § 12-20-204(1) § 12-300-115 § 12-30-115	New Rule	No	The purpose of this new rule is to implement SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
144	DPO	Office of Respiratory Therapy Licensure 4 CCR 741-1 (Rule 1.4)	Reporting Convictions and Other Adverse Actions	§ 24-4-103.3 § 12-20-204(1) § 12-300-115	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
145	DPO	Division of Professions and Occupations Office of Speech-Language Pathology Certification 4 CCR 748-1 (Rule 1.1)	Authority	§ 24-4-103.3 § 12-20-204(1) § 12-305-115	New Rule	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
146	DPO	Division of Professions and Occupations Office of Speech-Language Pathology Certification 4 CCR 748-1 (Rule 1.2)	Scope and Purpose	§ 24-4-103.3 § 12-20-204(1) § 12-305-115	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
147	DPO	Division of Professions and Occupations Office of Speech-Language Pathology Certification 4 CCR 748-1 (Rule 1.4)	Certification by Endorsement	§ 24-4-103.3 § 12-20-204(1) § 12-305-115 § 12-20-202(3)	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed. The purpose of this revision is also to implement HB20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
148	DPO	Division of Professions and Occupations Office of Speech-Language Pathology Certification 4 CCR 748-1 (Rule 1.9)	Continuing Professional Competency	§ 24-4-103.3 § 12-20-204(1) § 12-305-115 § 12-305-109	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
149	DPO	Division of Professions and Occupations Office of Speech-Language Pathology Certification 4 CCR 748-1 (Rule 1.15)	Imposition of Fines	§ 24-4-103.3 § 12-20-204(1) § 12-305-115	Repeal	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
150	DPO	Division of Professions and Occupations Office of Speech-Language Pathology Certification 4 CCR 748-1 (Rule 1.23)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 24-4-103.3 § 12-20-204(1) § 12-305-115 § 12-30-115	New Rule	Yes	The purpose of this new rule is to implement SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
151	DPO	Office of Barber and Cosmetology Licensure 4 CCR 731-1 (Rule 1.4)	Licensure by Endorsement	§ 12-20-204(1) § 12-105-106(1)(a) § 12-20-202(3)	Revision	No	The purpose of this revision is also to implement HB20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
152	DPO	Office of Acupuncture Licensure 4 CCR 738-1 (Rule 1.1)	Requirement for Licensure	§ 12-20-204(1) § 12-200-106(3) § 12-20-202(3)	Revision	No	The purpose of this revision is also to implement HB20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
153	DPO	Office of Acupuncture Licensure 4 CCR 738-1 (Rule 1.2)	Licensure by Endorsement	§ 12-20-204(1) § 12-200-106(3) § 12-20-202(3)	Revision	No	The purpose of this revision is also to implement HB20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
154	DPO	Office of Acupuncture Licensure 4 CCR 738-1 (Rule 1.12)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-200-106(3) § 12-30-115	New Rule	No	The purpose of this new rule is to implement SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
156	DPO	Office of Athletic Trainer Registration 4 CCR 735-1 (Rule 1.3)	Licensure by Endorsement	§ 12-20-204(1) § 12-205-116 § 12-20-202(3)	Revision	No	The purpose of this revision is also to implement HB20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
157	DPO	Office of Athletic Trainer Registration 4 CCR 735-1 (Rule 1.13)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-205-116 § 12-30-115	New Rule	No	The purpose of this new rule is to implement SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
158	DPO	Board of Chiropractic Examiners 3 CCR 707-1 (Rule 1.8)	CONTINUING EDUCATION	§ 12-20-204 § 12-215-105(1)(a) § 12-215-113 § 12-215-127 § 12-215-106	Revision	No	The purpose of this proposed new and revised State Board of Chiropractic Examiners' rules to implement Colorado House Bill 20-1210 (Sunset Review which Continues Regulation of Chiropractors, and make changes to the Chiropractic Examiners Practice Act), House Bill 20-1326 (Endorsements/Creation of Occupational Credential Portability Program), and Senate Bill 20-102 (Patient Disclosures Regarding Sexual Misconduct).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/1/20	N/A
159	DPO	Board of Chiropractic Examiners 3 CCR 707-1 (Rule 1.33)	EXAMINATION REQUIREMENT	§ 12-20-204 § 12-215-105(1)(a) § 12-215-108	New Rule	No	The purpose of this proposed new and revised State Board of Chiropractic Examiners' rules to implement Colorado House Bill 20-1210 (Sunset Review which Continues Regulation of Chiropractors, and make changes to the Chiropractic Examiners Practice Act), House Bill 20-1326 (Endorsements/Creation of Occupational Credential Portability Program), and Senate Bill 20-102 (Patient Disclosures Regarding Sexual Misconduct).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/1/20	N/A
160	DPO	Board of Chiropractic Examiners 3 CCR 707-1 (Rule 1.34)	SCHOOLS APPROVED TO SPONSOR STUDENT INTERNS	§ 12-20-204 § 12-215-105(1)(a) § 12-215-130	New Rule	No	The purpose of this proposed new and revised State Board of Chiropractic Examiners' rules to implement Colorado House Bill 20-1210 (Sunset Review which Continues Regulation of Chiropractors, and make changes to the Chiropractic Examiners Practice Act), House Bill 20-1326 (Endorsements/Creation of Occupational Credential Portability Program), and Senate Bill 20-102 (Patient Disclosures Regarding Sexual Misconduct).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/1/20	N/A
161	DPO	Board of Chiropractic Examiners 3 CCR 707-1 (Rule 1.35)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 12-20-204 § 12-215-105(1)(a) § 12-30-115	New Rule	No	The purpose of this proposed new and revised State Board of Chiropractic Examiners' rules to implement Colorado House Bill 20-1210 (Sunset Review which Continues Regulation of Chiropractors, and make changes to the Chiropractic Examiners Practice Act), House Bill 20-1326 (Endorsements/Creation of Occupational Credential Portability Program), and Senate Bill 20-102 (Patient Disclosures Regarding Sexual Misconduct).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/1/20	N/A
162	DPO	State Board of Psychologist Examiners 4 CCR 721-1 (Rule 1.12)	LICENSURE BY ENDORSEMENT (C.R.S. § 12-245-207)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-207 § 12-20-203(3)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act. These revisions also implement HB20-1326 relating to endorsements, removing the credential endorsement requirements, and creating the Occupational Credential Portability Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/2/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
163	DPO	State Board of Psychologist Examiners 4 CCR 721-1 (Rule 1.14)	LICENSURE BY EXAMINATION (C.R.S. § 12-245-304)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-304	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/2/20	N/A
164	DPO	State Board of Psychologist Examiners 4 CCR 721-1 (Rule 1.16)	RECORDS REQUIRED TO BE KEPT AND RECORD RETENTION (C.R.S. §§ 12-245-204(4) & 12-245-224(1)(u))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-224(1)(u)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/2/20	N/A
165	DPO	State Board of Psychologist Examiners 4 CCR 721-1 (Rule 1.22)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT (C.R.S. § 12-30-115)	§ 12-20-204 § 12-245-204(4)(a) § 12-30-115	New Rule	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act. This new rule also implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/2/20	N/A
166	DPO	Massage Therapy Licensure 3 CCR 722-1 (Rule 1.4)	Licensure by Endorsement	§ 12-20-204(1) § 12-235-118 § 12-20-202(3)	Revision	No	The purpose of this revision is to implement HB20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
167	DPO	Massage Therapy Licensure 3 CCR 722-1 (Rule 1.14)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-235-118 § 12-30-115	New Rule	No	The purpose of this new rule is to implement SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
168	DPO	Midwives Registration 4 CCR 739-1 (Rule 1.24)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-225-108(1)(a) § 12-30-115	New Rule	No	The purpose of this new rule is to implement SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
169	DPO	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.8)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-310-103(4) § 12-30-115	New Rule	No	The purpose of this new rule is to implement SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/21/20	N/A
170	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.1)	DEFINITIONS	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
171	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.6)	INFORMATION REQUIRED TO BE REPORTED TO THE BOARD (C.R.S. § 12-245-226(8))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1) § 12-245-226(8))	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
172	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.9)	RENEWAL OF LICENSE (C.R.S. § 12-245-205 (3))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1) § 12-245-205(3)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
173	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.12)	LICENSURE BY ENDORSEMENT (C.R.S. § 12-245-207)	§ 12-20-202(3) § 12-20-204 (C.R.S. § 12-245-204(4)(a) § 12-245-802(1) § 12-245-207	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act. These revisions also implement HB20-1326 relating to endorsements, removing the credential endorsement requirements, and creating the Occupational Credential Portability Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
174	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.13)	REINSTATEMENT OF AN EXPIRED LICENSE OR CERTIFICATE (C.R.S. § 12-245-205)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1) § 12-245-205	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
175	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.14)	CERTIFICATION BY EXAMINATION (C.R.S. § 12-245-804)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1) § 12-245-804	New Rule	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
176	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.15)	CERTIFICATION BY EXAMINATION (C.R.S. § 12-245-804)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1) § 12-245-804	New Rule	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
177	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.14)	MILITARY EDUCATION, TRAINING AND EXPERIENCE (C.R.S. § 12-245-204(4))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1)	Renumbering	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
178	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.15)	RECORDS REQUIRED TO BE KEPT AND RECORD RETENTION (C.R.S. §§ 12-245-204(4) & 12-245-224(1)(u))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1) § 12-245-224(1)(u))	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
179	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.16)	RELIGIOUS MINISTRY EXEMPTIONS (C.R.S. § 12-245-217(1))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1)	Renumbering	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
180	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.17)	CONTINUING PROFESSIONAL COMPETENCE (C.R.S. § 12-245-806)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1) § 12-245-806	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
181	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.18)	INACTIVE LICENSE STATUS AND REACTIVATION OF A LICENSE (C.R.S. § 12-20-203)	§ 12-20-203 § 12-20-204 § 12-245-204(4)(a) § 12-245-802(1)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
182	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.19)	IMPOSITION OF ADMINISTRATIVE FINES (C.R.S. § 12-245-225 (2))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1)	Renumbering	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
183	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.20)	CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE FOR PHYSICAL OR MENTAL ILLNESS (C.R.S. § 12-245-223)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1)	Renumbering	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
184	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rule 1.23)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 12-20-204 § 12-245-204(4)(a) § 12-245-802(1) § 12-30-115	New Rule	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act. This new rule also implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	8/31/20	N/A
185	DPO	State Physical Therapy Board 4 CCR 732-1 (Rule 1.2)	PHYSICAL THERAPIST LICENSURE RULES	§ 12-20-204(1) § 12-285-106(2)(b) § 12-20-202(3)	Revision	No	The purpose of this revision is also to implement HB20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/15/20	N/A
186	DPO	State Physical Therapy Board 4 CCR 732-1 (Rule 1.3)	PHYSICAL THERAPIST ASSISTANT RULES	§ 12-20-204(1) § 12-285-106(2)(b) § 12-20-202(3)	Revision	No	The purpose of this revision is also to implement HB20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/15/20	N/A
187	DPO	State Physical Therapy Board 4 CCR 732-1 (Rule 1.6)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 12-20-204(1) § 12-285-106(2)(b) § 12-30-115	New Rule	No	The purpose of this new rule is to implement SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/15/20	N/A
188	DPO	State Board of Registered Psychotherapist s 4 CCR 734-1 (Authority)	AUTHORITY	§ 12-20-204 § 12-245-204(4)(a)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A
189	DPO	State Board of Registered Psychotherapist s 4 CCR 734-1 (Purpose & Scope)	PURPOSE AND SCOPE	§ 12-20-204 § 12-245-204(4)(a)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A
190	DPO	State Board of Registered Psychotherapist s 4 CCR 734-1 (Rule 1.1)	DEFINITIONS	§ 12-20-204 § 12-245-204(4)(a)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A
191	DPO	State Board of Registered Psychotherapist s 4 CCR 734-1 (Rule 1.4)	DECLARATORY ORDERS (C.R.S. § 24-4-105(11))	§ 12-20-204 § 12-245-204(4)(a) § 24-4-105(11)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A
192	DPO	State Board of Registered Psychotherapist s 4 CCR 734-1 (Rule 1.6)	INFORMATION REQUIRED TO BE REPORTED TO THE BOARD (C.R.S. § 12-245-226(8))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-226(8)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
193	DPO	State Board of Registered Psychotherapists 4 CCR 734-1 (Rule 1.7)	NON-CLINICAL SUPERVISORY RELATIONSHIPS AND CLINICAL SUPERVISION OF MENTAL HEALTH PRACTITIONERS OTHER THAN LICENSED PROFESSIONAL COUNSELOR APPLICANTS (C.R.S. §§ 12-245-222(2), 12-245-224(1)(n), except as provided in Rule 1.14)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-222(2) § 12-245-224(1)(n),	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A
194	DPO	State Board of Registered Psychotherapists 4 CCR 734-1 (Rule 1.8)	REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-245-204, 12-245-206)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-206	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A
195	DPO	State Board of Registered Psychotherapists 4 CCR 734-1 (Rule 1.9)	REPLACEMENT OF WALLET CARD (C.R.S. §§ 12-245-206, 12-245-209)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-206 § 12-245-209	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A
196	DPO	State Board of Registered Psychotherapists 4 CCR 734-1 (Rule 1.10)	RENEWAL OF REGISTRATION (C.R.S. §§ 12-245-205(3); 12-245-703)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-205(3) § 12-245-703	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A
197	DPO	State Board of Registered Psychotherapists 4 CCR 734-1 (Rule 1.12)	REINSTATEMENT OF REGISTRATION (C.R.S. § 12-245-205)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-205	Repeal	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act. These revisions also implement HB20-1326 relating to endorsements, removing the credential endorsement requirements, and creating the Occupational Credential Portability Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A
198	DPO	State Board of Registered Psychotherapists 4 CCR 734-1 (Rule 1.13)	RECORDS REQUIRED TO BE KEPT AND RECORD RETENTION (C.R.S. §§ 12-245-204(4) & 12-245-224(1)(u))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-224(1)(u)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A
199	DPO	State Board of Registered Psychotherapists 4 CCR 734-1 (Rule 1.15)	IMPOSITION OF ADMINISTRATIVE FINES (C.R.S. § 12-245-225 (2))	§ 12-20-204 § 12-245-204(4)(a)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A
200	DPO	State Board of Registered Psychotherapists 4 CCR 734-1 (Rule 1.17)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT (C.R.S. § 12-30-115)	§ 12-20-204 § 12-245-204(4)(a) § 12-30-115	New Rule	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act. This new rule also implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/16/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
201	DPO	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (Rule 1.12)	LICENSURE BY ENDORSEMENT (C.R.S. § 12-245-207)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-207 § 12-20-203(3)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act. These revisions also implement HB20-1326 relating to endorsements, removing the credential endorsement requirements, and creating the Occupational Credential Portability Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/23/20	N/A
202	DPO	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (Rule 1.13)	LICENSURE BY EXAMINATION (C.R.S. § 12-245-504)	§ 12-20-204 § 12-245-204(4)(a) § 12-245-504	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/23/20	N/A
203	DPO	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (Rule 1.16)	RECORDS REQUIRED TO BE KEPT AND RECORD RETENTION (C. R.S. §§ 12-245-204(4) & 12-245-224(1)(u))	§ 12-20-204 § 12-245-204(4)(a) § 12-245-224(1)(u)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1206) by the legislature of the Mental Health Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/23/20	N/A
204	DPO	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (Rule 1.22)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT (C.R.S. § 12-30-115)	§ 12-20-204 § 12-245-204(4)(a) § 12-30-115	New Rule	No	This new rule implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/23/20	N/A
205	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.1)	RULES AND REGULATIONS FOR THE LICENSURE OF PRACTICAL AND PROFESSIONAL NURSES	§ 12-20-204 § 12-255-107(1)(j) § 12-255-109 § 12-255-110 § 12-255-114 § 12-255-115 § 12-255-121	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
206	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.2)	RULES AND REGULATIONS FOR APPROVAL OF NURSING EDUCATION PROGRAMS	§ 12-20-204 § 12-255-107(1)(j) § 12-255-118	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
207	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.4)	CONFIDENTIAL AGREEMENTS	§ 12-20-204 § 12-255-107(1)(j) § 12-255-135	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
208	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.5)	RULES AND REGULATIONS FOR LICENSURE OF PSYCHIATRIC TECHNICIANS	§ 12-20-204 § 12-255-107(1)(k)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
209	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.6)	RULES AND REGULATIONS FOR APROVAL OF PSYCHIATRIC TECHNICIAN PROGRAMS	§ 12-20-204 § 12-255-107(1)(k)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
210	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.9)	RULES AND REGULATIONS FOR THE LICENSED PRACTICAL NURSE IN RELATION TO IV AUTHORITY	§ 12-20-204 § 12-255-107(1)(k)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
211	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.10)	RULES AND REGULATIONS FOR THE CERTIFICATION OF A NURSE AIDE	§ 12-20-204 § 12-255-107(1)(k) § 12-255-202-206	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
212	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.11)	RULES AND REGULATIONS FOR THE APPROVAL OF NURSE AIDE TRAINING PROGRAMS	§ 12-20-204 § 12-255-107(1)(k)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
213	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.12)	RULES AND REGULATIONS FOR THE APPROVAL OF MEDICATION AIDE TRAINING PROGRAMS	§ 12-20-204 § 12-255-107(1)(k) § 12-255-108	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
214	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.13)	RULES AND REGULATIONS REGARDING THE DELEGATION OF NURSING TASKS	§ 12-20-204 § 12-255-107(1)(k) § 12-255-131(6)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
215	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.14)	RULES AND REGULATIONS TO REGISTER PROFESSIONAL NURSES QUALIFIED TO ENGAGE IN ADVANCED PRACTICE REGISTERED NURSES	§ 12-20-204 § 12-255-107(1)(k) § 12-255-111 § 12-255-113	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
216	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.15)	RULES AND REGULATIONS FOR PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE REGISTERED NURSES	§ 12-20-204 § 12-255-107(1)(k) § 12-255-112	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
217	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.16)	DUTY TO REPORT REQUIREMENTS	§ 12-20-204 § 12-255-107(1)(k)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
218	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.17)	RULES AND REGULATIONS FOR THE COLORADO CERTIFIED NURSE AIDE REGISTRY	§ 12-20-204 § 12-255-107(1)(k)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
219	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.19)	RULES AND REGULATIONS FOR THE COLORADO CERTIFIED NURSE AIDE IN RELATION TO MEDICATION AIDE AND AUTHORITY	§ 12-20-204 § 12-255-107(1)(k) § 12-255-208(1)	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
220	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.20)	RULES AND REGULATIONS FOR MULTISTATE LICENSURE	§ 12-20-204 § 12-255-107(1)(k) § 12-255-110 § 12-255-114 § 24-60-3201-3202	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
221	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.22)	RULES AND REGULATIONS REGARDING THE DESIGNATION OF AUTHORIZED ENTITIES TO CONDUCT PROFESSIONAL REVIEW OF ADVANCED PRACTICE NURSES	§ 12-20-204 § 12-255-107(1)(k) § 12-30-204	Revision	No	The purpose of these proposed new rule(s), revision(s), and/or repeal(s) is to implement any required changes as a result of the Sunset Review (HB20-1216) by the legislature of the Nurse Practice Act.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
222	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rule 1.25)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT (C.R.S. § 12-30-115)	§ 12-20-204 § 12-255-107(1)(k) § 12-30-115	New Rule	No	This new rule implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/28/20	N/A
223	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.1)	Authority	§ 24-4-103.3 § 12-20-204 § 12-220-105(3)	New Rule	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
224	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.2)	Scope and Purpose	§ 24-4-103.3 § 12-20-204 § 12-220-105(3)	New Rule	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
225	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.3)	Applicability	§ 24-4-103.3 § 12-20-204 § 12-220-105(3)	New Rule	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mabdatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
226	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.1)	Definitions	§ 24-4-103.3 § 12-20-204 § 12-220-105(3)	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
227	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.2)	Financial Responsibility Exemptions	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-220-147 § 13-64-301(1)(a)	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
228	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.3)	Licensure of Dentists and Dental Hygienists	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-20-202(3)	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed. The purpose of this revision is also to implement HB20-1326 (Endorsements/Creation of an Occupational Credential Portability Program).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
229	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.4)	License Presentation	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-220-114(2)(a)	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
230	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.5)	Practice in Education and Research Programs	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-220-112(1)(f)	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
231	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.9)	Record Keeping Requirements	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-30-111	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed. The purpose of these proposed revisions is also to implement SB19-079, electronic prescribing of controlled substances.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
232	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.10)	Minimum Standards for Qualifications, Training, and Education for Unlicensed Personnel Exposing Patients to Ionizing Radiation	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-220-202	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
233	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.11)	Laboratory Work Order Forms	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-220-104(11)	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
234	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.12)	Denture Construction by Assistants and Unlicensed Technicians	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-220-127(3)(d) § 12-220-139	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
235	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.13)	Limited Prescriptive Authority for Dental Hygienists	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-220-122(2)(g)	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
236	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.15)	Pediatric Case Management and Protective Stabilization	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
237	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.16)	Infection Control	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mabdatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
238	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.17)	Advertising	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
239	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.18)	Protocol Upon Revocation, Relinquishment, Suspension, Cessation of Practice of a Dental or Dental Hygiene License	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
240	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.20)	Compliance with a Board Subpoena	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
241	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.21)	Declaratory Orders	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 24-4-105(11)	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
242	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.23)	Fining Schedule for Violations of the Dental Practice Act and Board Rules	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-220-131(5)	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
243	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.24)	Use of Lasers	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106	Revision	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
244	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.29)	Confidential Agreements to Limit Practice for Physical or Mental Illness	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-220-136(5)	New Rule	Yes	The purpose of these rule revisions is to comply with the requirements of section 24-4-103.3, C.R.S., and the mandatory rule review to assess the continuing need, appropriateness, and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
245	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.30)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 24-4-103.3 § 12-20-204 § 12-220-105(3) § 12-220-106 § 12-30-115	New Rule	No	This new rule implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/5/20	N/A
246	DPO	State Board of Optometric Examiners 4 CCR 728-1 (Rule 1.26)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 12-20-204 § 12-275-108(1)(b) § 12-30-115	New Rule	No	This new rule implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/12/20	N/A
247	DPO	State Board of Examiners of Nursing Home Administrators 3 CCR 717-1 (Rule 1.1)	GENERAL LICENSING PROVISIONS	§ 12-20-204 § 12-265-107(1)(a) § 12-20-202(3)	Revision	No	These revisions also implement HB20-1326 relating to endorsements, removing the credential endorsement requirements, and creating the Occupational Credential Portability Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/18/20	N/A
248	DPO	State Board of Examiners of Nursing Home Administrators 3 CCR 717-1 (Rule 1.2)	LICENSING REQUIREMENTS	§ 12-20-204 § 12-265-107(1)(a) § 12-20-202(3)	Revision	No	These revisions also implement HB20-1326 relating to endorsements, removing the credential endorsement requirements, and creating the Occupational Credential Portability Program.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/18/20	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
249	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 1.00.25)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 12-20-204 § 12-280-107(1) § 12-30-115	New Rule	No	This new rule implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/19/20	N/A
250	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 17)	Collaborative Pharmacy Practice	§ 12-20-204 § 12-280-107(1)	Revision	No	The purpose of this proposed revision is to clean up the rule.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	11/19/20	N/A
251	DPO	Colorado Medical Board 3 CCR 713-47 (Rule 160)	Electronic Prescribing of Controlled Substances	§ 12-20-204 § 12-240-106(1)(a) § 12-30-111(2)	New Rule	No	The purpose of these proposed revisions is also to implement SB19-079, electronic prescribing of controlled substances.	Licensees, professional associations, state agencies, and other key stakeholders	Adopted	12/18/20	N/A
252	DPO	Colorado Medical Board 3 CCR 713-48 (Rule TBD)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 12-20-204 § 12-240-106(1)(a) § 12-30-115	New Rule	No	This new rule implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, state agencies, and other key stakeholders	Adopted	12/18/20	N/A
253	DPO	Colorado Podiatry Board 3 CCR 712-TBD	Electronic Prescribing of Controlled Substances	§ 12-20-204 § 12-290-106(1)(a) § 12-30-111(2)	New Rule	No	The purpose of these proposed revisions is also to implement SB19-079, electronic prescribing of controlled substances.	Licensees, professional associations, state agencies, and other key stakeholders	Adopted	12/4/20	N/A
254	DPO	Colorado Podiatry Board 3 CCR 712-TBD	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 12-20-204 § 12-290-106(1)(a) § 12-30-115	New Rule	No	This new rule implements SB20-102 relating to patient disclosures and requiring providers to provide written disclosure to patients of any final convictions, pleas deals, or final disciplinary actions on their license that involves a sexual offense or findings of unprofessional conduct related to sexual misconduct.	Licensees, professional associations, state agencies, and other key stakeholders	Adopted	12/4/20	N/A
255	DPO	State Plumbing Board 3 CCR 720-1 (TBD)	Plumbing	§ 12-20-204 § 12-155-105(1)(e)	Revision	No	The purpose of these revisions are to implement SB20-120, Concerning Requirements for Registered Apprentices.	None	Adopted	6/30/21	N/A
256	DPO	State Electrical Board 3 CCR 710-1 (TBD)	State Electrical Board Rules and Regulations	§ 12-20-204 § 12-105-106(1)(a)	Revision	No	The purpose of these revisions are to implement SB20-120, Concerning Requirements for Registered Apprentices.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	5/26/21	N/A
257	DPO	Office of Occupational Therapy Licensure 3 CCR 715-1	Occupational Therapy Rules	§ 12-270-116	Revision/Repeal /New Rule	No	The Office of Occupational Therapy Licensure went through Sunset Review by the legislature in 2020 and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	5/25/21	N/A
258	DPO	Division of Professions and Occupations - Office of Naturopathic Doctor Registration Program 4 CCR 749-1	Naturopathic Doctors Registration, Practice, and Discipline	§ 12-250-105	Revision/Repeal /New Rule	No	The Office of Naturopathic Doctor Registration Program went through Sunset Review by the legislature in 2020 and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	9/30/20	N/A
259	DPO	Office of Private Investigator Licensing 4 CCR 750-1	Private Investigator Licensure Rules and Regulations	§ 12-160-109(2)(a)	Revision/Repeal /New Rule	No	The Office of Private Investigator Licensing went through Sunset Review by the legislature in 2020 and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Pending	11/1/21	Program is in wind down. A permanent rulemaking Hearing is scheduled for 11/1/21 to repeal the rules.

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
260	DPO	Division of Registrations - Healthcare Professions Profiling Program 4 CCR 743-1	Director Rule 1 - Requirement to Timely Update Information Required by Michael Skolnik Medical Transparency Act of 2010	§ 12-30-102(11)	Revision/Repeal /New Rule	No	The Healthcare Professions Profiling Program will be going through Sunset Review by the legislature in 2021 and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Unadopted	N/A	No changes necessary
261	DPO	Division of Registrations - Healthcare Professions Profiling Program 4 CCR 743-2	Director Rule 2 - Imposition of Administrative Fines Pursuant to the Michael Skolnik Medical Transparency Act of 2010	§ 12-30-102(11)	Revision/Repeal /New Rule	No	The Healthcare Professions Profiling Program will be going through Sunset Review by the legislature in 2021 and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Unadopted	N/A	No changes necessary
262	DPO	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1	Surgical Assistant and Surgical Technologist Registration	§ 12-20-204 § 12-310-103(4)	Revision/Repeal /New Rule	No	The Office of Surgical Assistant and Surgical Technologist Registration will be going through Sunset Review by the legislature in 2021 and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Unadopted	N/A	Rulemaking will be held in FY22.
263	DPO	Office of Athletic Trainer Licensure 4 CCR 735-1	Athletic Trainer Licensure Rules and Regulations	§ 12-20-204 § 12-205-116	Revision/Repeal /New Rule	No	The Office of Athletic Trainer Licensure will be going through Sunset Review by the legislature in 2021 and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Unadopted	N/A	Rulemaking unnecessary
264	DPO	Midwives Registration 4 CCR 739-1	Office of Direct-Entry Midwifery Rules and Regulations	§ 12-20-204(1) § 12-225-108(1)(a)	Revision/Repeal /New Rule	No	The Office of Direct-Entry Midwifery Registration will be going through Sunset Review by the legislature in 2021 and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Unadopted	N/A	Rulemaking will be held in FY22.
265	DPO	State Board of Pharmacy 3 CCR 719-1	Board of Pharmacy Rules and Regulations	§ 12-20-204 § 12-280-107(1)	Revision/Repeal /New Rule	No	The State Board of Pharmacy and the Prescription Drug Monitoring Program will be going through Sunset Review by the legislature in 2021 and rulemaking may be required to implement any legislation.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Unadopted	N/A	Rulemaking will be held in FY22.
266	DPO	Colorado Combative Sports Commission 4 CCR 740-1	Colorado Combative Sports Commission Rules and Regulations	§ 12-110-102(3) § 12-110-107	Revision/Repeal /New Rule	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/13/21	N/A
267	DPO	Office of Funeral Home and Crematory Registration 4 CCR 742-1	Funeral Home and Crematory Registration Rules	§ 12-20-204	Revision/Repeal /New Rule	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	5/25/21	N/A
268	DPO	Colorado Medical Board 3 CCR 713-1-49	Colorado Medical Board - Rules and Regulations	§ 12-240-106(1)(a) § 12-20-204	Revision/Repeal /New Rule	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, state agencies, and other key stakeholders	Unadopted	N/A	Postponed
269	DPO	State Board of Examiners of Nursing Home Administrators 3 CCR 717-1	State Board of Examiners of Nursing Home Administrators - Rules and Regulations	§ 12-20-204 § 12-265-107(1)(a)	Revision/Repeal /New Rule	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	5/26/21	N/A
270	DPO	State Physical Therapy Board 4 CCR 732-1	State Board of Physical Therapy Rules and Regulations	§ 12-20-204(1) § 12-285-106(2)(b)	Revision/Repeal /New Rule	Yes	The purpose of these proposed revisions is to comply with the Division's mandatory rule review requirements as set forth in section 24-4-103.3, C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Unadopted	N/A	Rulemaking Hearing held in FY22
271	DPO	Colorado Dental Board 3 CCR 709-1 (Rule 1.14)	Anesthesia	§ 12-20-204 § 12-220-105(3) § 12-220-106	Revision	No	The purpose of these proposed revisions are to review, revise, and streamline the requirements regarding anesthesia.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Unadopted	N/A	Postponed

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
272	DPO	Passenger Tramway Safety Board 3 CCR 718-1	Passenger Tramways	§ 12-150-105(1)(a)	Revision	No	The purpose of these proposed revisions are to adopt Section 4 of ANSI 2017, review and revise Section 23 to expand the Board's authority over incidents that occur in the loading and unloading zones, consider improvements related to conveyor maintenance, documenting deficiencies and observations in inspection reports, maintenance personnel, minimum operating personnel, ropeway event and data recorder, and summer ramps.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Unadopted	N/A	N/A
273	DPO	Colorado Combative Sports Commission 4 CCR 740-1	Colorado Combative Sports Commission Rules and Regulations	§ 24-4-103.3 § 12-110-102(3) § 12-110-107	New Rule/Revision/Repeal	Yes	Comply with mandatory rule review requirements	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/13/21	N/A
274	DPO	Office of Funeral Home and Crematory Registration 4 CCR 742-1	Funeral Home and Crematory Registration Rules	§ 12-20-204 § 24-4-103.3	Revision/Repeal/New Rule	Yes	Comply with mandatory rule review requirements	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	5/25/21	N/A
275	DPO	State Board of Examiners of Nursing Home Administrators 3 CCR 717-1	State Board of Examiners of Nursing Home Administrators - Rules and Regulations	§ 12-20-204 § 24-4-103.3	Revision/Repeal/New Rule	Yes	Comply with mandatory rule review requirements	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	5/26/21	N/A
276	DPO	State Physical Therapy Board 4 CCR 732-1	State Board of Physical Therapy Rules and Regulations	§ 12-20-204(1) § 12-285-106(2)(b) § 24-4-103.3	Revision/Repeal/New Rule	Yes	Comply with mandatory rule review requirements	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Unadopted	N/A	The Rulemaking Hearing was held in August 2021.
Unplanned	DPO	State Board of Veterinary Medicine 4-727-1	Veterinary Medicine Rules and Regulations	§ 12-20-204 § 12-315-106(5)(g)	Revision	No	The purpose of this Permanent Rulemaking Hearing is for the Board to consider adopting revisions to the rules to implement Colorado House Bill 20-1326 (Concerning an Expansion of an Individual's Ability to Practice an Occupation in Colorado through Creation of an Occupational Credential Portability Program).	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	10/15/20	N/A
Unplanned	DPO	Board of Accountancy 3 CCR 705-1	Rules of the State Board of Accountancy	12-20-204, 12-100-105(1)(b)	Revision	No	The purpose of this Permanent Rulemaking Hearing was for the Board to consider revisions to Rule 1.2 to reduce administrative burden and to conform with the language used in the majority of other states; revisions to Rule 1.5 to provide a general cleanup; and revisions to Rule 1.11 to implement Colorado Senate Bill 20-007 (Concerning treatment for substance use disorders).	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	1/20/21	N/A
Unplanned	DPO	State Board of Pharmacy 3 CCR 719-1	Board of Pharmacy Rules and Regulations	§ 12-20-204 § 12-280-107(1) § 12-280-101 § 12-280-103(38.5)(a)(v) § 12-280-108(3)(b),	Revision	No	The purpose of this Permanent Rulemaking Hearing was for the Board to consider revisions to Rule 5.01.31 to amend the refrigerator and freezer storage requirements; revisions to Rule 17.00.00 as required by the Office of Legislative Legal Services (OLLS); and revisions to Rule 19.00.00 to align with recent federal guidance allowing Pharmacy technicians to administer immunizations, and simplify the record keeping requirements for pharmacists and pharmacies when administering vaccines.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	1/21/21	N/A
Unplanned	DPO	State Board of Veterinary Medicine 4 CCR 727-1	Veterinary Medicine Rules and Regulations	§ 12-20-204 § 12-315-106(5)(g)	Revision	No	The purpose of this Permanent Rulemaking Hearing is for the Board to consider changes to Rules 1.4(E), (F), and 1.12(C), as required by the Office of Legislative Legal Services (OLLS). These revisions are necessary to provide clarity concerning the requirements of sections 12-315-104(19) and 12-20-202(2)(c)(II), C.R.S.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	2/11/21	N/A
Unplanned	DPO	State Board of Licensed Professional Counselor Examiners 4 CCR 737-1 (Rule 1.6)	INFORMATION REQUIRED TO BE REPORTED TO THE BOARD	§ 12-20-204 § 12-245-204(4)(a)	Revision	No	The purpose of this Permanent Rulemaking Hearing was for the Board to consider revisions to Rule 1.6, to implement Colorado House Bill 19-1129, which prohibits mental health care providers from engaging in conversion therapy with a patient under eighteen years of age.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/5/21	This was included in the Regulatory Agenda for FY20.
Unplanned	DPO	Division of Professions and Occupations - Office of Naturopathic Doctor Registration Program 4 CCR 749-1 (Rule 1.19)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204 § 12-250-105(1)(a) § 12-30-115	New Rule	No	The purpose of this Permanent Rulemaking Hearing was for the Director to consider changes to Rule 1.19(E) and (F) as required by the Office of Legislative Legal Services. These revisions are necessary to provide clarity to the requirements of section 12-30-115(4), C.R.S.	Licenseses, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
Unplanned	DPO	Office of Respiratory Therapy Licensure 4 CCR 741-1 (Rule 1.11)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-300-115 § 12-30-115	New Rule	No	The purpose of this Permanent Rulemaking Hearing was for the Director to consider changes to Rule 1.11(E) and (F) as required by the Office of Legislative Legal Services. These revisions are necessary to provide clarity to the requirements of section 12-30-115(4), C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A
Unplanned	DPO	Division of Professions and Occupations Office of Speech-Language Pathology Certification 4 CCR 748-1 (Rule 1.23)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-305-115 § 12-30-115	New Rule	Yes	The purpose of this Permanent Rulemaking Hearing was for the Director to consider changes to Rule 1.23(E) and (F) as required by the Office of Legislative Legal Services. These revisions are necessary to provide clarity to the requirements of section 12-30-115(4), C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/31/21	N/A
Unplanned	DPO	Office of Acupuncture Licensure 4 CCR 738-1 (Rule 1.12)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-200-106(3) § 12-30-115	New Rule	No	The purpose of this Permanent Rulemaking Hearing was for the Director to consider changes to Rule 1.12(E) and (F) as required by the Office of Legislative Legal Services. These revisions are necessary to provide clarity to the requirements of section 12-30-115(4), C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A
Unplanned	DPO	Office of Athletic Trainer Registration 4 CCR 735-1 (Rule 1.13)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-205-116 § 12-30-115	New Rule	No	The purpose of this Permanent Rulemaking Hearing was for the Director to consider changes to Rule 1.13(E) and (F) as required by the Office of Legislative Legal Services. These revisions are necessary to provide clarity to the requirements of section 12-30-115(4), C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A
Unplanned	DPO	Midwives Registration 4 CCR 739-1 (Rule 1.24)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-225-108(1)(a) § 12-30-115	New Rule	No	The purpose of this Permanent Rulemaking Hearing was for the Director to consider changes to Rule 1.24(E) and (F) as required by the Office of Legislative Legal Services. These revisions are necessary to provide clarity to the requirements of section 12-30-115(4), C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A
Unplanned	DPO	Surgical Assistant and Surgical Technologist Registration 4 CCR 745-1 (Rule 1.8)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-310-103(4) § 12-30-115	New Rule	No	The purpose of this Permanent Rulemaking Hearing is for the Director to consider changes to Rule 1.8(E) and (F) as required by the Office of Legislative Legal Services. These revisions are necessary to provide clarity to the requirements of section 12-30-115(4), C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A
Unplanned	DPO	Office of Barber and Cosmetology Licensure 4 CCR 731-1 (Rule 1.4)	Licensure by Endorsement	§ 12-20-204(1) § 12-105-106(1)(a) § 12-20-202(3)	Revision	No	The purpose of the changes to Rule 1.4 that were recently adopted to implement Colorado House Bill 20-1326, are to make necessary corrections as required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A
Unplanned	DPO	Office of Hearing Aid Provider Licensure 3 CCR 711-1 (Rule 1.12)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204 § 12-230-301(3) § 12-30-115	New Rule	No	The purpose of the changes to Rules 1.2 and 1.12 that were recently adopted to implement Colorado House Bill 20-1326 and Senate Bill 20-102, are to make necessary corrections as required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A
Unplanned	DPO	Office of Hearing Aid Provider Licensure 3 CCR 711-1 (Rule 1.2)	Licensure by Endorsement	§ 12-20-204 § 12-230-301(3) § 12-20-202(3)	Revision	No	The purpose of the changes to Rules 1.2 and 1.12 that were recently adopted to implement Colorado House Bill 20-1326 and Senate Bill 20-102, are to make necessary corrections as required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A
Unplanned	DPO	Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (Rule 1.2)	Licensure by Endorsement	§ 12-20-204 § 12-210-107(2) § 12-20-202(3)	Revision	No	The purpose of the changes to Rules 1.2 and 1.13 that were recently adopted to implement Colorado House Bill 20-1326 and Senate Bill 20-102, are to make necessary corrections as required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
Unplanned	DPO	Audiology and Hearing Aid Provider Licensure 3 CCR 711-2 (Rule 1.13)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204 § 12-210-107(2) § 12-30-115	Revision	No	The purpose of the changes to Rules 1.2 and 1.13 that were recently adopted to implement Colorado House Bill 20-1326 and Senate Bill 20-102, are to make necessary corrections as required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A
Unplanned	DPO	Massage Therapy Licensure 3 CCR 722-1 (Rule 1.4)	Licensure by Endorsement	§ 12-20-204(1) § 12-235-118 § 12-20-202(3)	Revision	No	The purpose of the changes to Rules 1.4 and 1.14 that were recently adopted to implement Colorado House Bill 20-1326 and Senate Bill 20-102, are to make necessary corrections as required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A
Unplanned	DPO	Massage Therapy Licensure 3 CCR 722-1 (Rule 1.14)	Required Disclosure to Patients - Conviction of or Discipline Based on Sexual Misconduct	§ 12-20-204(1) § 12-235-118 § 12-30-115	New Rule	No	The purpose of the changes to Rules 1.4 and 1.14 that were recently adopted to implement Colorado House Bill 20-1326 and Senate Bill 20-102, are to make necessary corrections as required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/30/21	N/A
Unplanned	DPO	State Board of Social Work Examiners 4 CCR 726-1 (Rules 1.6, 1.12, and 1.23)	Multiple Rules	§ 12-20-204 § 12-245-204(4)(a) § 12-245-207 § 12-20-203(3) § 12-30-115 § 12- 245-222(2)	Revision	No	The purpose of the changes to Rule 1.6 is to implement Colorado House Bill 19-1129, and the proposed changes to Rules 1.12 and 1.23 that were recently adopted to implement Colorado House Bill 20-1326 and Senate Bill 20-102, are to make necessary corrections as required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/19/21	This was included in the Regulatory Agenda for FY20 regarding HB19-1129
Unplanned	DPO	State Board of Pharmacy 3 CCR 719-1 (Rule 1.00.25)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 12-20-204 § 12-280-107(1) § 12-30-115	New Rule	No	The purpose of this Permanent Rulemaking Hearing was for the Board to consider changes to Rule 1.00.25(E) and (F) as required by the Office of Legislative Legal Services. These revisions are necessary to provide clarity to the requirements of section 12-30-115(4), C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/18/21	N/A
Unplanned	DPO	Board of Chiropractic Examiners 3 CCR 707-1 (Rule 1.33)	EXAMINATION REQUIREMENT	§ 12-20-204 § 12-215-105(1)(a) § 12-30-115	New Rule	No	The purpose of this Permanent Rulemaking Hearing is for the Board to consider changes to Rule 1.35(E) and (F) as required by the Office of Legislative Legal Services. These revisions are necessary to provide clarity to the requirements of section 12-30-115(4), C.R.S.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	3/25/21	N/A
Unplanned	DPO	State Board of Marriage and Family Therapist Examiners 4-CCR 736-1 (Rules 1.12 and 1.22)	Multiple Rules	§ 12-20-204 § 12-245-204(4)(a) § 12-245-207 § 12-20-203(3) § 12-30-115 § 12- 245-222(2)	Revision	No	The purpose of the changes to Rule 1.6 is to implement Colorado House Bill 19-1129, and the proposed changes to Rules 1.12 and 1.22 that were recently adopted to implement Colorado House Bill 20-1326 and Senate Bill 20-102, are to make necessary corrections as required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	5/5/21	This was included in the Regulatory Agenda for FY20 regarding HB19-1129
Unplanned	DPO	State Board of Psychologist Examiners 4 CCR 721-1 (Rules 1.6, 1.12, and 1.22)	Multiple Rules	§ 12-20-204 § 12-245-204(4)(a) § 12-245-207 § 12-20-203(3) § 12-30-115	Revision	No	The purpose of the revisions to Rule 1.6 are to implement Colorado House Bill 19-1129 (Prohibiting a mental health care providers from engaging in conversion therapy with a patient under eighteen years of age); and the revisions to Rules 1.12 and 1.22 correct errors in the language of the rules recently adopted to implement Colorado House Bill 20-1326 and Colorado Senate Bill 20-102. The corrections to Rules 1.12 and 1.22 are required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/2/21	This was included in the Regulatory Agenda for FY20 regarding HB19-1129
Unplanned	DPO	State Board of Addiction Counselor Examiners 4 CCR 744-1 (Rules 1.6, 1.12, and 1.23)	Multiple Rules	§ 12-20-202(3) § 12-20-204 § 12-245-204(4)(a) § 12-245-802(1) § 12-245-207 § 12-30-115	Revision	No	The purpose of the revisions to Rule 1.6 are to implement Colorado House Bill 19-1129 (Prohibiting mental health care providers from engaging in conversion therapy with a patient under eighteen years of age); and the revisions to Rules 1.12 and 1.23 make corrections to the rules that conflict with portions of the statutes in Colorado House Bill 20-1326 and Colorado Senate Bill 20-102. The corrections to Rules 1.12 and 1.23 are required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/6/21	This was included in the Regulatory Agenda for FY20 regarding HB19-1129
Unplanned	DPO	State Board of Registered Psychotherapist s 4 CCR 734-1 (Rules 1.6 and 1.16)	Multiple Rules	§ 12-20-204 § 12-245-204(4)(a) § 12-30-115	Revision	No	The purpose of this Permanent Rulemaking Hearing is for the Board to consider adopting the proposed revisions to Rule 1.6 to implement Colorado House Bill 19-1129 (Prohibiting mental health care providers from engaging in conversion therapy with a patient under eighteen years of age); and revisions to Rule 1.16 to make corrections to the language that conflict with portions of the statute in Colorado Senate Bill 20-102. The corrections to Rules 1.16 are required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/16/21	This was included in the Regulatory Agenda for FY20 regarding HB19-1129

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
Unplanned	DPO	Division of Professions and Occupations - Board of Nursing 3 CCR 716-1 (Rules 1.29 and 1.30)	Multiple Rules	§ 12-20-204 § 12-255-107(1)(k) § 12-30-115 § 12-30-111(2)	Revision	No	The purpose of this Permanent Rulemaking Hearing is for the Board to adopt the revisions to Rule 1.29 to correct language that conflicts with portions of the statute in Colorado Senate Bill 20-102, and adopt Rule 1.30 to implement Colorado Senate Bill 19-079. The corrections to Rule 1.29 is required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/21/21	The rulemaking regarding the implementation of SB19-079 was postponed from FY20 to FY21 because of the COVID-19 pandemic.
Unplanned	DPO	State Physical Therapy Board 4 CCR 732-1 (Rule 1.6 and Appendix A)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 12-20-204(1) § 12-285-106(2)(b) § 12-30-115	Revision	No	The purpose of this Permanent Rulemaking Hearing is for the Board to adopt the proposed revisions to Rule 1.6 and Appendix A to correct the language that conflict with portions of the statute in Colorado Senate Bill 20-102. The corrections to Rule 1.16 and Appendix A are required by the Office of Legislative Legal Services.	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	4/15/21	N/A
Unplanned	DPO	Colorado Dental Board 3 CCR 709-1 (Rules 1.26 and 1.30)	Multiple Rules	§ 12-20-204 § 12-220-105(3) § 12-30-115 § 12-220-106(1)(a)	Revision	No	The purpose of this Permanent Rulemaking Hearing is for the Board to adopt the revisions to Rule 1.26 to allow on-demand silver diamine fluoride training courses; and Rule 1.30 to correct language in the rule that conflicts with portions of the statute in Colorado Senate Bill 20-102 (Concerning required disclosures to patients regarding formal actions based on sexual misconduct).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Partially adopted	5/6/2021	The proposed changes to Rule 1.26 were postponed once SB21-102 was adopted and signed.
Unplanned	DPO	State Board of Optometric Examiners 4 CCR 728-1 (Rule 1.26)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 12-20-204 § 12-275-108(1)(b) § 12-30-115	New Rule	No	The purpose of this Permanent Rulemaking Hearing was for the Board to consider adopting revisions to Rule 1.26 and Appendix A to correct language in the rule that conflicts with portions of the statute in Colorado Senate Bill 20-102 (section 12-30-115, C.R.S.).	Licensees, professional associations, relevant state agencies, and other key stakeholders	Adopted	6/8/21	N/A
Unplanned	DPO	Colorado Medical Board 3 CCR 713-48 (Rule TBD)	REQUIRED DISCLOSURE TO PATIENTS - CONVICTION OF OR DISCIPLINE BASED ON SEXUAL MISCONDUCT	§ 12-20-204 § 12-240-106(1)(a) § 12-30-115	New Rule	No	The purpose of this Permanent Rulemaking Hearing was for the Board to consider adopting revisions to Rule 170 to correct language in the rule that conflicts with portions of the statute in Colorado Senate Bill 20-102 (section 12-30-115, C.R.S.).	Licensees, professional associations, state agencies, and other key stakeholders	Adopted	4/15/21	N/A
306	DRE	4-725-2 (3.16.)	Real Estate Appraiser Standards for Real Estate Appraisal Qualifying Education Programs	12-10-604(1)(a)(I), C.R. S.	Revision	No	The revised rule recognizes both synchronous and asynchronous methods as it relates to distance learning. The rule modifications are technical and have no significant impact on the meaning of the rule and are solely non-substantive.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado Practice Act must not be more stringent than the federal regulations.
307	DRE	4-725-2 (3.18.)	Real Estate Appraiser Standards for Real Estate Appraisal Qualifying Education Programs	12-10-604(1)(a)(I), C.R. S	Revision	No	The revised rule recognizes both synchronous and asynchronous methods as it relates to distance learning. The rule modifications are technical and have no significant impact on the meaning of the rule and are solely non-substantive.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado Practice Act must not be more stringent than the federal regulations.
308	DRE	4-725-2 (3.19.)	Real Estate Appraiser Standards for Real Estate Appraisal Qualifying Education Programs	12-10-604(1)(a)(I), C.R. S.	Revision	No	The revised rule incorporates “asynchronous” method only as it relates to distance learning. The rule modifications are technical and have no significant impact on the meaning of the rule and are solely non-substantive.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado Practice Act must not be more stringent than the federal regulations.

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
309	DRE	4-725-2 (5.8.)	Real Estate Appraiser Standards for Real Estate Appraisal Experience	12-10-604(1)(a)(I), C.R. S.	Revision	No	The modified rule increases the experience gained for work without a traditional client from 50% to any portion of the total experience requirement up to 100%. The requirement reconciles with the Real Property Qualification Criteria as adopted by the Appraiser Qualification Board on August 24, 2021 and will be effective on January 1, 2022.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado Practice Act must not be more stringent than the federal regulations.
310	DRE	4-725-2 (7.6.)	Real Estate Appraiser Continuing Education Requirements	12-10-604(1)(a)(I), C.R. S.	Revision	No	The rule revision adds a new acceptable topic for appraisal continuing education courses. The new topic area is valuation bias, fair housing, and/or equal opportunity.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado practice Act must not be more stringent than the federal regulations.
311	DRE	4-725-2 (7.12.)	Real Estate Appraiser Continuing Education Requirements	12-10-604(1)(a)(I), C.R. S.	Revision	No	The revised rule recognizes both synchronous and asynchronous methods as it relates to distance learning. The rule modifications are technical and have no significant impact on the meaning of the rule and are solely non-substantive.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado Practice Act must not be more stringent than the federal regulations.
312	DRE	4-725-2 (7.13.)	Real Estate Appraiser Continuing Education Requirements	12-10-604(1)(a)(I), C.R. S.	Revision	No	The rule was revised to recognize both synchronous and asynchronous distance education qualifying education programs. It also contemplates hybrid courses as an acceptable method for continuing education programs.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado Practice Act must not be more stringent than the federal regulations.
313	DRE	4-725-2 (7.14.)	Real Estate Appraiser Continuing Education Requirements	12-10-604(1)(a)(I), C.R. S.	Revision	No	The revised rule incorporates "asynchronous" only method as it relates to distance learning. The rule modifications are technical and have no significant impact on the meaning of the rule and are solely non-substantive.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado practice Act must not be more stringent than the federal regulations.
314	DRE	4-725-2 (7.22.)	Real Estate Appraiser Continuing Education Requirements	12-10-604(1)(a)(I), C.R. S.	Revision	No	The revised rule recognizes both synchronous and asynchronous methods as it relates to distance learning. The rule modifications are technical and have no significant impact on the meaning of the rule and are solely non-substantive.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado practice Act must not be more stringent than the federal regulations.
315	DRE	4-725-2 (7.23.)	Real Estate Appraiser Continuing Education Requirements	12-10-604(1)(a)(I), C.R. S.	Revision	No	The revised rule incorporates "asynchronous" only method as it relates to distance learning. The rule modifications are technical and have no significant impact on the meaning of the rule and are solely non-substantive.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado practice Act must not be more stringent than the federal regulations.

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
316	DRE	4-725-2 (13.12.)	Real Estate Appraisers Disciplinary Procedures	12-10-604(1)(a)(I), C.R.S.	Revision	No	The rule modification was necessary to incorporate the correct ownership and reporting requirements for an owner possessing any percentage ownership who has had an appraiser license refused, denied or disciplined as to be compliant with federal law.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado Practice Act must not be more stringent than the federal regulations.
317	DRE	4-725-2 (17.7.)	Licensing Requirements for Appraisal Management Companies	12-10-604(1)(a)(I), C.R.S.	Revision	No	The rule modification was necessary to incorporate the correct ownership and reporting requirements for an owner possessing any percentage ownership who has had an appraiser license refused, denied or disciplined as to be compliant with federal law.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado Practice Act must not be more stringent than the federal regulations.
318	DRE	4-725-2 (17.19.)	Licensing Requirements for Appraisal Management Companies	12-10-604(1)(a)(I), C.R.S.	12-10-604(1)(a)(I), C.R.S. Revision	No	The rule revision was necessary to correctly identify appraisal management companies who must submit the annual AMC registry fee to the Division who meet the federal requirements.	Mandated by federal law.	Ongoing	11/4/21	The Board of Real Estate Appraisers must incorporate the most recent version of The Real Property Appraiser Qualification Criteria pursuant to Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as amended by the Dodd-Frank Reform Act. State statute mandates that the Colorado Practice Act must not be more stringent than the federal regulations.
319	DRE	4-725-6	Chapter 1: Definition	12-10-299(4), 12-10-220 and 24-4-103.3	Revision	Yes	The rules have been updated to consider the requirements specific to the different types of subdivisions, clarification on the supplemental application process amending inventory to existing projects, codified requirements for a developer who is regulated in another jurisdiction and clarified the electronic and paper filing processes. The rules were re-organized and re-formatted provide a clear roadmap of the registration, certification, and enforcement requirements for a developer of a subdivision.	American Resort Development Association, Colorado Home Builders, Fidelity National Timeshare, Real Estate Attorneys, Timeshare Developers	N/A	10/05/21	The Division of Real Estate on behalf of the Colorado Real Estate Commission (Commission) initiated a rule review to assess the continuing need for, appropriateness and cost effectiveness of the administrative rules for the Commission. The review also assessed whether the rules should be continued in their current form, amended or repealed. In October 2020, the Division provided public notice of the rule review on its website and solicited feedback on the existing rules from interested and affected parties. A task force of industry participants was convened to consider the public comments received and to assess the efficiency and effectiveness of the existing regulations.
320	DRE	4-725-6	Chapter 2: Application for Registration	12-10-219(4), 12-10-220 and 24-4-103.3, C.R.S.	Revision	Yes	The rules have been updated to consider the requirements specific to the different types of subdivisions, clarification on the supplemental application process amending inventory to existing projects, codified requirements for a developer who is regulated in another jurisdiction and clarified the electronic and paper filing processes. The rules were re-organized and re-formatted provide a clear roadmap of the registration, certification, and enforcement requirements for a developer of a subdivision.	American Resort Development Association, Colorado Home Builders, Fidelity National Timeshare, Real Estate Attorneys, Timeshare Developers	N/A	10/05/21	The Division of Real Estate on behalf of the Colorado Real Estate Commission (Commission) initiated a rule review to assess the continuing need for, appropriateness and cost effectiveness of the administrative rules for the Commission. The review also assessed whether the rules should be continued in their current form, amended or repealed. In October 2020, the Division provided public notice of the rule review on its website and solicited feedback on the existing rules from interested and affected parties. A task force of industry participants was convened to consider the public comments received and to assess the efficiency and effectiveness of the existing regulations.

REFERENCE #	DIVISION	RULE NUMBER	RULE TITLE OR BRIEF DESCRIPTION	STATUTORY OR OTHER BASIS TO ADOPT RULE	NEW RULE, REVISION OR REPEAL?	Mandatory Rule Review	PURPOSE	STAKEHOLDERS	STATUS	ADOPTION DATE	COMMENTS
321	DRE	4-725-6	Chapter 3: Registration and Certification	12-10-219(4), 12-10-220 and 24-4-103.3, C. R.S.	Revision	Yes	The rules have been updated to consider the requirements specific to the different types of subdivisions, clarification on the supplemental application process amending inventory to existing projects, codified requirements for a developer who is regulated in another jurisdiction and clarified the electronic and paper filing processes. The rules were re-organized and re-formatted provide a clear roadmap of the registration, certification, and enforcement requirements for a developer of a subdivision.	American Resort Development Association, Colorado Home Builders, Fidelity National Timeshare, Real Estate Attorneys, Timeshare Developers	N/A	10/05/21	The Division of Real Estate on behalf of the Colorado Real Estate Commission (Commission) initiated a rule review to assess the continuing need for, appropriateness and cost effectiveness of the administrative rules for the Commission. The review also assessed whether the rules should be continued in their current form, amended or repealed. In October 2020, the Division provided public notice of the rule review on its website and solicited feedback on the existing rules from interested and affected parties. A task force of industry participants was convened to consider the public comments received and to assess the efficiency and effectiveness of the existing regulations.
322	DRE	4-725-6	Chapter 4: Professional Standards	12-10-219(4), 12-10-220 and 24-4-103.3, C. R.S.	Revision	Yes	The rules have been updated to consider the requirements specific to the different types of subdivisions, clarification on the supplemental application process amending inventory to existing projects, codified requirements for a developer who is regulated in another jurisdiction and clarified the electronic and paper filing processes. The rules were re-organized and re-formatted provide a clear roadmap of the registration, certification, and enforcement requirements for a developer of a subdivision.	American Resort Development Association, Colorado Home Builders, Fidelity National Timeshare, Real Estate Attorneys, Timeshare Developers	N/A	10/05/21	The Division of Real Estate on behalf of the Colorado Real Estate Commission (Commission) initiated a rule review to assess the continuing need for, appropriateness and cost effectiveness of the administrative rules for the Commission. The review also assessed whether the rules should be continued in their current form, amended or repealed. In October 2020, the Division provided public notice of the rule review on its website and solicited feedback on the existing rules from interested and affected parties. A task force of industry participants was convened to consider the public comments received and to assess the efficiency and effectiveness of the existing regulations.
323	DRE	4-725-6	Chapter 5: Declaratory Orders	12-10-219(4), 12-10-220 and 24-4-103.3, C. R.S.	Revision	Yes	The rules have been updated to consider the requirements specific to the different types of subdivisions, clarification on the supplemental application process amending inventory to existing projects, codified requirements for a developer who is regulated in another jurisdiction and clarified the electronic and paper filing processes. The rules were re-organized and re-formatted provide a clear roadmap of the registration, certification, and enforcement requirements for a developer of a subdivision.	American Resort Development Association, Colorado Home Builders, Fidelity National Timeshare, Real Estate Attorneys, Timeshare Developers	N/A	10/05/21	The Division of Real Estate on behalf of the Colorado Real Estate Commission (Commission) initiated a rule review to assess the continuing need for, appropriateness and cost effectiveness of the administrative rules for the Commission. The review also assessed whether the rules should be continued in their current form, amended or repealed. In October 2020, the Division provided public notice of the rule review on its website and solicited feedback on the existing rules from interested and affected parties. A task force of industry participants was convened to consider the public comments received and to assess the efficiency and effectiveness of the existing regulations.
324	DRE	4-725-6	Chapter 6: Commission Review of Initial Decisions and Exceptions	12-10-219(4), 12-10-220 and 24-4-103.3, C. R.S.	Revision	Yes	The rules have been updated to consider the requirements specific to the different types of subdivisions, clarification on the supplemental application process amending inventory to existing projects, codified requirements for a developer who is regulated in another jurisdiction and clarified the electronic and paper filing processes. The rules were re-organized and re-formatted provide a clear roadmap of the registration, certification, and enforcement requirements for a developer of a subdivision.	American Resort Development Association, Colorado Home Builders, Fidelity National Timeshare, Real Estate Attorneys, Timeshare Developers	N/A	10/05/21	The Division of Real Estate on behalf of the Colorado Real Estate Commission (Commission) initiated a rule review to assess the continuing need for, appropriateness and cost effectiveness of the administrative rules for the Commission. The review also assessed whether the rules should be continued in their current form, amended or repealed. In October 2020, the Division provided public notice of the rule review on its website and solicited feedback on the existing rules from interested and affected parties. A task force of industry participants was convened to consider the public comments received and to assess the efficiency and effectiveness of the existing regulations.

Departmental Regulatory Agendas

Department

Department of Natural Resources

2022

Regulatory Agenda

January 1, 2022 -December 31, 2022



Overview

The Colorado Department of Natural Resources submits the following 2022 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2018 (which are denoted as such in the "purpose" column). The DRA is to be filed with the Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III).

The following constitutes the Department's Regulatory Agenda for 2022 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

--

Colorado Parks and Wildlife							
Anticipated Hearing or Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>	List of all rules adopted since previous DRA was filed
11/18/2021	2 CCR-405-7	Passes, Permits, and Registrations	Revision	33-12-100.2	Open for implementation of revised replacement fee regulations for additional Aspen Leaf annual vehicle pass.	Park Users	See below
11/18/2021	2 CCR-406-1	Fishing	Revision	33-1-101(4)	Open annually for all issues. Changes include, but are not limited to, site-specific fishing regulation changes for the South Prong of Hayden Creek and the White River in Rio Blanco County.	Anglers	See below

11/18/2021	2 CCR-406-3	Furbearers and Small Game, Except Migratory Birds	New Rule and Revision	33-1-101(4)	Open for annual review of turkey seasons, quotas and creating a Novice Adult Outreach Hunting License for turkey.	Hunters	See below
11/18/2021	2 CCR-406-0 2 CCR-406-2 2 CCR-406-3 2 CCR-406-11 2 CCR-406-15 2 CCR-405-7	General Provisions	Revision	33-4-101 33-4-102(1.6)	Open annually for CPI adjustments to license fees and commission rates for license agents.	Hunters, Anglers, License Agents	See below
11/18/2021	2 CCR-406 9	Wildlife Properties	New Rule and Revision	33-1-105; 33-1-107	Open to exempt certain properties or portions of the property from public access license requirements, to add properties to Chapter W-9, and to authorize the Division of Parks and Wildlife to issue permits to commercial users of properties controlled by the Division.	Hunters, Anglers, Wildlife Watchers, Hikers	See below
11/18/2021	2 CCR-406-16	Park and Wildlife Procedural Rules	Revision	33-1-106(1)(e)	Open to clarify refund, restoration of preference points and Director's disaster relief authority regulations.	Hunters, Anglers	See below

1/12/2022	2 CCR-406-0	General Provisions	Revision	33-1-101(4)	Open annually for all issues. Changes may include, but are not limited to, Game Management Unit boundaries, regulations relating to fish management, health, importation, prohibited species, and other annual changes.	Hunters, Anglers	See below
1/12/2022	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons. Annual changes to sheep and goat quotas, and lion harvest limits. Annual changes to limited license application and drawing process.	Hunters	See below
1/12/2022	2 CCR 406-10	Nongame Wildlife	New Rule and Revision	33-6-128 (1), 33-2-105.8 (1)(d), 33-9-102 (2)	Open for consideration of regulations to authorize livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock, and to make it unlawful for any person to place any olfactory attractant with the intent to lure any threatened or endangered species unless permitted by the division.	General public	See below

1/12/2022	2 CCR 405-1	Parks and Outdoor Recreation Lands	New Rule and Revision	33-10-101	Open for consideration of regulations, including, but not limited to: • Requiring reservations for big game and small game hunting in the Jefferson CO portion of Golden Gate Canyon State Park where hunting is permitted. • Permitting kiteboarding at Navajo State Park.	Park users, Hunters	See below
1/12/2022 and 3/9/2022	2 CCR-405-8	Aquatic Nuisance Species	Revision	33-10.5-107	Open for consideration of a revision of the definition of “vessels or other floating device.”	Boaters, General Public	See below
February 2022 - TBD	2 CCR-405-7	Passes, Permits, and Registrations	New Rule and Revision	33-12-100.2	Open for consideration of regulations to add the Keep Colorado Wild pass.	Park Users, General Public	See below
3/9/2022	2 CCR-406-3	Furbearers and Small Game, Except Migratory Birds	Revision	33-1-101(4)	Open for annual review including all issues, except turkey. Changes may include, but are not limited to, annual changes to game bird seasons, excluding turkey, and other small game seasons and related provisions, including season dates, bag and possession limits and manner of take provisions.	Hunters	See below

3/9/2022	2 CCR-406-5	Small Game - Migratory Birds	Revision	33-1-101(4)	Open annually for all issues. Changes may include, but are not limited to, annual changes to waterfowl and migratory bird hunting seasons and related provisions, including season dates, bag and possession limits and manner of take provisions.	Hunters	See below
3/9/2022	2 CCR-406-9	Division Properties	Revision	33-1-107	Open annually for all issues. Changes may include, but are not limited to, generally applicable and property-specific requirements for, or restrictions on use of, wildlife properties controlled by the Colorado Parks and Wildlife, including State Trust Lands leased by the Division.	Hunters, Anglers	See below
3/9/2022	2 CCR-406-11	Wildlife Parks and Unregulated Wildlife	Revision	33-1-101(2)	Open annually for all issues including unregulated wildlife requests. Changes may include, but are not limited to, regulations pertaining to wildlife parks, sanctuaries and unregulated wildlife.	General Public	See below

3/9/2022	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual big game clean-up. Changes may include, but are not limited to, necessary corrections and administrative cleanups to regulations previously adopted by the Parks and Wildlife Commission.	Hunters	See below
3/9/2022	2 CCR-405-7 , 2 CCR-406-0	Passes, Permits, and Registrations , General Provisions	Revision	33-12-100.2 , 33-1-107	Open for necessary changes to the poverty guidelines for applicable passes.	Park Users, State Wildlife Area Users	See below
3/9/2022	2 CCR-405-4	Snowmobile Regulations	Revision	33-14-102	Open annually for all issues. Changes may include, but are not limited to, regulations pertaining to registration and required safety equipment of snowmobiles.	Snowmobile Users	See below
5/4/2022	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual changes to deer, elk, pronghorn, bear, and moose quotas for all Game Management Units in the state that have limited licenses for these species.	Hunters	See below

7/21/2022	2 CCR-406-9	Division Properties	Revision	33-1-107	Open for wildlife property additions and deletions. Changes may include, but are not limited to, necessary cleanups to the list of wildlife properties in regulation.	Hunters, Anglers	See below
9/8/2022	2 CCR-405-1	Parks and Outdoor Rec Lands	Revision	33-10-101	Open annually for all issues. Changes may include, but are not limited to, generally-applicable and property-specific requirements for, or restrictions on use of, parks properties controlled by Colorado Parks and Wildlife.	Park Users	See below
9/8/2022	2 CCR-405-2	Boating	Revision	33-13-101	Open annually for all issues. Changes may include, but are not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.	Boaters	See below
9/8/2022	2 CCR-405-5	Off-Highway Vehicles	Revision	33-14.5-107	Open annually for all issues. Changes may include, but are not limited to, regulations pertaining to registration, off-highway use permits and required equipment for safe operation of OHV's within the state.	OHV Users	See below

9/8/2022	2 CCR-405-7	Passes, Permits and Registrations	Revision	33-12-100.2	Open annually for all issues. Changes may include, but are not limited to, regulations pertaining to eligibility requirements and fees for individual and vehicle park passes, use permits, vessel, snowmobile and off-highway vehicle registrations and license agent requirements.	Park Users	See below
9/8/2022	2 CCR-405-8	Aquatic Nuisance Species	Revision	33-10.5-107	Open annually for all issues. Changes may include, but are not limited to, regulations pertaining to inspections, decontaminations and impounding of vessels or other floatation devices, as well as establishing monitoring, identification and reporting procedures for suspected aquatic nuisance species.	Boaters	See below
11/17/2022	2 CCR-405-3	River Outfitters	Revision	33-32-101	Open annually for all issues. Changes may include, but are not limited to, regulations regarding river outfitter requirements.	River Outfitters	See below

11/17/2022	2 CCR-406-1	Fishing	Revision	33-1-101(4)	Open annually for all issues. Changes may include, but are not limited to, season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state.	Anglers	See below
11/17/2022	2 CCR-406-3	Furbearers and Small Game, Except Migratory Birds	Revision	33-1-101(4)	Annual changes to turkey seasons and quotas	Hunters	See below
11/17/2022	2 CCR-406-0 2 CCR-406-2 2 CCR-406-3 2 CCR-406-11 2 CCR-406-15 2 CCR-405-7	General Provisions	Revision	33-4-101 33-4-102(1.6)	Open annually for CPI adjustments to license fees and commission rates for license agents.	Hunters, Anglers, License Agents	See below
11/17/2022	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Open for consideration of regulations related to license distribution.	Hunters	See below
January 2023	2 CCR-406-0	General Provisions	Revision	33-1-101(2)	Open annually for all issues. Changes may include, but are not limited to, Game Management Unit boundaries, regulations relating to fish management, health, importation, prohibited species, and other annual changes.	Hunters, Anglers	See below

January 2023	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons.	Hunters	See below
--------------	-------------	----------	----------	-------------	---	---------	-----------

Permanent and temporary rules adopted since the previous DRA was filed:

- [November 2020 Regulations Summary](#)
- [January 2021 Regulations Summary](#)
- [March 2021 Regulations Summary](#)
- [May 2021 Regulations Summary](#)
- [July 2021 Regulations Summary](#)
- [September 2021 Regulations Summary](#)

Colorado Oil and Gas Conservation Commission							
Anticipate d Hearing or Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders Consider including high-level outreach bullets	List of all rules adopted since previous DRA was filed
November 9, 2021 - start of hearing. Rulemaking hearing is scheduled to end in February 2022.	700 Series Update	Financial Assurance	Revision	s.34-60-105(1), - 106(2.5)(a), and (13) C.R.S.	Update rules to meet SB 19-181	Industry, mineral owners, surface owners, environmentalists, ecologists.	Unknown
2022	Worker Certification	Worker Certification	New rule	s.34-60-105(1), 106(2) C.R.S.	To adopt rules addressing worker certification as required by SB 19-181.	Industry, mineral owners, surface owners, environmentalists, and ecologists.	None

2022	Fees	Fees	Revision	s.34-60-105(1), 106(7) C.R.S.	Update rules to meet the mandate of SB 19-181.	Industry, mineral owners, surface owners, environmentalists, and ecologists.	Unknown
2022	100-600, 800, 900 and 1200 Series Clean-up	Rule clean-up	Revision	s.34-60-105(1)(a) C.R.S.	Finalize necessary corrections and administrative cleanups to regulations previously adopted by the COGCC	Industry; surface owners, environmentalists, ecologists, and sportspersons	Unknown
2022	1000 Series Update	Reclamation	Revision	s.34-60-105(1), - 106(2)(a), (c), and (2.5)(a) C.R.S.	Update rules to meet the mandate of SB 19-181.	Industry, mineral owners, surface owners, environmentalists, and ecologists.	Unknown

Colorado Division of Reclamation, Mining and Safety							
Anticipated Hearing or Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders Consider including high-level outreach bullets	List of all rules adopted since previous DRA was filed
Spring 2022	CCR 407-1 Rule 1,3 and 4, 6 and 7	Hard Rock/Metal Mining Rules	New rules for perpetual water treatment and repeal of self bonding per HB19-1113	C.R.S. 34-32-10 1	Implementation of HB19-1113 regarding perpetual water treatment and repeal of self-bonding Revise Temporary Cessation Rules to address Court of	Hard Rock Mining Community (generally opposed but not adamant) and Environmental Community (in Favor of most proposed changes)	Public scoping meeting was held in January of 2020 Stakeholder meetings were delayed due to Covid but held in January and February of 2021

			Revisions for Temporary Cessation, including definition of production E-filing of applications and notice processes		Appeals decision and process issues	Both sides are very active in the informal process	With full Board seated, rulemaking process to recommence in January 2022 and promulgation in May of 2022
--	--	--	--	--	-------------------------------------	--	--

Colorado Division of Water Resources							
Anticipated Hearing or Adoption Date	Rule Number	Rule Title	New Rule, Revision, or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders <i>Consider including high-level outreach bullets</i>	Status <i>Adopted/ Not Adopted/ Withdrawn/ Ongoing</i>
Hearing previously scheduled for 01/20/21 postponed pending outcome of water court Case No. 21CW3046 in Water Division No. 1	2 CCR 402-7	Statewide Nontributary Rules	Review for revisions	Sections 37-90-137(9)(a), (b) and 37-80-102(1)(g)	Governs well permitting of nontributary water statewide. The review is being conducted to update the provisions of the rules.	Water users throughout the state, water lawyers, water engineers, ground water modelers	Ongoing

Stakeholder process underway. Hearing to be held in mid-2022	2 CCR 402-9	Fees set and collected by the State Engineer for the Water Data Bank Cash Fund, the Division of Water Resources Publication Cash Fund, and the Satellite Monitoring System Cash Fund	Review for revisions	Sections 37-80-111.5, 37-80-102(1)(h) , 24-72-205, 24-4-103	Governs fees charged for satellite system use, data and document costs to the public	Water users, satellite system users, CWCB, water engineers and firms, public at large, water lawyers	Ongoing
Still under internal review. Potential hearing in mid-2022	2 CCR 402-10	Rules for Permitting the Development and Appropriation of Geothermal Resources through the use of Wells	Review for revisions	Sections 37-80-102(1)(g) & (k), 37-90-138, 37-90.5-106 thru 108	Governs geothermal well permitting and development.	Water users, specific towns and areas of the state where geothermal resources exist, water resources engineers, geologists, geothermal resource developers, water lawyers, & public at large, Water users in the Northern High Plains designated ground water basin	Ongoing

Pending before Water Court		Water Court Republican River Compact Rules	New Rules	U.S. Supreme Court in Kansas v. Nebraska & Colorado, Number 126, Original, Sections 37-80-102(1)(a) & 37-80-104	The rulemaking considers the requirement to offset impacts in excess of Colorado's apportionment under the Republican River Compact as determined under the Final Settlement Stipulation, and work to ensure that all users of waters accounted for in Colorado's Republican River Compact Accounting have a stake in ensuring ongoing compact compliance	Water users in the Northern High Plains designated ground water basin.	Ongoing
Water Division 6 stakeholder review scheduled to be complete by end of October 2021. Rules to be filed with Secretary of State late 2021 or early 2022. Hearing in early 2022.		Measurement rules for the western slope water divisions in Colorado. Rulemaking will begin with Water Division 6, then continue to Water Division 7, Division 4 and Division 5 in succession.	New Rules	Sections 37-80-102(1)(g), 37-80-104, 37-92-501, 37-92-502(5).	Proposed rules will govern the requirements for the measurement and reporting of water diversions by water users on the western slope.	Water users on the western slope of Colorado	Ongoing

Colorado State Board of Land Commissioners							
Anticipated Hearing or Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>	Status <i>Adopted/Not Adopted/Withdrawn/Ongoing</i>
2018	2 CCR 409-1;	State Forest Lands	Revision or Repeal, TBD	§36-7-104; §36-7-201; §24-4-103	Review the rule to determine if the best course of action is to revise or repeal rule to simplify and align the rule with contemporary forest management protocols and resources	Colorado State Forest Service; Beneficiaries of affected land trusts; Jackson and Larimer County governments; State Forest Steering Committee; Colorado Parks and Wildlife; lessees of affected parcels; adjacent landowners to adjacent parcels; Natural Resources stakeholder notification groups	Ongoing (Last reviewed 2018)

Colorado Water Conservation Board							
Anticipated Hearing or Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>	Status <i>Adopted/Not Adopted/Withdrawn/Ongoing</i>
January 26, 2021	2 CCR 408-2	Rules Concerning the Colorado Instream Flow and Natural Lake Level Program	Revisions	Sections 37-60-108, 37-83-105, and 37-92-102(3), C.R.S.	Implement HB20-1157 and update references to CWCB website and to Colorado Parks and Wildlife	Water rights owners, water conservancy and conservation districts, local governments, state and federal agencies, nonprofit organizations, conservation interests, and interested citizens.	Adopted March 2021
November 19, 2021	2 CCR 408-1	Floodplain Rules and Regulations for REgulatory Floodplains in CO	Revisions	Sections 24-65.1-101(1)(c), 24-65.1-202(2)(a), 24-65.1-302(2)(a), 24-65.1-403(3), 37-60-106(1), 37-60-106(1)(c)-(g), (j), (k), and 37-60-108, C.R.S.	Update the standards and processes for floodplain designation to make the Rules consistent with FEMA floodplain mapping procedures, amend and clarify Rule 4 definitions, update references, and revise for clarification.	Municipalities, County floodplain administrators and planners, utilities, flood districts, public works departments	November 2021

Departmental Regulatory Agendas

Department

Department of Treasury

STATE OF COLORADO
DEPARTMENT OF THE TREASURY

Dave Young
State Treasurer



Eric Rothaus
Deputy Treasurer

2022

Regulatory Agenda

Overview

The Colorado Department of Treasury submits the following 2022 Regulatory Agenda in fulfillment of the statutory requirements set forth in §2-7-203(4), C.R.S. Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to §24-4-103.3, C.R.S., rules to be reviewed as part of the Department's "Regulatory Efficiencies Reviews" during 2022 (which are denoted as such in the "purpose" column). The DRA is to be filed with the Legislative Council staff for distribution to committee(s) of reference, posted on the department's web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its "SMART Act" hearing and presentation pursuant to §2-7-203(2)(a)(II), C.R.S.

Ref #	Div	Anticipate d Hearing or Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders
1	CO Secure Savings	April 2022	New	General Administration	New	§ 24-54.3-103.5(b), C.R.S.	To provide guidance to the general administration of the Secure Savings Program	Employer groups, employee groups, chambers of commerce, nonprofits, financial advisors, state agencies, financial literacy advocates
2	CO Secure Savings	April 2022	New	Concerning Program Participation	New	§24-54.3-107(1)(a)-(b), C.R.S.	To govern procedures for program participation	Employer groups, employee groups, chambers of commerce, nonprofits, financial advisors, state agencies, financial literacy advocates
3	CO Secure Savings	April 2022	New	Concerning Program Contributions	New	§24-54.3-107(1)(c)-(f), C.R.S.	To set rules governing participant contributions	Employer groups, employee groups, chambers of commerce, nonprofits, financial advisors, state agencies, financial literacy advocates
4	CO Secure Savings	April 2022	New	Concerning Program Exemptions	New	§24-54.3-107(1)(g), C.R.S.	To provide guidance regarding qualified program exemption	Employer groups, employee groups, chambers of commerce, nonprofits, financial advisors, state agencies, financial literacy advocates
5	CO Secure Savings	April 2022	New	Concerning Participation Grants and Compliance Measures	New	§24-54.3-107(1)(h)-(j), C.R.S.	To provide guidance regarding participation incentives and compliance	Employer groups, employee groups, chambers of commerce, nonprofits, financial advisors, state agencies, financial literacy advocates
6	CO Secure Savings	April 2022	New	Concerning Program Disclosures	New	§24-54.3-107(1)(k), C.R.S.	To provide guidance regarding mandatory program disclosures	Employer groups, employee groups, chambers of commerce, nonprofits, financial advisors, state agencies, financial literacy advocates
7	Admin	July 2022	8 CCR 1508-2	State Public Finance Policy	Review	§24-36-121, CRS	To provide guidance related to state public financing	State Agencies, Financial Advisors, Financial Community, Underwriters

Departmental Regulatory Agendas

Department

Department of Health Care Policy and Financing



COLORADO
Department of Health Care
Policy & Financing

1570 Grant Street
Denver, CO 80203

November 1, 2021

Members of the Colorado General Assembly
c/o the Staff of the Legislative Council
State Capitol Building
200 East Colfax
Denver, Colorado 80203

Dear Members of the General Assembly:

I am pleased to submit the Department of Health Care Policy and Financing (HCPF)'s 2021 Regulatory Agenda Report and 2022 Regulatory Agenda, in compliance with Colo. Rev. Stat. §2-7-203, as amended by House Bill 12-1008. The Department's 2022 Regulatory Agenda has also been submitted to the Colorado Secretary of State for publication in the Colorado Register, and will be posted to our website.

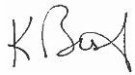
The Department's 2021 Regulatory Agenda Report provides a brief summary of all permanent, temporary and emergency rules reviewed, revised and adopted since the Department's 2021 Departmental Regulatory Agenda was filed on November 1, 2020, as well as the status, comments, and information relative to stakeholder input. Pursuant to Colo. Rev. Stat. § 24-4-103.3(4), the 2016 Regulatory Agenda Report also reflects the results of the Department's mandatory rule review activity over the past year. Effective July 1, 2016, all permanent rules adopted by the Department, as reflected in the 2021 Regulatory Agenda Report, involved early stakeholder engagement, as described by the Department's procedures for public participation in rulemaking (available online at <https://www.colorado.gov/hcpf/stakeholder-engagement-protocols>).

Information pertaining to a specific rule can be obtained by contacting Jo Donlin (jo.donlin@state.co.us) or Chris Sykes (chris.sykes@state.co.us).

Pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(II), we will be prepared to discuss our 2021 Regulatory Agenda Report and 2022 Regulatory Agenda with the Department's Joint Committee of Reference during our upcoming SMART Act hearing.

Sincerely,





Kim Bimestefer, Executive Director
Department of Health Care Policy and Financing

Enclosure: HCPF 2021 Regulatory Agenda Report and 2022 Regulatory Agenda

cc: Legislative Council Library
State Library
Tracy Johnson, Medicaid Director, HCPF
Tom Massey, Policy, Communications and Administration Office Director, HCPF
Anne Saumur, Cost Control and Quality Improvement Division Director, HCPF
Bettina Schneider, Finance Office Director, HCPF
Bonnie Silva, Office of Community Living Division Director, HCPF
Parrish Steinbrecher, Health Information Office Director, HCPF
Chris Sykes, Medical Services Board Coordinator, HCPF
Rachel Reiter, External Relations Division Director, HCPF
Jo Donlin, Legislative Liaison, HCPF





2022

Regulatory Agenda



COLORADO
Department of Health Care
Policy & Financing

Department of Health Care Policy & Financing
1570 Grant Street
Denver, CO 80203

Overview

The Colorado Department of Health Care Policy and Financing submits the following 2022 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department’s “Regulatory Efficiencies Reviews” during 2021 (which are denoted as such in the “purpose” column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department’s web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its “SMART Act” hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes Department of Health Care Policy and Financing’s DRA for 2021-2022 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Schedule (Month, Year)	Rule Number and Title or Brief Description	Division/ Board/ Program	New rule, revision, or repeal?	Statutory or other basis for adoption of rule	Part of Mandatory Rule Review? (X if yes)	Purpose	Stakeholders <i>Consider including high-level outreach bullets</i>	Anticipated Hearing Date
January 2022	10 CCR 2505-10 Section 8.800.13 Pharmacy Rate Methodology	Pharmacy Office	Revision	Sections 25.5-5- 501		update the pharmacy rate methodology for clotting factor drugs	Health First Colorado clients, providers	January 2022
December 2021	10 CCR 2505-10 Section 8.440 Nursing Facility Benefits	Office of Community Living	Revision	Sections 25.5-6- 202 & 25.5-6-203, C.R.S.		Develop consistent methodology for new Nursing Facility Medicaid certification or added bed approval	Health First Colorado clients, providers	December 2021

						and technical changes in accordance with HB 21-1227		
December 2021	10 CCR 2505-10 Section 8.510 Consumer Directed Attendant Support Services	Office of Community Living	Revision	C.R.S. 25.5-6-1101		The rule revision is to enact program rules for member-level compliance with Electronic Visit Verification	Health First Colorado clients, providers	December 2021
February 2022	10 CCR 2505-10 Section 8.511 BASE WAGE FOR DIRECT CARE WORKERS	Office of Community Living	New	Sections 25.5-1-301 through 25.5-1-303, C.R.S.		Define amount, duration and scope of benefit.	Health First Colorado clients, providers	February 2022
February 2022	10 CCR 2505-10 Section 8.594 Long-Term Services and Supports HCBS Benefit Rule Concerning Non-Medical Transportation	Office of Community Living	Revision	Sections 25.5-6 and Sections 25.5-10 C.R.S. and 25.5.-1-802 C.R.S.		The purpose of these revisions is to remove the requirement that providers obtain an MCT permit and outline new requirements for NMT providers in order to render services.	Health First Colorado clients, providers	February 2022
January 2022	10 CCR 2505-10 Section 8.765 Qualified Residential Treatment Program Requirements	Health Programs Office	Revision	C.R.S. § 25.5-5-202(1)(i)		Clarify the qualified residential treatment program requirements.	Health First Colorado clients, ambulatory surgery centers	January 2022
December 2021	10 CCR 2505-10 Section 8.800 HB21-1275 Pharmacy Implementation	Pharmacy Office	Revision	HB21-1275		This rule change will implement HB21-1275 to allow pharmacies to bill for extended-release injectable medications used for the treatment of mental health or	Health First Colorado clients, providers	December 2021

						substance use disorders if they are administered in a physician's office or clinic.		
March 2022	10 CCR 2505-10 Section 8.401 PRE-ADMISSION SCREENING AND RESIDENT REVIEW (PASRR)	Office of Community Living	Revision	25.5-6-106(1) and 25.5-6-313(1), C.R.S		The PASRR process assesses the needs of individuals with mental illness or intellectual disability applying to or residing in Medicaid-certified nursing facilities.	Health First Colorado clients, providers	March 2022
April 2022	10 CCR 2505-10 Section 8.200.2 Pharmacy Reimbursement	Health Programs Office	Revision	HB21-1275		A pharmacist will be eligible for reimbursement under the medical assistance program for certain medically necessary pharmacist services under Colorado House Bill 21-1275 that are not duplicative of other pharmacist services or programs reimbursed under the medical assistance program.	Health First Colorado clients, providers	April 2022

February 2022	10 CCR 2505-10 Section 8.100 Level of Care Certification - ULTC 100.2	Medicaid Operations Office	Revision	25.5-4- 205(3)(b)(I), C.R.S.		Revisions are needed to Medical Assistance Eligibility Rules in Definitions at Section 8.100.1, General Eligibility Transferring Requirements at Section 8.100.3.C, and Long-Term Care Medical Assistance Requirements at Sections 8.100.7.A&B.	Health First Colorado clients, providers	February 2022
---------------	---	----------------------------------	----------	------------------------------------	--	--	---	---------------

2021

Regulatory Agenda REPORT

January 1, 2021-December 31, 2021



COLORADO
Department of Health Care
Policy & Financing

Department of Health Care Policy & Financing
1570 Grant Street
Denver, CO 80203

Overview

The Colorado Department of Health Care Policy and Financing submits the following 2021 Regulatory Agenda Report in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4), detailing the results of the past year's rules review activity.

Hearing or Adoption Date	Rule Number	Rule Title	New Rule, Revision, or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders <i>Consider including high-level outreach bullets</i>	Status <i>Adopted/Not Adopted/Withdrawn/Ongoing</i>	Included on FY19 Agenda?
<i>Department may choose to include the originally anticipated hearing or adoption date, in addition to the actual date.</i>			<i>If a only a part of a CCR is repealed, it should be classified as "Revise"</i>	<i>Statutory authority.</i>	<i>What is the rule intended to accomplish?</i>	<i>List categories of stakeholders that may be positively or negatively affected not individual stakeholders.</i>	<i>Select one of the following options: (a) adopted (include date of adoption), (b) not adopted, (c) withdrawn or (d) ongoing.</i>	<i>Select one of the following options: (a) Yes, if the rule was published in the FY19 Agenda, and (b) No, if the rule was unplanned or an emergency rule.</i>
January 2021	MSB 20-12-30-A	Revision to the Medical Assistance Act Rule concerning Nursing Facility Immunization Administration, Sections 8.443 and 8.815	Revise	Section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136	This rule revision will allow the Department to reimburse pharmacies for administration of the COVID-19 vaccine in Long-term Care Facilities through the Centers for Disease Control and Prevention's (CDC's) Pharmacy Partnership for	Health First Colorado clients, providers.	A January 2021	No

					Long-term Care (LTC) Program or other partnership between LTC and a pharmacy.			
January 2021	MSB 20-09-21-A	Revisions to the Medical Assistance Rule concerning changes to income and reasonable opportunity period for sections 8.100.3.H, 8.100.3.Q, 8.100.5.B, 8.100.5.F and 8.100.4.C	Revise	42 CFR 435.603, 42 CFR 435.952, 1902 (e)(14)(K)(v) of the Act, section 11031 of the TCJA amended section 108(f), Section 36B(d)(2) of the Internal Revenue Code, 26 U.S.C. 62	adding two new allowable deductions, net operating loss and capital losses which will help reduce an applicant's modified adjusted gross income.	Health First Colorado clients, providers.	A January 2021	No

January 2021	MSB 20-11-30-A	Revision to the Medical Assistance Act Rule concerning Home Health Providers, Section 8.520.1.N	Revise	C.R.S. § 25.5-5-202(l)	This rule revision aligns the home health services rule with the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, and federal regulation, by adding nurse practitioners, clinical nurse specialists, and physician assistants to the definition of "ordering physician".	Health First Colorado providers.	A January 2021	No
February 2021	MSB 21-02-03-A	Revision to the FQHC Rule Concerning COVID-19 Vaccine and Treatment Reimbursement, Section 8.700.6.B	Revise	1902(bb) of the Social Security Act	change Federally Qualified Health Center (FQHC) reimbursement for the administration of the COVID-19 vaccine and monoclonal antibody therapy treatments.	Health First Colorado clients, providers.	A February 2021	No

February 2021	MSB 20-01-02-A	Revision to the Medical Assistance Rule concerning Family Support Services Program Rule, Section 8.613	Revise	25.5-10-303, C.R.S.	make it easier for CCBs to implement the Family Support and Services Program (FSSP) by removing the regulatory requirement of only one Family Support Plan (FSP) per family.	Health First Colorado clients, providers.	A February 2021	Yes
February 2021	MSB 20-08-27-A	Revision to the Medical Assistance Rule concerning Adult Dental Annual Limit Decrease, Section 8.201	Revise	C.R.S. § 25.5-5-202(1)(w)	This rule decreases the adult dental annual limit from \$1,500 to \$1,000 to comply with HB20-1360 and HB20-1361.	Health First Colorado clients, providers.	A February 2021	No
February 2021	MSB 20-12-18-A	Revision to the Medical Assistance Act Rule concerning Federally Qualified Health Centers, Section 8.700	Revise	1902(bb) of the Social Security Act	adjust the FQHC rate setting process to consider the changes to utilization and cost due to COVID-19.	Health First Colorado clients, providers.	A February 2021	No

March 2021	MSB 21-02-24-A	Revision to Medical Assistance Special Financing rule concerning the Colorado Dental Health Care Program for Low-Income Seniors, Section 8.960	Revise	Sections 25.5-3-404(4), C.R.S.	allow Colorado's low income seniors to access necessary dental care not covered by Medicare Advantage or after Medicare Advantage benefits have been exhausted.	Health First Colorado clients, providers.	A March 2021	No
March 2021	MSB 21-03-09-A	Revision to the RHC Rule Concerning Adding Provider Types to RHC Visit, Section 8.740	Revise	1902(bb) of the Social Security Act	change the definition of a payable encounter at Rural Health Clinics.	Health First Colorado clients, providers.	A March 2021	No
March 2021	MSB 20-09-30-A	Revision to Medical Assistance Act Rule Concerning the Pharmacy Regulatory Efficiency Review, Section 8.800	Revise	Sections 25.5-5-501, 25.5-5-502, 25.5-5-505, C.R.S.	Several revisions requiring technical clean-up were identified are therefore, are being revised.	Health First Colorado clients, providers.	A March 2021	Yes

March 2021	MSB 21-01-28-A	Revision to Medical Assistance Special Financing rule concerning the Colorado Dental Health Care Program for Low-Income Seniors, Section 8.960	Revise	Sections 25.5-3-404(4), C.R.S.	the addition of procedure code D1354, Interim Caries Arresting Medicament Application, to Appendix A.	Health First Colorado clients, providers.	A March 2021	Yes
April 2021	MSB 21-03-23-A	Revision to the Medical Assistance Act Rule concerning Novel Corona Virus Disease (COVID-19) Rules, Section 8.6000	New	25.5 Article 6, C.R.S.	temporarily change regulatory requirements for Department of Health Care Policy and Financing rules to provide enhanced flexibility, reduction to programmatic limitations, and alignment with existing federal guidance related to processes under the COVID-19 pandemic	Health First Colorado clients, providers.	A April 2021	No

April 2021	MSB 21-03-24-A	Revision to the Medical Assistance Rule concerning Provider Enrollment, Sections 8.125.11, 8.125.12, 8.125.13	Revise	Sections 25.5-1-301 through 25.5-1-303, C.R.S.	temporarily remove current requirements for providers to comply with: Fingerprint Criminal Background Checks (10 CCR 2505-10 8.125.12), Site-Visits (10 CCR 2505-10 8.125.11) and payment of Application Fee's (10 CCR 2505-10 8.125.13), during the provider enrollment process.	Health First Colorado providers.	A April 2021	No
April 2021	MSB 21-03-24-B	Revision to the Medical Assistance Act Rule concerning Emergency Medical Transportation, Sections 8.018.1.F. and 8.018.4.D.1	Revise	Sections 25.5-1-301 through 25.5-1-303, C.R.S.	expands the definition of Facility in the existing EMT rule.	Health First Colorado clients, providers.	A April 2021	No

April 2021	MSB 21-03-24-C	Revision to the Medical Assistance Act Rule concerning Non-Emergent Medical Transportation, Sections 8.014.1.N, 8.014.3.C.2, 8.014.3.D.1, 8.014.4.A, 8.014.6.A.3	Revise	25.5-5-324, C.R.S.	purpose of this rule is to expand the list of allowable NEMT destinations to include alternative care sites (e.g., the Colorado Convention Center) that are not covered places of service.	Health First Colorado clients, providers.	A April 2021	No
------------	----------------	--	--------	--------------------	--	---	--------------	----

April 2021	MSB 21-03-26-A	Revision to the Medical Assistance Act Rule concerning Immunization Services, Section 8.815	Revise	Section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136	required for the Department to comply with section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136. Specifically, the Department must reimburse providers for COVID-19 testing services and treatments, including vaccines and the administration of such vaccines, provided to Medicaid enrollees.	Health First Colorado clients, providers.	A April 2021	No
------------	----------------	---	--------	--	--	---	--------------	----

April 2021	MSB 21-03-26-B	Revision to the Medical Assistance Act Rule concerning Nursing Facility Immunization Administration, Sections 8.443 and 8.815	Revise	Section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136	This rule revision will allow the Department to reimburse pharmacies for administration of the COVID-19 vaccine in Long-term Care Facilities through the Centers for Disease Control and Prevention's (CDC's) Pharmacy Partnership for Long-term Care Program or other partnership between an LTC and a pharmacy.	Health First Colorado clients, providers.	A April 2021	No
April 2021	MSB 21-03-26-C	Revision to the Medical Assistance Act Rule concerning Subacute Care, Sections 8.300.3 & 8.300.5	Revise	C.R.S. 25.5-5-102(1)(a)	Patients may be admitted to subacute care after an inpatient admission, or directly from an emergency department, observation status, or primary care referral to the administering hospital.	Health First Colorado clients, providers.	A April 2021	No

April 2021	MSB 21-03-30-A	Revision to the Medical Assistance Rule concerning Medical Assistance program rule updates, Sections 8.100.1, 8.100.3, 8.100.4, 8.100.5 and 8.100.6	Revise	25.5-4-205(3)(II)(b)(A), 25.5-5-105, 25.5-5-206(1)(II)(B), 25.5-6-1404(1)(b) and (3)(a)(b), 25.5-6-1405(1), 25.5-6-1405(2)	change will amend 10 CCR 2505-10 sections 8.100.1, 8.100.3, 8.100.4, 8.100.5 and 8.100.6 based on the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Families First Coronavirus Response Act (FFCRA) and the Affordable Care Act (ACA), which includes the Maintenance of Effort (MOE) provision.	Health First Colorado clients, providers.	A April 2021	No
------------	----------------	---	--------	--	--	---	--------------	----

April 2021	CHP 21-03-30-B	Revision to the Medical Assistance Rule concerning Child Health Plan Plus program rule updates, Sections 110,140, 310 and 320	Revise	25.5-1-301 through 25.5-1-303, C.R.S. (2021); 25.5-8-107.(b)	amend 10 CCR 2505-3 sections 110,140,310 and 320 based on the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Families First Coronavirus Response Act (FFCRA) and the Affordable Care Act(ACA), which includes the Maintenance of Effort (MOE) provision.	Health First Colorado clients, providers.	A April 2021	No
April 2021	MSB 21-04-07-A	Revision to the Medical Assistance Act Rule concerning Private Duty Nursing and Long-Term Home Health Prior Authorization Requirements, Sections 8.520 and 8.540	Revise	Sections 25.5-1-301 through 25.5-1-303, C.R.S.	remove the prior authorization requirement for Private Duty Nursing and Long-Term Home Health Services	Health First Colorado clients, providers.	A April 2021	No

April 2021	MSB 20-12-10-B	Revision to the Special Financing Division Old Age Pension(OAP) Health Care Program Concerning OAP Regulatory Review Updates, Section 8.940	Revise	25.5-2-101, C.R.S.	The rule has been reorganized to ensure that like information is grouped together, and definitions have been added and updated to match current information. Additionally, information that is no longer relevant or correct has been removed.	Health First Colorado clients, providers.	A April 2021	Yes
April 2021	MSB 20-10-27-A	Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Adult Day Services, Section 8.491 and 8.515.70	Revise	25.5-6-303 C.R.S.	The changes to the regulations will provide definitions and regulatory parameters for providers and stakeholders of this service.	Health First Colorado clients, providers.	A April 2021	No
May 2021	MSB 21-05-02-A	Revision to the FQHC Rule Concerning COVID-19 Vaccine and Treatment Reimbursement, Section 8.700.6.B	Revise	1902(bb) of the Social Security Act	change Federally Qualified Health Center (FQHC) reimbursement for the administration of the COVID-19 vaccine and monoclonal antibody therapy treatments.	Health First Colorado client, providers.	A May 2021	No

May 2021	MSB 21-04-06-A	Revision to the Medical Assistance Act Rule concerning Inpatient Hospital High Acuity Rate Negotiation, Section 8.300.5	Revise	Section 25.5-5-102(1)(a), C.R.S.	The change will allow the Department to reimburse inpatient hospitals at a rate which more closely aligns with the hospital cost experiences	Health First Colorado clients, providers.	A May 2021	No
May 2021	MSB 19-08-21-A	Revisions to the Medical Assistance Rule Concerning changes to the Income Data Source and Lottery/Gambling winnings hardship exemption for sections 8.100.3.N, 8.100.4.B, 8.100.4.C, 8.100.5.B, and 8.100.5.F	Revise	25.5-4-205(3)(b)(I), C.R.S.	two new data sources added to verify earned income for both MAGI and Non-MAGI Programs.	Health First Colorado clients, providers.	A May 2021	Yes

May 2021	MSB 20-08-04-C	Revision to the Medical Assistance Rule concerning Prospective Payments to Primary Care Medical Providers, Section 8.200	Revise	Sections 25.5-1-301 through 25.5-1-303, C.R.S.	The rule implements prospective payments to primary care medical providers who voluntarily elect to earn a portion of their revenue as prospective per member per month payments and the other portion as fee for service.	Health First Colorado clients, providers.	A May 2021	Yes
May 2021	MSB 20-08-10-B	Revision to the Medical Assistance Act Rule concerning Non-Invasive Prenatal Testing Prior Authorization, Section 8.732	Revise	Section 25.5-5-102(1)(c), C.R.S.	The proposed revision updates Department rule to reflect prior authorization may be required for non-invasive prenatal testing	Health First Colorado clients, providers.	A May 2021	Yes
May 2021	MSB 21-01-21-B	Revision to the rule authorizing the annual adjustment schedule for Inpatient Hospital Base Rates, Section 8.300.5.A.3.e	Revise	Sections 25.5-1-301 through 25.5-1-303, C.R.S.	allow the rates to be updated using the State Budget Action as defined by the Legislature for State Fiscal Year 2021-22.	Health First Colorado clients, providers.	A May 2021	No

May 2021	MSB 21-03-25-A	Revision to the FQHC Rule Concerning COVID-19 Vaccine and Treatment Reimbursement, Section 8.700.6.B	Revise	1902(bb) of the Social Security Act	The purpose of this rule is to change Federally Qualified Health Center (FQHC) reimbursement for the administration of the COVID-19 vaccine and monoclonal antibody therapy treatments.	Health First Colorado clients.	A May 2021	No
May 2021	MSB 21-03-25-B	Revision to Medical Assistance Special Financing rule concerning the Colorado Dental Health Care Program for Low-Income Seniors, Section 8.960	Revise	Sections 25.5-3-404(4), C.R.S.	Clarifies an Eligible Senior may have Medicare or Medicare Advantage Plan that has dental coverage.	Health First Colorado clients, providers.	A May 2021	No
June 2021	MSB 21-01-21-A	Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Transitional Living, Section 8.516.30	Revise	Section 25.5-6-704, C.R.S.	Revisions to these regulations will align the TLP room and board amount to the established process utilized for all the residential settings.	Health First Colorado clients, providers.	A June 2021	Yes

June 2021	MSB 21-01-28-A	Revision to the Medical Assistance Rule concerning FFY 20-21 Healthcare Affordability & Sustainability (HAS) Fees & Payments Amendment, Creation of Hospital Transformation Program (HTP) & Rural Support Program (RSP), Section 8.3000	Revise	25.5-4-402.4(4)(b), (g), C.R.S.	The rule change makes necessary revisions for the federal fiscal year (FFY) 2020-21 Healthcare Affordability & Sustainability (HAS) fees and supplemental payments.	Health First Colorado clients, providers.	A June 2021	Yes
June 2021	MSB 20-08-10-A	Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Telehealth in Home and Community-Based Services, to add Section 8.615	Revise	Sections 25.5-6-101 et seq. and Sections 25.5-10-101 et seq.	revise regulations to include the addition of Telehealth service delivery to select Home and Community-Based Services (HCBS).	Health First Colorado clients, providers.	A June 2021	Yes

July 2021	MSB 21-07-20-A	Revision to the Medical Assistance Eligibility Rules Concerning General and Citizenship Eligibility Requirements, Section 8.100.3.G	Revise	Section 25.5-4-205, C.R.S. & Section 24.4-4-103(6)(a), C.R.S.	The proposed rule change will amend 10 CCR 2505-10 §8.100.3.G to update General Medical Assistance Eligibility and Citizenship Requirements to include Compact of Free Associate (COFA) migrants as eligible non-citizens not subject to a 5-year waiting period.	Health First Colorado clients, providers.	A July 2021	No
July 2021	MSB 21-07-21-A	Revision to Medical Assistance Special Financing rule concerning the Colorado Dental Health Care Program for Low-Income Seniors, Section 8.960	Revise	Sections 25.5-3-404(4), C.R.S.	This rule change will increase the 43 procedures in Appendix A to match the current rate being paid by Health First Colorado.	Health First Colorado clients, providers.	A July 2021	No
August 2021	MSB 21-08-10-A	Revision to the Medical Assistance Rule Concerning Federally Qualified Health Center Reimbursement, Section 8.700.6	Revise	Sections 25.5-5-408(1)(d), C.R.S.	The purpose of this rule revision is to adjust the FQHC rate setting process to consider the changes in utilization and cost due to Covid-19.	Health First Colorado clients, providers.	A August 2021	No

August 2021	MSB 21-08-10-B	Revision to the RHC Rule Concerning Adding Provider Types to RHC Visit, Section 8.740	Revise	1902(bb) of the Social Security Act	The purpose of this rule is to change the definition of a payable encounter at Rural Health Clinics.	Health First Colorado clients, providers.	A August 2021	No
August 2021	MSB 21-05-10-A	Revision to the Medical Assistance Rule Concerning Federally Qualified Health Center Reimbursement, Section 8.700.6	Revise	Sections 25.5-5-408(1)(d), C.R.S.	The purpose of this rule revision is to adjust the FQHC rate setting process to consider the changes in utilization and cost due to Covid-19.	Health First Colorado clients, providers.	A August 2021	No
August 2021	MSB 21-05-24-A	Revision to the RHC Rule Concerning Adding Provider Types to RHC Visit, Section 8.740	Revise	1902(bb) of the Social Security Act	The purpose of this rule is to change the definition of a payable encounter at Rural Health Clinics.	Health First Colorado clients, providers.	A August 2021	No

August 2021	MSB 20-12-10-A	Revision to the Special Financing Division Colorado Indigent Care Program Concerning CICIP Regulatory Review Updates, Section 8.900	Revise	25.5-3-101 through 25.5-3-111, C.R.S.	Updates were made to use more inclusive language, add a few missing definitions, and clarify a few points that stakeholders and the Advisory Council found to be unclear. The Department also removed gender reassignment surgeries from the excluded procedures list, which will allow CICIP providers the option to provide those types of surgeries to CICIP clients if they so choose and in line with the Medicaid benefit.	Health First Colorado clients, providers.	A August 2021	Yes
-------------	----------------	---	--------	---------------------------------------	--	---	---------------	-----

August 2021	MSB 21-05-26-A	Revision to the Medical Assistance Act Rule concerning Inpatient Hospital High Acuity Rate Negotiation, Section 8.300.5	Revise	Section 25.5-5-102(1)(a), C.R.S.	The proposed rule adds inpatient hospital reimbursement rate negotiation for in-state services where the payment methodology insufficiently accounts for the level of acuity, all other placement options have been exhausted, and the service has been reviewed and authorized by the Department's Medical Director.	Health First Colorado clients, providers.	A August 2021	No
-------------	----------------	---	--------	----------------------------------	---	---	---------------	----

September 2021	MSB 21-08-18-A	Revision to the Medical Assistance Act Rule concerning Hospice Room and Board, Section 8.550.9.C	Revise	C.R.S. § 25.5-4-424	The proposed rule implements Colorado Senate Bill 21-214, which establishes a state-only room and board payment to qualified hospice providers that render hospice care in a licensed hospice facility to an eligible Medicaid-enrolled member who has a hospice diagnosis, is eligible for nursing facility care and, despite attempts to secure a bed, is unable to secure a Medicaid bed in a nursing facility due to COVID-19 impacts, complexity of medical care, behavioral health issues, or other issues as determined by the Department.	Health First Colorado clients, providers.	A September 2021	No
----------------	----------------	--	--------	---------------------	---	---	------------------	----

September 2021	MSB 21-08-30-A	Revision to the Medical Assistance Act Rule concerning Subacute Care, Section 8.300	Revise	C.R.S. 25.5-5-102(1)(a)	Subacute care in a hospital setting shall be equivalent to the level of care administered by a skilled nursing facility for skilled nursing and intermediate care services	Health First Colorado clients, providers.	A September 2021	No
September 2021	MSB 21-07-26-A	Revision to the Medical Assistance Act Rule concerning Qualified Residential Treatment Programs, Section 8.765	Revise	C.R.S. § 25.5-5-202(1)(i)	Revises the rules for child-serving residential facilities to include the new Qualified Residential Treatment Program (QRTP) license type.	Health First Colorado clients, providers.	A September 2021	No
September 2021	MSB 21-03-03-A	Revision to the Medical Assistance Rule concerning Free Standing Emergency Departments, Sections 8.126 & 8.320	Revise	Sections 25.5-5-102(1)(b), 25.5-5-202(1)(b), C.R.S.	This revision aligns Department rule with new Colorado Department of Public Health and Environment (CDPHE) licensure for free standing emergency departments (FSED).	Health First Colorado clients, providers.	A September 2021	No

October 2021	MSB 21-08-10-D	Revision to the Medical Assistance Rule concerning Qualifications of Case Managers, Sections 8.393.1.J.; 8.519.5. and 8.603.9	Revise	Sections 25.5-1-301 through 25.5-1-303, C.R.S.	The rules at 8.393.1.J.; 8.519.5.; 8.603.9 outline the education and experience qualifications for case managers in the SEP, HCBS and CCB systems.	Health First Colorado clients, providers.	A October 2021	No
October 2021	MSB 21-09-15-A	Revision to the Medical Assistance Act Rule concerning Long-Term Home Health and Private Duty Nursing Prior Authorization Requirements, Sections 8.520.8, 8.540.2 and 8.540.7	Revise	Sections 25.5-1-301 through 25.5-1-303, C.R.S.	Update the long-term home health and private duty nursing rules to resume prior authorization on a tiered schedule over the course of ten months.	Health First Colorado clients, providers.	A October 2021	No
October 2021	MSB 21-08-26-A	Revision to Medical Assistance Special Financing rule concerning the Colorado Dental Health Care Program for Low-Income Seniors, Section 8.960	Revise	25.5-5-102(d), C.R.S.	This rule change will increase the 43 procedures in Appendix A to match the current rate being paid by Health First Colorado.	Health First Colorado clients, providers.	A October 2021	No

October 2021	MSB 21-08-27-A	Revision to the Medical Assistance Eligibility Rules Concerning General and Citizenship Eligibility Requirements, Section 8.100.3.G	Revise	Section 25.5-4-205, C.R.S. & Section 24.4-4-103(6)(a), C.R.S.	The proposed rule change will amend 10 CCR 2505-10 §8.100.3.G to update General Medical Assistance Eligibility and Citizenship Requirements to include Compact of Free Associate (COFA) migrants as eligible non-citizens not subject to a 5-year waiting period.	Health First Colorado clients, providers.	A October 2021	No
October 2021	MSB 21-08-28-A	Revision to the Medical Assistance Act Rule concerning Immunization Services, Section 8.815	Revise	Section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136	the Department must reimburse providers for COVID-19 testing services and treatments, including vaccines and the administration of such vaccines, provided to Medicaid enrollees.	Health First Colorado clients, providers.	A October 2021	No

September 2021	10 CCR 2505-10 8.001	ELECTRONIC VISIT VERIFICATION (EVV)	Remain	H.R. 34 – 114th Congress: 21st Century Cures Act. Sec. 12006.	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule remains the same as there have been no changes to statutory basis, stakeholder needs, nor Department priorities.
September 2021	10 CCR 2505-10 8.013	OUT-OF-STATE MEDICAL CARE	Revise	C.R.S. 25.5-4-102	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505-10 8.014	Non-Emergent Medical Transportation	Revise	42 CFR § 431.53	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
August 2021	10 CCR 2505-10 section 8.015	ELECTRONIC HEALTH RECORD INCENTIVE PAYMENT PROGRAM	Remain	Sections 1903(a)(3)(F) and 1903(t) of the SSA; Title 42 of the Code of Federal Regulations, Part 495 (2010)	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	The incentive program is still active including payments, audits, and appeals. Accordingly, the regulations are still required.
September 2021	10 CCR 2505-10 8.018	Emergency Medical Transportation	Remain	42 CFR § 431.53	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	We do not need to make any changes to the rule at this time; it is clear as it is.
September 2021	10 CCR 2505-10, 8.040	Recoveries from Providers	Remain	25.5-4-301, C.R.S.	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	No change or update required.

August 2021	10 CCR 2505-10, 8.057.1	Recipient Appeals Definitions	Remain	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5- 1-107; 42 C.F.R. § 431.201; 45 C.F.R. § 160; 45 C.F.R. § 164; 42 C.F.R. 431.210; 42 C.F.R. § 431.206; C.R.S. § 25.5- 4-207; 42 CFR § 483.15	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.
August 2021	10 CCR 2505-10, 8.057.2	Advance Notice	Revise	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5- 1-107; 42 C.F.R. 431.211, 42 C.F.R. § 431.213, 42 C.F.R. § 431.214, 42 CFR § 483.15	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	

August 2021	10 CCR 2505-10, 8.057.3	Opportunity for Hearing	Remain	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5-1-107; C.R.S. § 25.5-4-107 42 C.F.R. § 431.220; 42 C.F.R. § 431.201; 42 C.F.R. § 483.204; 42 C.F.R. § 431.201.	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.
August 2021	10 CCR 2505-10, 8.057.4	Request for Hearing – Need to revise for expedited hearings.	Remain	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5-1-107; C.R.S. § 25.5-4-207; 42 C.F.R. § 431.242, 42 C.F.R. § 431.221,	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.
August 2021	10 CCR 2505-10, 8.057.5	Maintaining Services	Remain	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5-1-107; 42 C.F.R. § 431.230; 20 C.F.R. § 416.996, 20 C.F.R. § 416.264	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements

August 2021	10 CCR 2505-10, 8.057.6	Denial or Dismissal or Request for Hearing	Remain	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5-1-107; 42 C.F.R. § 431.223; C.R.S 24-4-105(2)(b)	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.
August 2021	10 CCR 2505-10, 8.057.7	Fair Hearings	Remain	42 U.S.C. § 1396a(a)(3); 20 U.S.C. § 1983c; C.R.S. § 25.5-1-107; C.R.S. § 25.5-4-207; C.R.S. § 25.5-4-205; 42 C.F.R. § 431.241; C.R.S. § 24-4-105(4); 42 C.F.R. § 431.240; 42 C.F.R. § 431.301; 42 C.F.R. § 431.220, 42 C.F.R. 435.541.	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.

August 2021	10 CCR 2505-10, 8.057.8	Initial Decisions	Remain	42 U.S.C. § 1396a(a)(3); 20 U.S.C. § 1983c; 42 C.F.R. 435.541; C.R.S. § 25.5- 1-107; C.R.S. § 25.5-4-205; 42 C.F.R. § 431.244; C.R.S. § 24-4- 105; Flavell v. Dept. of Welfare, 144 Colo. 203, 355 P.2d 941, 943 (1960); Adams v. Colorado Dept. of Social Services, 824 P.2d 83, 86 (Colo. App. 1991).	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.
-------------	-------------------------------	-------------------	--------	---	------------------------------------	--	----	---

August 2021	10 CCR 2505-10, 8.057.9	Review by the Office of Appeals	Remain	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5-1-107; C.R.S. § 24-4-105(14)(a)(I), (b)(I), (15)(a); Rigmaiden v. Colorado Department of Health Care Policy & Financing, 155 P.3d 498 (Colo. App. 2006).	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.
August 2021	10 CCR 2505-10, 8.057.10	Final Agency Decisions	Remain	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5-1-107; C.R.S. § 24-4-105(15)(b); 42 C.F.R. § 431.244(b), (c), (f), C.R.S. § 25.5-4-207(e).	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.
August 2021	10 CCR 2505-10, 8.057.11	Notification of Decision	Remain	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5-1-107; 42 C.F.R. § 431.245; C.R.S. § 24-4-105(16).	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.

August 2021	10 CCR 2505-10, 8.057.12	Corrective Action	Remain	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5-1-107;	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.
August 2021	10 CCR 2505-10, 8.057.13	Reconsideration of Final Agency Decision	Remain	42 C.F.R. § 431.246	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.
August 2021	10 CCR 2505-10, 8.057.14	Informal Client Conference in Disability Determinations	Remain	42 U.S.C. § 1396a(a)(3); C.R.S. § 25.5-1-107; C.R.S. § 24-4-105(14)(a)(I), (14)(b)	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.

August 2021	10 CCR 2505-10, 8.057.15	Alternatives to Institutional Care	Remain	42 U.S.C. § 1396a(a)(3); 20 U.S.C. 1983c; 42 C.F.R. § 431.220; C.R.S. § 25.5-1-107; C.R.S. § 25.5-5-101(1)(f); C.R.S. § 25.5-4-207; C.R.S. § 25.5-4-205; 42 C.F.R. 435.541.	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule is consistent with Federal and State laws concerning State Fair Hearing requirements.
September 2021	10 CCR 2505-10, 8.065	Recovery of Medical Assistance Overpayments	Revise	25.5-1-115, C.R.S.	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505-10, 8.070	Mis-Utilization, Fraud, or Abuse	Revise	25.5-1-118, C.R.S.	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505-10. 8.076	Program Integrity	Revise	25.5-4-301, C.R.S.	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505-10, 8.079	Quality Improvement	Revise	CRS 25.5-4-401.2	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
December 2020	10 CCR 2505-10, Section 8.080	Medicaid Eligibility Quality Control	Repeal	NA	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505-10, 8.570	Ambulatory Surgery Centers	Revise	CRS 25.5-5-202 (1)(b)	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	

September 2021	10 CCR 2505-10 8.730	FAMILY PLANNING SERVICES	Revise	25.5-5-411, C.R.S.	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505-10 8.731	WOMEN'S HEALTH SERVICES	Revise	CRS 25.5-5-102(1)	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505-10 8.732	MATERNITY SERVICES	Revise	CRS 25.5-5-102(1)(g)	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505-10 8.735	Transgender Services	Revise	CRS 25.5-5-102 (1)(d)	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505-10 8.770	8.770 ABORTION SERVICES	Revise	CRS 25.5-5-318	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505 - 10 8.501	State Funded Supported Living Services Program	Remain	25.5-1-301 through 25.5-1-303, C.R.S. (2018); 25.5-10-206(1), C.R.S. (2018)ain	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule represents statute and rule as written. No revisions or repeal needed at this time.
September 2021	10 CCR 2505 - 10 8.503	CHILDREN'S EXTENSIVE SUPPORT WAIVER PROGRAM (HCBS-CES)	Revise	§§ 25.5-6-401 – 25.5-6-413)	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505 - 10 8.504	Home and Community - Based Services for Children with Life Limiting Illness	Revise	C.R.S. 25.5-5-305	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	

September 2021	10 CCR 2505-10 8.516.40	Behavioral Training	Remain	C.R.S. 25.5-6-703	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule represents statute and rule as written. No revisions or repeal needed at this time.
September 2021	10 CCR 2505-10 8.516.50	Counseling	Revise	C.R.S. 25.5-6-703	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
September 2021	10 CCR 2505-10 8.516.60	Substance Abuse Counseling	Remain	C.R.S. 25.5-6-703	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule represents statute and rule as written. No revisions or repeal needed at this time.
September 2021	10 CCR 2505-10 8.516.70	Respite Care	Remain	C.R.S. 25.5-6-704	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	Rule represents statute and rule as written. No revisions or repeal needed at this time.
September 2021	10 CCR 2505 - 10 8.517	Home and Community - Based Services for Persons with Spinal Cord Injury	Revise	§§ 25.5-6-1301 – 25.5-6-1304	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
October 2021	10 CCR 2505-10 8.520	Home Health Services	Remain	25.5-5-102 (1)(f)	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	No changes necessary
October 2021	10 CCR 2505-10 8.525	Services Requirements	Remain	25.5-5-102 (1)(f)	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	No changes necessary

October 2021	10 CCR 2505-10 8.526	Provider Agency Requirements	Remain	25.5-5-102 (1)(f)	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	No changes necessary
October 2021	10 CCR 2505-10 8.527	Prior Authorization	Remain	25.5-5-102 (1)(f)	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	No changes necessary
October 2021	10 CCR 2505-10 8.528	Reimbursement	Remain	25.5-5-102 (1)(f)	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	No changes necessary
October 2021	10 CCR 2505-10 8.529	Post-Payment Review	Remain	25.5-5-102 (1)(f)	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	No changes necessary
October 2021	10 CCR 2505-10 8.530	Denial, Termination, Or Reduction In Services	Revise	25.5-5-102 (1)(f)	Regulatory Efficiency Review	Health First Colorado clients, providers.	Pending	
October 2021	10 CCR 2505-10 8.540	Private Duty Nursing Services	Remain	CRS 25.5-5-303	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	No changes necessary
October 2021	10 CCR 2505-10 8.550	Hospice Benefit	Remain	CRS 25.5-5-202 (1)(p)	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	No changes necessary
July 2021	10 CCR 2505-10 8.700.1 – 8.700.8	Federally Qualified Health Centers	Remain	C.R.S. § 25.5-5-408(1)(d)	Regulatory Efficiency Review	Health First Colorado clients, providers.	NA	All citations are up to date and all parts of the rule are still required per current policy.

Calendar of Hearings

Hearing Date/Time	Agency	Location
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Below
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
12/02/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
11/30/2021 10:00 AM	Taxation Division	Virtual Hearing See Comments
12/03/2021 08:30 AM	Behavioral Health	Location Pending State's response to COVID-19. Anticipated to be held entirely online.
12/17/2021 10:00 AM	Civil Rights Commission	Teleconference: (US) +1 302-440-5415 (PIN: 382737985)
12/03/2021 10:00 AM	Peace Officer Standards and Training Board	Please check POST website for details: https://post.colorado.gov/about-post/post-board/post-board-meeting-schedule
12/15/2021 10:00 AM	Center for Health and Environmental Data (1006, 1009 Series)	Via Zoom: https://us02web.zoom.us/j/8448661140
12/15/2021 10:00 AM	Disease Control and Public Health Response Division	Via Zoom: https://us02web.zoom.us/j/8448661140
12/15/2021 10:00 AM	Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	Via Zoom: https://us02web.zoom.us/j/8448661140
12/15/2021 10:00 AM	Colorado State Board of Health	Via Zoom: https://us02web.zoom.us/j/8448661140
12/09/2021 03:00 PM	Division of Labor Standards and Statistics (Includes 1103 Series)	633 17th Street, 12th Floor, Denver, CO 80202
12/09/2021 03:00 PM	Division of Labor Standards and Statistics (Includes 1103 Series)	633 17th Street, 12th Floor, Denver, CO 80202
12/09/2021 03:00 PM	Division of Labor Standards and Statistics (Includes 1103 Series)	633 17th Street, 12th Floor, Denver, CO 80202
11/30/2021 12:00 PM	Animal Health Division	This meeting will be held via zoom - please see attached notice for link and call information
11/30/2021 01:00 PM	Inspection and Consumer Services Division	This meeting will be held via zoom - please see attached notice for link and call information
11/30/2021 10:30 AM	Plant Industry Division	This meeting will be held via zoom - please see attached notice for link and call information
12/10/2021 09:00 AM	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	303 East 17th Avenue, 11th Floor, Denver, CO 80203
12/03/2021 09:00 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	Location Pending State's response to COVID-19. Anticipated to be held entirely online.