

COLORADO MEDICAL BOARD
RULES AND REGULATIONS REGARDING CONFIDENTIAL AGREEMENTS

Basis: The authority for the promulgation of these rules and regulations by the Colorado Medical Board ("Board") is set forth in Sections 12-36-104(1)(a) and 12-36-118.5, C.R.S.

Purpose: To establish and clarify the notification requirements for a physical or mental illness or condition that impacts a physician's, physician assistant's, or anesthesiologist assistant's ability to perform a medical service with reasonable skill and safety to patients. Consistent with Section 12-36-118.5, C.R.S., a physician, physician assistant, or anesthesiologist assistant ("licensee") who appropriately addresses their qualifying physical or mental illness or condition will not be subject to discipline for unprofessional conduct due to such illness or condition.

Prior to the 2009 Sunset Review, the Medical Practice Act defined unprofessional conduct to include having a physical or mental disability that rendered the licensee unable to perform medical services with reasonable skill and with safety to the patient. Licensees who suffered a physical or mental disability, were subject to disciplinary action by virtue of suffering such disability

Through the 2009 Sunset Review, the General Assembly amended the Medical Practice Act to redefine unprofessional conduct as it relates to licensees suffering a physical or mental illness or condition. Pursuant to Section 12-36-118.5, C.R.S., licensees may now be able to address a physical or mental illness or condition without the stigma of a disciplinary action while enabling the Board to ensure public protection through confidential monitoring of the illness or condition as necessary.

Rule:

1. No later than thirty (30) days from the date a physical or mental illness or condition impacts a licensee's ability to perform a medical service with reasonable skill and safety, the licensee shall provide the Board, in writing, the following information:
 - a. The diagnosis and a description of the illness or condition;
 - b. the date that the illness or condition was first diagnosed;
 - c. the name of the current treatment provider and documentation from the current treatment provider confirming the diagnosis, date of onset, and treatment plan;
 - d. a description of the licensee's practice and any modifications, limitations or restrictions that have been made to such practice as a result of the illness or condition;
 - e. whether the licensee has been evaluated by, or is currently receiving services from, the Board's authorized Peer Health Assistance Program related to the illness or condition and, if so, the date of initial contact and whether services are ongoing.

2. The licensee shall further notify the Board of any significant change in the illness or condition (“change of condition”) that impacts the licensee’s ability to perform a medical service with reasonable skill and safety. The licensee must notify the Board of any significant change in condition, whether positive or negative. Such notification shall occur within thirty (30) days of the change of condition. The licensee shall provide the Board, in writing, the following information:
 - a. The date of the change of condition;
 - b. the name of the current treatment provider and documentation from the current treatment provider confirming the change of condition, the date that the condition changed, the nature of the change of condition, and the current treatment plan;
 - c. a description of the licensee’s practice and any modifications, limitations or restrictions to that practice that have been made as a result of the change of condition;
 - d. whether the licensee has been evaluated by, or is currently receiving services from, the Board’s authorized Peer Health Assistance Program related to the change of condition and, if so, the date of initial contact and whether services are ongoing.
3. Compliance with this rule is a ***prerequisite*** for eligibility to enter into a Confidential Agreement with the Board pursuant to 12-36-118.5, C.R.S., and does not guarantee a right to a Confidential Agreement or require the Board to enter into a Confidential Agreement with the licensee. Upon notification by the licensee, the Board will evaluate all facts and circumstances to determine if a Confidential Agreement is appropriate.
4. If the Board discovers that a licensee has a mental or physical illness or condition that impacts the licensee’s ability to perform a medical service with reasonable skill and safety and the licensee has not timely notified the Board of such illness or condition, the licensee shall not be eligible for a Confidential Agreement and may be subject to disciplinary action pursuant to § 12-36-117(1)(o), C.R.S.

Adopted 08/19/10; Effective 10/15/10; Revised 5/22/14, Effective 7/15/14