

DEPARTMENT OF REGULATORY AGENCIES

BOARD OF LICENSED PROFESSIONAL COUNSELOR EXAMINERS

**COLORADO STATE BOARD OF LICENSED PROFESSIONAL
COUNSELOR EXAMINERS RULES**

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AUTHORITY

These rules are promulgated pursuant to C.R.S. §12-43-203(3)(a) and C.R.S. §12-43-221(2).

The licensing and regulation of Mental Health Professionals is found in Title 12 (“Professions and Occupations”), Article 43 (“Mental Health”) of the Colorado Revised Statutes. Article 43 consists of 8 parts summarized, as applicable, as follows:

<u>Part</u>	<u>Name of Part</u>	<u>Statutes in Part</u>
Part 1	Legislative Declaration	12-43-101
Part 2	General Provisions	12-43-201 - 12-43-229
Part 6	Licensed Professional Counselors	12-43-201 - 12-43-605

Part 2 contains general provisions applicable to all Mental Health Professionals. Part 6 applies specifically to licensed professional counselors.

SCOPE AND PURPOSE

These rules were promulgated in order to carry out the powers and duties of the State Board of Licensed Professional Counselor Examiners pursuant to C.R.S. §§ 12-43-203 and 12-43-602. These rules affect every person seeking licensure as a professional counselor and every person who practices as a professional counselor in the State of Colorado, and who is not statutorily exempted.

RULE 1 -- DEFINITIONS

In addition to the definitions set out in C.R.S. §§ 12-43-201 and 12-43-601, unless the context requires otherwise, as used in these Rules:

- (a) The “Board” means the State Board of Licensed Professional Counselor Examiners established pursuant to C.R.S. § 12-43-602.
- (b) "Director" means the Board's Program Director and staff.
- (c) "Employment counseling" means professional activities that are provided on a short-term basis and that are intended to assist individuals with locating, applying for, interviewing, or otherwise successfully securing paid employment.
- (d) “License in good standing” means a license that is not restricted in any manner.
- (e) “Licensee” under C.R.S. § 12-43-223(1)(b) shall include any person who has been licensed at any time, as a licensed professional counselor or licensed

professional counselor candidate, under the Mental Health Practice Act, pursuant to C.R.S. § 12-43-601, et seq.

(g) "Rehabilitation counseling" means professional activities that are intended to assist a person with a physical handicap, defect, or injury as defined in C.R.S. § 26-8-105(2)(a), (b), or (c) to learn or to relearn to perform routine daily functions including, but not limited to, eating, dressing, transportation, or employment.

RULE 2 -- PUBLIC PARTICIPATION AT BOARD MEETINGS (C.R.S. §§ 12-43-203, 12-43-221)

(a) The Board may provide a person a reasonable opportunity to address the Board at an open meeting if the request is made prior to the meeting in accordance with this Rule and, in the Board's sole discretion, the granting of the request will not result in delay or disruption of the Board's meeting.

(b) Unless otherwise ordered by the Board, the Board will rely exclusively on written materials during its initial consideration of inquiries, and shall not permit members of the public to address the Board on pending disciplinary proceedings or cases.

(c) The Board may impose reasonable limitations on the time allotted for comments made pursuant to this Rule.

RULE 3 -- CONFIDENTIALITY OF PROCEEDINGS AND RECORDS OF THE BOARD (C.R.S. §§ 12-43-218, 12-43-221, 12-43-224(4))

(a) General. Inquiries, complaints, investigations, hearings, meetings, or any other proceedings of the Board relating to disciplinary proceedings shall not be open to public inspection until the Board meets for its initial consideration of the inquiry that gave rise to the proceedings. The initial consideration of the inquiry and all further proceedings shall be open and the records available for inspection unless subsection (b) of this Rule, or an exception to the Public Records Act or the Open Meetings Act applies.

(b) Subpoenaed Information. Information subpoenaed by the Board shall remain confidential and not be open to public inspection until the Board has reviewed the information and made a determination whether the information should remain confidential. Information which is not determined to be confidential shall be open to public inspection unless an exception to subsection (a) an exception to the Public Records Act or the Open Meetings Act applies or C.R.S. §12-43-224(4) prohibits disclosure. This exception shall not apply to review of information by a respondent in a Board investigation.

RULE 4 -- DECLARATORY ORDERS (C.R.S. § 24-4-105(11))

(a) Any person may petition the Board for a declaratory order to terminate a controversy or to remove uncertainty as to the applicability to the petitioner of any statutory provision or of any Board Rule or Order.

(b) A petition filed pursuant to this Rule shall set forth the following:

(1) The name and address of the petitioner and whether the petitioner is a Licensee.

(2) The statute, rule, or order to which the petition relates.

(3) A concise statement of all 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.

(c) The Board will determine, in its discretion and without notice to petitioner, whether to rule on a petition. In determining whether to rule on a petition, the Board will consider the following matters, among others:

(1) Whether a ruling on the petition will terminate a controversy or remove uncertainty as to the applicability to petitioner of any statutory provision or Board Rule or Order.

(2) Whether the petition involves any subject, question, or issue that is the subject of a formal or informal matter, proceeding, or investigation involving the petitioner and currently pending before the Board, any other agency, or a court.

(3) Whether the petition involves any subject, question, or issue that is the subject of a formal or informal matter, proceeding, or investigation currently pending before the Board, any other agency, or a court, but not involving the petitioner.

(4) Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.

(5) Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Rule 57, Colorado Rules of Civil Procedure, that will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule, or order in question.

(d) If the Board determines, in its discretion, that it will not rule on the petition pursuant to this Rule, the Board shall promptly notify the petitioner of its action and state the reasons for such action.

(e) If the Board determines, in its discretion, that it will rule on the petition, any ruling of the Board will apply only to the facts presented in the petition and any amendment to the petition. If the Board rules on the petition without a hearing, it shall notify the petitioner of its decision within 120 days.

In ruling on the petition, the Board may take one or more of the following actions, in its discretion:

(1) The Board may dispose of the petition on the basis of the matters set out in the petition.

(2) The Board may request the petitioner to submit additional facts, in writing. In this event, the additional facts amend the petition.

(3) The Board may order the petitioner to file a written brief, memorandum, or statement of position.

(4) The Board may set the petition for hearing, upon due notice to petitioner, to obtain additional facts or information; to determine the truth of any facts set forth in the petition; or to hear oral argument on the petition. The notice to the petitioner setting the hearing shall state, to the extent known, the factual or other matters into which the Board intends to inquire. For the purpose of the hearing, to the extent necessary, the petitioner shall have the burden of proving all facts stated in the petition; all facts necessary to show the nature of the controversy or uncertainty; the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner; and any other facts the petitioner desires the Board to consider.

(f) If the Board determines that the petition addresses a matter within the purview of any other agency, the Board shall refer the petition to the other agency for consideration. If the Board refers a petition to another agency, the Board shall promptly inform the petitioner of the referral. The referral ends the matter before the Board.

(g) The parties to any proceeding pursuant to this Rule shall be the Board and the petitioner. Any other person may seek leave of the Board to intervene in such a proceeding. A petition to intervene shall set forth the matters required by subsection (b) of this Rule. Based on the information presented and in its discretion, the Board may grant leave to intervene. Any reference to "petitioner" in this Rule includes any person who has been granted leave to intervene by the Board.

(h) Any declaratory order or other order disposing of a petition pursuant to this Rule shall constitute final agency action subject to judicial review pursuant to C.R.S. § 24-4-106.

RULE 5 -- MANDATORY DISCLOSURE STATEMENT (C.R.S. §§ 12-43-214, 12-43-222(1)(p))

(a) As used in C.R.S. § 12-43-214 and this Rule,

(1) "Incapacitated person" means that the mandatory disclosure must be made to the guardian or legal representative if the recipient of psychotherapy or mental health services is an adult for whom a guardian or legal representative has been appointed by a court of competent jurisdiction (irrespective of an appeal of the order) because the adult is an "incapacitated person" within the meaning of C.R.S. § 15-14-101(1).

(2) "Emergency" means those situations in which, on presentation, the client's condition requires immediate intervention and/or stabilization. Emergency situations include any actions taken pursuant to C.R.S. Title 19, Article 3, Parts 3 and 4 (the Colorado Children's Code).

RULE 6 -- INFORMATION REQUIRED TO BE REPORTED TO THE BOARD (C.R.S. § 12-43-224(9))

(a) General. Licensed professional counselors are required to report violations of C.R.S. § 12-43-222 and/or C.R.S. § 12-43-226 to the appropriate Board once they have direct knowledge that a Licensee as defined by C.R.S. § 12-43-201(6), certified addiction counselor, or registered psychotherapist has violated a provision of C.R.S. § 12-43-222 and/or C.R.S. § 12-43-226. Licensed professional counselors are not required to report when reporting would violate client/therapist confidentiality (refer to C.R.S. § 12-43-218).

(b) Terms.

(1) "Direct knowledge" includes, but is not limited to the following:

(A) Having seen, heard, or participated in the alleged violation;

(B) Having been informed by the client/victim and obtained informed consent to release information as to the event or the client's name;

(C) Having been informed of a violation by the violator;

(D) Having been informed by a guardian of a minor or adult and obtained informed consent from the guardian to release information; or

(E) Having been informed by a professional organization, agency, or any other entity, that an alleged violation occurred.

(2) "Has violated" means a reasonable belief that a Licensee, certified addiction counselor, or registered psychotherapist has engaged in a prohibited activity under section C.R.S. § 12-43-222 or unauthorized practice as prohibited under C.R.S. § 12-43-226.

(c) Procedures.

(1) Once direct knowledge is established, the licensed professional counselor must report the alleged violation as soon as possible or, absent unusual circumstances, no later than sixty (60) days.

(2) When direct knowledge of a violation of C.R.S. § 12-43-222 or C.R.S. § 12-43-226 is obtained from her/his client, the licensed professional counselor shall:

(A) Inform the client a violation may have occurred;

(B) Encourage the client to report the violation; and

(C) Obtain the client's informed consent before reporting the alleged violation.

(3) The report shall be in writing and shall include the specifics of the violation, to the degree known, and any and all relevant information and supporting documentation.

(d) Nothing in this Rule relieves any mental health professional from adhering to any other mandatory reporting requirements mandated by statute.

RULE 7 – NON-CLINICAL SUPERVISORY RELATIONSHIPS AND CLINICAL SUPERVISION OF MENTAL HEALTH PRACTITIONERS OTHER THAN LICENSED PROFESSIONAL COUNSELOR APPLICANTS (C.R.S. §§ 12-43-221(2), 12-43-222(1)(n), except as provided in Rule 14)

(a) General. Except as otherwise provided in Rule 14, supervision provides a source of knowledge, expertise, and more advanced skills to the person being supervised. The nature of this relationship depends on the respective skills of the two professionals involved, the client population and/or the specific client being served. It is usually ongoing, required, and hierarchical in nature. This rule does not apply to the supervision required prior to licensure as a professional counselor pursuant to Rule 14.

(b) Terms.

(1) Clinical supervision occurs when there is close, ongoing review and direction of a supervisee's clinical practice.

(2) Consultation describes a voluntary relationship between professionals of relative equal expertise or status wherein the consultant offers her/his best advice or information on an individual case or problem for use by the consultee as s/he deems appropriate in her/his professional judgment.

(3) Administrative supervisor is the person who bears responsibility for the non-clinical functioning of an employee, such as performance appraisals, personnel decisions, etc. The administrative supervisor may be held accountable for not reporting misconduct by a professional counselor when s/he knew or should have known of a violation of generally accepted standards of practice or any prohibited activity.

(4) Modes of Supervision. Include but are not be limited to individual, group, telephone, electronic mail, audio-visual, process recording, direct observation, telecommunication (teleconferencing, fax, videotapes), and hospital rounds. The appropriate modality of supervision shall be determined by the training, education, and experience of the supervisee, and the treatment setting (i.e. urban/rural, or the availability of resources, etc.); and at all times based on community standards and client needs. The level of supervision provided, including whether every case is directly supervised and whether the supervisor meets with the client, is determined by the education, training, and experience of the supervisee, the specific needs of the clients being served, and the professional judgment of the supervisor. Nothing in this rule should be assumed to abridge the rights of the client to a reasonable standard of care.

(c) Supervision Shall Include But is Not Limited To The Following:

(1) Monitoring the supervisee's activities to verify s/he is providing services that meet generally accepted standards of practice;

(2) Verifying that it is the practice of any supervisee to provide the mandatory disclosure form as required pursuant to C.R.S. § 12-43-214;

(3) If appropriate, verifying that clients are informed as to any changes in the supervisory relationship;

(4) Giving an adequate termination of supervision notice to the supervisee;

- (5) Keeping records that document supervision that meet the generally accepted standards of practice;
- (6) Assisting the supervisee in becoming aware of and adhering to all legal, ethical, and professional responsibilities;
- (7) Assuring that no inappropriate relationships exist between the supervisor and supervisee, and supervisor and client;
- (8) Assuring the supervisee meets any licensing, certification or registration requirements prior to engaging in any psychotherapy;
- (9) Assisting to assure that the supervisee is in compliance with the Mental Health Practice Act;
- (10) Verifying and assuring the supervisee is in compliance with any existing restricted licensure, certification or registration status or probation.

(d) Supervisor Qualifications.

- (1) The supervisor shall have sufficient knowledge of legal, ethical, and professional standards relevant to the clients being served.
- (2) The supervisor shall have clinical experience and competence adequate to perform and direct the services provided by the supervisee.

RULE 8 -- REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-43-203, 12-43-205)

- (a) Licensees shall inform the Division of any name, telephone number or address change within thirty (30) days of such change. Staff shall not change Licensees' information without written notification from the Licensee. Notification via mail, fax, email and the online system is acceptable. Verbal notification is not acceptable.
- (b) Any of the following documentation is required to change a Licensee's name or correct a social security number: marriage license, divorce decree, or court order. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the Director of Support Services.

RULE 9 -- DUPLICATE OR REPLACEMENT LICENSE (C.R.S. §§ 12-43-205, 12-43-207)

(a) Upon licensure and at renewal, the Division will issue only one license to a Licensee. The Division may issue a duplicate license if the Licensee submits a written request along with the required fee.

Justification for issuance of a duplicate license may include if the original was lost, stolen, damaged, never received, printed with the incorrect information, or the address or name has changed.

A duplicate license may also be issued for those Licensees who require multiple licenses.

RULE 10 -- RENEWAL OF LICENSE (C.R.S. § 12-43-204(3))

(a) Failure to Receive Renewal Notice. Failure to receive notice for renewal of license from the Board does not excuse a Licensee from the requirement for renewal under the Act and this Rule.

(b) Grace period. Licensees shall have a sixty-day (60) grace period after the expiration of her or his license to renew such license without the imposition of a disciplinary sanction for practicing on an expired license. During this grace period a delinquency fee will be charged for late renewals. A Licensee who does not renew her or his license within the sixty-day (60) grace period shall be treated as having an expired license shall be ineligible to practice until such license is reinstated.

(c) Military Active Duty. Licensees may be exempt from licensing requirements as provided in C.R.S. § 12-70-102.

(d) Continuing Professional Competence. Pursuant to C.R.S. §12-43-605 and Board Rule 18, effective January 1, 2011, Licensed professional counselors and shall demonstrate continuing professional competence in order to renew.

RULE 11 -- AUTHORITY TO INVESTIGATE (C.R.S. § 12-43-203)

An application for initial license, for renewal of a license, or for reinstatement of a license is an express grant to the Board of full authority to make any investigation or personal contact necessary to verify the authenticity of the matters and information stated in the application. If the Board so requests, the applicant shall supply verification, documentation and/or complete information on any disciplinary action taken against the applicant in any jurisdiction.

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

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

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

(c) Criteria. The Board has established the following criteria for determining whether an applicant possesses credentials and qualifications that are substantially equivalent to C.R.S. § 12-43-603. An applicant must submit sufficient information to establish that her/his credentials and qualifications meet the statutory requirements. The applicant has the burden of proof. The Board may require additional information from the applicant.

All of the following factors must be shown at the time of application for Colorado licensure by endorsement in order for the applicant to establish that her/his credentials and qualifications are substantially equivalent to the requirements of C.R.S. § 12-43-603:

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

(2) Applicant must certify that:

(A) Applicant has reported to the Board any injunction action entered against her/him and knows of no injunctive action pending against her/him or her/his license, certificate, listing or registration to practice professional counseling where the injunction or injunctive action relates to her/his practice of professional counseling or psychotherapy;

(B) Applicant has reported to the Board any malpractice judgment against her/him, and knows of no settlement of a malpractice action or claim against her/him, and knows of no malpractice action or claim pending against her/him where the malpractice alleged relates to her/his practice of professional counseling or psychotherapy;

(C) Applicant has reported to the Board any complaint pending before, investigation being conducted by, or disciplinary proceeding pending before the licensing, grievance, or disciplinary board of any jurisdiction in which s/he is licensed, registered, or certified to practice professional counseling where the complaint, investigation, or proceeding concerns practice as a licensed professional counselor or psychotherapy.

(D) Applicant has reported to the Board any misdemeanor or felony conviction(s).

(E) Applicant has reported to the Board any prior disciplinary action against applicant by another jurisdiction.

(3) Submit verification of licensure from each jurisdiction(s) in which applicant has ever been licensed, registered, listed or certified.

(4) Applicant holds a master's or doctoral degree in professional counseling from an accredited program or holds a master's or doctoral degree from a program that was equivalent to an accredited program in professional counseling as provided under Rule 14.

(5) At the time of application for a Colorado license by endorsement, the applicant demonstrates having passed an examination, the content of which tested competence to practice professional counseling, including special knowledge and skills in psychotherapy.

(6) Applicant demonstrates that s/he had at least two (2) years of post-master's or one year of post-doctoral practice in psychotherapy or professional counseling under supervision prior to licensure, certification, listing or registration in the jurisdiction through which the applicant seeks licensure in Colorado; or the applicant provides information satisfactory to the Board demonstrating her/his active practice of professional counseling for two (2) years (as defined below).

(A) "Active practice of professional counseling" means the applicant has engaged in the practice of professional counseling at least twenty (20) hours per week, averaged over the entire time s/he has been in practice, with no more than a six month absence from the practice of professional counseling. If the applicant has taught professional counseling, the applicant may count the hours spent teaching professional counseling (including time spent in preparation, in meeting with students, and in related activities) as hours of active practice of professional counseling provided such teaching was in courses in the same or similar field of professional counseling as the competence area claimed by the applicant; teaching of professional counseling shall not count more than one-third (1/3) of the number of active practice hours claimed by applicant.

(d) Licenses, certifications, or registrations from outside the United States. Applicants who are licensed, certified, listed or registered professional counselors in a jurisdiction outside the United States must submit their educational credentials for evaluation and satisfy the requirements of this Rule, and as provided under Rule 14.

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

RULE 13 -- REINSTATEMENT OF LICENSE (C.R.S. § 12-43-204)

(a) General. A license that has expired is subject to the following reinstatement provisions.

(b) Application requirements. To be considered for license reinstatement, an applicant must submit a completed reinstatement application form, and the reinstatement fee.

(c) Required statements.

(1) Each applicant for reinstatement shall certify the following:

(A) Every license, certificate, listing or registration to practice professional counseling held by the applicant is in good standing;

(B) Applicant has reported to the Board any injunction or disciplinary action completed or pending against her/his license, certificate, registration, or listing to practice psychotherapy or professional counseling;

(C) Applicant has reported to the Board any malpractice judgment against her/him, any settlement of a malpractice action or claim against her/him, and any malpractice action or claim pending against her/him in which the malpractice alleged relates to her/his practice of psychotherapy or professional counseling;

(D) Applicant has reported to the Board any complaint pending before, investigation being conducted by, or disciplinary proceeding pending before the licensing, grievance, or disciplinary board of any jurisdiction in which she/he is licensed, certified, registered or listed to practice psychotherapy or professional counseling in which the complaint, investigation, or proceeding concerns her/his practice of psychotherapy or professional counseling.

(2) Pending discipline or complaints. The Board may decline to issue a license to an applicant for reinstatement if disciplinary action is pending or if there is an unresolved complaint.

(d) Continuing Professional Competence. Pursuant to §12-43-605, C.R.S., effective January 1, 2011, licensed professional counselors shall demonstrate continuing professional competence in order to reinstate.

(1) An applicant for reinstatement must comply with all Continuing Professional Development requirements pursuant to Board Rule 18 within the two (2) years immediately preceding the application receipt date.

(e) Licenses Expired More than Two Years Criteria. The Board has established the following criteria for determining whether an applicant for reinstatement has demonstrated his/her continued professional competence as required by C.R.S. § 24-34-102(8)(d)(II). An applicant must meet all applicable criteria to establish her/his continued professional competence.

(1) License expired more than two years. In addition to the requirements set forth in Rule 13(d)(1), an applicant whose license has been expired more than two (2) years shall pass a Board approved jurisprudence examination and demonstrate her/his competency to practice by either:

(A) A written statement detailing work experience related to the practice of professional counseling or psychotherapy during the time the license has been expired. If work experience was in another jurisdiction(s), verification of licensure from each jurisdiction(s) is required; or

(B) Retaking and passing the National Board for Certified Counselors, Inc. Examination (NBCC); or

(C) Completion of an additional ten (10) Professional Development Hours as defined in Board Rule 18 for each year or portion thereof the license has been expired; or

(D) Other means determined by the Board.

RULE 14 -- LICENSURE BY EXAMINATION (C.R.S. §§ 12-43-603)

(a) Criteria for application.

(1) The applicant must submit to the Board a completed application for licensure, all fees, official transcript(s), and all supporting documentation required by the Board in order for the Board to review the application for licensure.

(2) An applicant for licensure must pass the required examination, meet the experience requirements, and become licensed within five (5) years of the date of initial application for licensure. If the applicant fails to become licensed within this time period, s/he must submit a new application and fee and must meet the educational, experience and examination requirements in effect at the time of the new application. Licensure

applicants have a continuing obligation to update their application with information of changes from the original application at any time prior to licensure. However, this may not apply in those exceptions allowable under statute concerning professional counselor candidates.

(b) Education and Training Requirements. Many graduate programs in professional counseling go under other names. Some programs labeled as counseling programs are not primarily focused on professional counseling. The Board has therefore established the following factors to determine whether or not a particular program from which an applicant for licensure received the master's or doctoral degree qualifies as a master's or doctoral program with a major in professional counseling or its equivalent in compliance with C.R.S. §§ 12-43-603(1)(c) and 12-43-601(6). To meet the statutory requirements, the master's or doctoral program must meet either (1) or (2), below:

(1) Accredited program. The applicant obtained a master's or doctoral degree from a program that was approved by the Council for Accreditation of Counseling and Related Educational Programs (CACREP); or

(2) Equivalent program. Candidates who graduated from a non-CACREP approved program must submit their educational credentials to a Board approved credentialing agency for evaluation and determination of whether the program satisfies the requirements of this Rule.

All of the following requirements shall be considered in order to establish equivalency:

(A) The required master's or doctoral level study and master's or doctoral degree were obtained from a regionally-accredited institution of higher learning;

(B) The program stood as a coherent and recognizable entity within the institution, offering an integrated and organized sequence of study planned to provide appropriate training for the practice of professional counseling;

(C) There was an identifiable full-time faculty, with an individual responsible for the program who was a full-time faculty member and who met the requirements for approval as a supervisor or a person who presents proof satisfactory to the Board, that at the time of serving as the faculty member, s/he possessed essentially the same education, experience, and training as that necessary to qualify for licensure under the Act.

(D) The program had an identifiable body of students who were matriculated in that program for a degree;

(E) The master's or doctoral program included examination and grading procedures designed to evaluate the degree of mastery of the subject matter by the students:

(1) Except as provided in Subsection (2) below, for a master's or doctoral degree, the curriculum must include a minimum of 48 semester hours or 72 quarter hours of graduate study (for the master's degree) or a minimum of 96 semester hours or 144 quarter hours of graduate study (for the doctoral degree) and supervised field experience of not fewer than 700 hours that was counseling in nature.

(2) An individual whose degree upon which licensure is to be based included less than 48 semester hours or 72 quarter hours for a master's degree or 96 semester hours or 144 quarter hours for a doctoral degree, who did not complete 700 hours of supervised professional practice as a part of the degree program, or who did not complete course work in all of the content areas required by Rule 14(b)(2)(G) may complete these requirements post-degree in order to obtain licensure, if:

(a) All course work and field experiences are completed through an institution of higher education that is accredited by a regional accrediting organization accepted by the Board through Rule 14(b)(3) or through a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP);

(b) All course work and field experiences are taken and passed for credit; and

(c) No more than six (6) semester credits or nine (9) quarter credits are completed post-degree for purposes of licensure.

(F) The core program required each student to demonstrate knowledge and skill competence in each of the following substantive content areas. Competence is demonstrated by passing suitable comprehensive examinations in each of the eight areas, successful completion of two or more graduate semester hours (three or more graduate quarter hours) in each of the eight areas, or by other suitable means as determined by the Board:

(1) Human growth and development - includes studies that provide a broad understanding of the nature and needs of individuals at any developmental level, normal and abnormal human behavior, personality theory, and learning theory within cultural contexts.

(2) Social and cultural foundations - includes studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, and differing lifestyles.

(3) Helping relationships - includes studies that provide a broad understanding of philosophic bases of helping processes, counseling theories and their applications, basic and advanced helping skills, consultation theories and their applications, client and helper self-understanding and self-development, and facilitation of client or consultee change.

(4) Groups - includes studies that provide a broad understanding of group development, dynamics, and counseling theories; group leadership styles; basic and advanced group counseling methods and skills; and other group approaches.

(5) Lifestyles and career development - includes studies that provide a broad understanding of career development theories; occupational and educational information sources and systems; career and leisure counseling, guidance, and education; lifestyle and career decision-making; career development program planning and resources; and effectiveness evaluation.

(6) Appraisal - includes studies that provide a broad understanding of group and individual educational and psychometric theories and approaches to appraisal, data and information-gathering methods, validity and reliability, psychometric statistics, factors influencing appraisals, and use of appraisal results in helping processes.

(7) Research and evaluation - includes studies that provide a broad understanding of types of research, basic statistics, research-report development, research implementation, program evaluation, needs assessment, and ethical and legal considerations.

(8) Professional orientation - includes studies that provide a broad understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, and professional credentialing.

If the course titles as stated on the transcript do not clearly reflect the subject matters listed above, the applicant must document the course or combination of courses in which the material was covered.

(G) If the master's or doctoral degree was awarded prior to September 1, 1992, the Board will accept the degree irrespective of the number of semester hours or quarter hours of graduate study required to obtain the degree, provided the core program required each student to demonstrate knowledge and skill competence in seven of the eight substantive content areas listed above.

(H) Only graduate level courses are acceptable as establishing equivalency. The Board will not accept coursework counted or credited toward an undergraduate degree.

(3) Foreign-trained applicants. Foreign-trained applicants must submit educational credentials to a credentialing agency utilized by the Board for evaluation of equivalency. After course equivalency is established, the Board will evaluate the educational credentials to determine whether or not the program is equivalent to a program approved by CACREP.

(c) Post-Graduate Experience Requirements.

The Board will approve post-master's or post-doctoral supervised practice as meeting the requirements for licensure set out in C.R.S. § 12-43-603(1)(d) when that practice satisfies the requirements of this subsection.

(1) Definitions. As used in C.R.S. § 12-43-603(1)(d) and this rule, unless the context indicates otherwise:

(A) "Individual supervision" means supervision rendered to one individual at a time.

(B) "Group supervision" means supervision rendered to not more than ten (10) individuals at one time.

(C) "Post-master's experience" or "post-doctoral experience" means experience under approved supervision acquired subsequent to the date certified by the degree-granting institution as that on which all requirements for the master's or doctoral degree (whichever is applicable) have been completed.

(D) "Practice in professional counseling" means all services included within the definition of psychotherapy in C.R.S. § 12-43-201(9) and

particularly those services and practices included within the definition of professional counseling in C.R.S. § 12-43-601(5).

(E) "Supervision" means personal direction and responsible direction provided by a supervisor approved by the Board.

(1) "Personal direction" means direction actually rendered by the approved supervisor.

(2) "Responsible direction" or "direction" means the approved supervisor has sufficient knowledge of all clients for whom supervision is provided, including face-to-face contact with the client when necessary, to develop and to monitor effective service delivery procedures and the supervisee's treatment plan. Further, all decisions requiring the special skill, knowledge, and/or training of a licensed professional counselor are made in collaboration with, and with the approval of, the approved supervisor. Such decisions include, but are not limited to: type, duration, effectiveness, and method of psychotherapy services provided; fees and billing procedures; approval of cases; and personal observation, evaluation, oversight, review, and correction of services provided by the supervisee.

(F) "Consultation" describes a voluntary relationship between professionals of relative equal expertise or status wherein the consultant offers her/his best advice or information on an individual case or problem for use by the consultee as s/he deems appropriate in her/his professional judgment. Consultation is not supervision. Experience under contract for consultation will not be credited toward fulfillment of supervision requirements.

(2) Certification of Completion. Each applicant shall file with the Board, upon forms supplied by the Board, a verified statement signed under penalty of law by their approved supervisor(s) attesting to the applicant's satisfactory completion of the required post-master's or post-doctoral practice of psychotherapy under supervision and attesting to the applicant's having met the generally accepted standards of practice during the supervised practice.

(3) Supervision.

(A) The Board may accept any of the following as a supervisor provided the proposed supervisor's experience is substantially equivalent to those within the scope of a licensed professional counselor:

(1) A licensed professional counselor who, at the time of the supervision, was licensed by the Board in the jurisdiction in which the applicant's services were performed.

(2) A licensed clinical social worker who, at the time of the supervision, was licensed by the Board in the jurisdiction in which the applicant's services were performed.

(3) A marriage and family therapist who, at the time of the supervision, was licensed by the Board in the jurisdiction in which the applicant's services were performed.

(4) A psychologist who, at the time of the supervision, was licensed by the Board in the jurisdiction in which the applicant's services were performed.

(B) The approved supervisor must keep records that document they have effectively trained, evaluated and credited the applicant for licensure. The records must reflect the exact number of hours of applicable post-master's or post-doctoral practice of psychotherapy and the exact number of hours of supervision completed in compliance with this Rule.

(4) Number of hours of post-master's practice in psychotherapy under supervision.

(A) The post-master's practice in psychotherapy under supervision cannot be completed in fewer than (24) twenty-four months and may involve supervision by more than one (1) supervisor as defined in these rules.

(B) The two (2) years of post-master's practice in psychotherapy under supervision required by C.R.S. § 12-43-603(1)(d) must include at least 2,000 hours of psychotherapy obtained in such a manner that they are reasonably uniformly distributed over a minimum of twenty-four (24) months.

(C) The teaching of the practice of psychotherapy may count up to 600 hours of post-master's practice in psychotherapy under supervision and up to thirty (30) hours of supervision, provided this teaching experience was supervised by a supervisor as defined in these rules.

(5) Number of hours of post-doctoral practice in psychotherapy under supervision.

(A) The post-doctoral practice in psychotherapy under supervision cannot be completed in fewer than twelve (12) months and may involve supervision by more than one supervisor as defined in these rules.

(B) The one year of post-doctoral practice in psychotherapy under supervision required by C.R.S. § 12-43-603(1)(d) must include at least 1,000 hours of psychotherapy obtained in such a manner that they are reasonably uniformly distributed over a minimum of twelve (12) months and must be documented as being completed not fewer than 60 days prior to the administration of the examination.

(C) The teaching of the practice of psychotherapy may count up to 300 hours of post-doctoral practice in psychotherapy under supervision and up to fifteen (15) hours of supervision, provided this teaching experience was supervised by a supervisor as defined in these rules.

(6) Number of hours of post-master's or post-doctoral supervision.

(A) For each 1,000 hours of supervised practice in psychotherapy, applicants must receive a minimum of 50 hours of supervision. A minimum of 35 of the 50 hours must be face-to-face supervision. The remaining hours up to the 50 hours may be by group supervision. No other modes of supervision will be accepted.

(B) The post-master's or post-doctoral supervision hours must be reasonably distributed over each 1,000 hours of supervised practice in psychotherapy in a manner consistent with the accrual of the hours of supervised post-master's or post-doctoral practice.

(C) With respect to supervision of the teaching of psychotherapy, the supervision hours must be reasonably distributed over the teaching experience in a manner consistent with the accrual of the hours of teaching experience.

(d) Examination. In accordance with C.R.S. §§ 12-43-203(3)(b), 12-43-603(1)(e), and 12-43-603(4), the Board establishes these requirements for the licensing examination to demonstrate professional competence in professional counseling, including special knowledge and skill in psychotherapy.

(1) Jurisprudence Examination. Applicants shall be required to pass a Board developed jurisprudence examination.

(2) National Examination. The examination in professional counseling shall be the counselor certification examination administered under contract with the National Board for Certified Counselors, Inc. (NBCC).

- (A) Reexamination. In the event an applicant fails to receive a passing grade on the examination, s/he may apply to the NBCC for reexamination and is subject to the requirements of NBCC.
- (3) Application. An applicant for licensure shall apply directly to the NBCC, or such other testing service the Board may contract with at the time, to sit for the appropriate examination.
- (A) A student in their last semester or quarter of either a CACREP approved or non-CACREP approved graduate degree program may apply directly to the NBCC to sit for the professional counselor examination.
- (4) Exam Results. Examination results will be valid for up to five (5) years after the date of the examination.

**RULE 15 – MILITARY EDUCATION, TRAINING AND EXPERIENCE
(C.R.S. § 24-34-102(8.5))**

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

**RULE 16 -- RECORDS REQUIRED TO BE KEPT AND RECORD
RETENTION (C.R.S. §§ 12-43-203(3), 12-43-222(1)(u))**

- (a) General. Every licensed professional counselor shall create and shall maintain a record as defined in subsection (b) of this rule for each client, this record shall be retained for a period of seven (7) years, commencing on either the termination of professional counseling services or the date of last contact with the client, whichever is later. Exception. When the client is a child, the record shall be retained for a period of seven (7) years commencing either upon the last day of treatment or when the child reaches eighteen (18) years of age, whichever comes later, but in no event shall records be kept for more than twelve (12) years.
- (b) The record shall contain, as applicable to the mental health services rendered, the following information:

- (1) Name of treating therapist;

(2) Client's identifying data to include name, address, telephone number, gender, date of birth, and if applicable the name of the parent or guardian. If the client is an organization, the name of the organization, telephone number and name of the principal authorizing the mental health provider's services or treatment;

(3) Reason(s) for the psychotherapy services;

(4) Mandatory disclosure statement(s);

(5) Dates of service including, but not limited to the date of each contact with client, the date on which services began, and the date of last contact with client;

(6) Types of service;

(7) Fees;

(8) Any release of information;

(9) The record shall justify and describe the assessment, diagnosis and therapy/treatment administered in a legible document. The records must be prepared in a manner that allows any subsequent provider to yield a comprehensive conclusion as to what occurred;

(10) Name of any test administered, each date on which the test was administered, and the name(s) of the person(s) administering the test;

(11) A final closing statement (if services are over).

(d) Record Storage. Every professional counselor shall keep and store client records in a secure place and in a manner that both assures that only authorized persons have access to the records and protects the confidentiality of the records and of the information contained of the records.

(e) Transfer of Records. Whenever a professional counselor deems it necessary to transfer her/his records to another professional counselor or other health care provider, the professional counselor making the transfer shall obtain the client's consent to transfer (when possible).

(f) Disposition of Records. If the professional counselor is not available to handle her/his own records, the professional counselor and /or his estate shall designate an appropriate person to handle the disposition of records. A plan for the disposition of records shall be in place for all professional counselors for the following conditions:

- (1) Disability, illness or death of the professional counselor.
- (2) Termination of the professional counselor's practice.
- (3) Sale or transfer of a practice.

(g) Record destruction. Every professional counselor shall dispose of client records in a manner or by a process that destroys or obliterates all client identifying data. However, records cannot be destroyed until after seven (7) years or as otherwise provided in these rules or any other applicable statutes or rules.

(h) Record Keeping in agency/institutional setting. A professional counselor need not create and maintain client records if the professional counselor practices in an agency or institution and if the professional counselor:

- (1) Sees the client in the usual course of that practice;
- (2) Keeps client records as required by the agency or institution, and;
- (3) The agency or institution maintains client records.

RULE 17 -- RELIGIOUS MINISTRY EXEMPTIONS (C.R.S. § 12-43-215(1))

(a) Whenever an exemption from the Board's jurisdiction is claimed based on an assertion of the practice of religious ministry as stated in C.R.S. § 12-43-215(1), the Board shall consider factors, including but not limited to those listed below, which, taken together and placed within the context of the incident in question, would tend to reasonably indicate that the person seeking the exemption was engaged in the practice of religious ministry. Before taking action on a complaint, the Board shall consider the following factors and other information that indicates the person claiming exemption was not engaged in the practice of religious ministry at the time of the alleged violation of the statute. If the Board determines that this exemption applies, and the Licensee *was* practicing religious ministry, The Board will have no jurisdiction to take any further action on the complaint.

(b) In determining whether or not the practice of psychotherapy has occurred, the Board analyzes activities and the basic nature of the interaction among the persons involved. The analysis focuses on what occurred, on how it occurred, and on why it occurred.

(c) Factors.

- (1) Whether the client or guardian had received notice or reasonably understood that the therapy in question was a part of religious practice/ministry.
- (2) Whether the client or guardian was seeking therapy from a religious organization to which the complainant belonged at any time.
- (3) Whether a written agreement or disclosure existed that stated that the therapy in question was part of religious practice/belief.
- (4) Whether the therapy services were conducted in a house of worship or on property belonging to a religious organization.
- (5) Whether the provider of the therapy services normally represents him or herself as a religious official who is counseling as part of a religious ministry.
- (6) Whether the therapy services were part of an on-going relationship, formed because the provider is spiritual counselor to the client.
- (7) Whether the provider of therapy services holds a position of trust within a religious organization.
- (8) Whether the provider of the therapy services advertises psychotherapy services to the general public for a fee.
- (9) Whether the provider of the therapy services collects fees or expects/requires donations, offerings, tithes, etc.
- (10) Whether the therapy services provided are based on any religious orientation or viewpoint.
- (11) Whether the provider engaged in the practice of therapy services is accountable or subject to any religious organization or person for misdeeds or acts of misconduct.
- (12) Whether the provider of therapy services is a member of a religious organization recognized by the Internal Revenue Service. Does the organization hold 501(C)(3) tax-exempt status.
- (13) Whether the provider of therapy services is trained in theology or any other field, area, or specialty related to the study of a religious or spiritual orientation.
- (14) Whether the service provided within was in a private practice setting.

(15) Whether the provider of the therapy services has a declaration of religious mission or a statement identifying the religious views or beliefs of the organization or person, if the provider is not accountable to a recognized religious organization or person.

(16) Whether the provider of therapy services is recognized by consumers as a religious minister or spiritual healer.

RULE 18 -- CONTINUING PROFESSIONAL COMPETENCE (C.R.S. § 12-43-605)

Effective January 1, 2011, licensed professional counselors shall demonstrate continuing professional competence through participation and compliance with the Continuing Professional Development program in order to renew, reinstate or reactivate a license to practice professional counseling in the State of Colorado.

(a) Definitions.

(1) Continuing Professional Competence. Continuing Professional Competence (CPC) means the ongoing ability of a licensed professional counselor to learn, integrate and apply the knowledge, skill, and judgment to practice according to generally accepted industry standards and professional ethical standards in a designated role and setting.

(2) Continuing Professional Development. Continuing Professional Development (CPD) is the program through which a Licensee satisfies the Continuing Professional Competence requirements set forth in C.R.S. §12-43-605 to renew, reinstate or reactivate a license.

(3) Continuing Professional Development Portfolio. The Continuing Professional Development Portfolio (CPD Portfolio) is an instructional guide and workbook for the CPD program.

(4) Professional Development Hours. Professional Development Hours (PDH) are the units of measurement of active learning used to accrue credit in the CPD program. PDH are equivalent to clock hours.

(5) Professional Development Activities. Professional Development Activities (PDA) are Board approved learning activities undertaken for the purpose of continuing professional development.

(6) Professional Practice Survey. The Professional Practice Survey (“Survey”) is a reflective practice tool that identifies the foundational knowledge areas of the profession by one’s professional role.

(7) Personal Learning Plan. The Personal Learning Plan (“Learning Plan”) is a document used to plan and record learning for each renewal cycle in the CPD program.

(b) Requirements.

(1) Licensed professional counselors shall demonstrate continuing professional competence through participation and compliance with the Continuing Professional Development program in order to renew, reinstate or reactivate a license to practice professional counseling in the State of Colorado.

(2) Licensees must complete the following requirements in accordance with the current CPD Portfolio:

(A) Professional Practice Survey

(B) Learning Plan

(C) Documentation of their PDA and PDH.

(c) Professional Practice Survey. The Professional Practice Survey should be completed prior to renewing, reinstating or reactivating a license.

(d) Learning Plan. Licensees shall draft a Personal Learning Plan based upon the Professional Practice Survey. The Learning Plan shall consist of PDA as set forth in Rule 18(f). Licensees shall execute their Learning Plan by completing all PDAs and PDHs before the date upon which they renew their license. Changes to the Learning Plan shall not be allowed after renewing, reinstating or reactivating a license.

(e) Professional Development Hours. Licensees shall complete forty (40) PDH each renewal cycle in order to renew their license.

(1) Licensees shall document their completion of their PDA and PDH according to the guidelines set forth in the current CPD Portfolio. Licensees should be prepared to submit documentation of their CPD compliance upon request by the Board.

(2) No more than twenty (20) PDH in a single Professional Development Activity shall be credited and recognized each renewal cycle.

(3) Licensees receiving an original, reinstated or reactivated license during the renewal cycle must accrue one point sixty six (1.66) PDH for each month or portion thereof they are licensed during the current renewal cycle.

(4) A maximum of five (5) PDH may be carried from the last renewal cycle to the next renewal cycle if the PDH were earned within six (6) months of license expiration and are in excess of the forty (40) PDH required for the current renewal cycle.

(5) Licensees shall retain documentation of their CPD compliance for a minimum of five (5) years from the license expiration date for the renewal cycle during which PDH were accrued.

(f) Professional Development Activities. To qualify for PDH credit, Licensees must select PDA that are allowed by the Board.

(1) The Board allows the following PDA:

(A) Volunteer Service

(B) Mentor/Supervision

(C) Presenting

(D) Coursework

(E) Independent Learning

(F) Group Learning

(2) Professional Development Activities must enhance, improve or develop the Licensee's competence as a Licensee. The Licensee should be able to show or describe how the activity either provided new knowledge or skills, or how they were able to sharpen or hone existing skills by synthesizing new knowledge.

(3) It is within the discretion of the Board to deny credit for any PDH that does not meet the criteria set forth in the current CPD Portfolio or the definition of Continuing Professional Competence contained in C.R.S. §12-43-605(3).

(4) Unacceptable Professional Development Activities. The following types of activities are ineligible for credit: serving on a federal, state or municipal board or commission.

(g) Deem Status.

(1) To be eligible for Deem Status pursuant to C.R.S. §12-43-605(1)(c), , a State Department CPC program must satisfy the definition of Continuing

Professional Competence pursuant to C.R.S. §12-43-605(3). Employees and contractors of qualifying programs in State Departments shall be deemed to have met the CPC requirements.

(2) Licensees deemed to have met the CPC requirements are subject to an audit. The audit shall review the program for which the Licensee has justified their Deem Status to ensure that it meets the definition of CPC outlined in C.R.S. § 12-43-605(3) and shall verify the Licensee's successful completion of the program.

(3) Licensees found to have falsified their Deem Status or who attested their fulfillment of CPC requirements for an unqualified State Department program, are subject to discipline by the Board.

(h) Exemptions.

(1) Military Service. The Board may grant exemptions from the CPD program requirements pursuant to C.R.S. § 12-70-102, including but not limited to, military personnel who have been called to federally funded active duty for more than 120 days for the purpose of serving in a war, emergency, or contingency from the payment of any professional or occupational license, certification or registration fees, including renewal fees, and from continuing professional competency requirements for a renewal cycle that falls within the period of service within the six (6) months following the completion of service in the war, emergency or contingency.

(2) Dual Licensure. The Board may grant an exemption from the CPD requirement if the Licensee has fulfilled the CPD requirements set forth in: C.R.S. § 12-43-411; C.R.S. § 12-43-506; or C.R.S. §12-43-805, C.R.S.

RULE 19 --INACTIVE LICENSE STATUS AND REACTIVATION OF LICENSE (C.R.S. § 12-70-101)

(a) Inactive status. Pursuant to C.R.S. §12-70-101, any Licensee may apply to the Board to be transferred to an inactive status. Such application shall be in the form and manner designated by the Board. The holder of an inactive license shall not be required to comply with the continuing competency requirements for renewal so long as they remain inactive.

(1) During such time as a Licensee remains in an inactive status, they shall not perform those acts restricted to active licensed professional counselors pursuant to C.R.S. §12-43-601(5). The Board shall retain jurisdiction over inactive licensees for the purposes of disciplinary action pursuant to C.R.S. §12-43-221(1)(d).

(2) Practicing with an inactive license shall constitute unlicensed practice and, therefore, may be grounds for disciplinary or injunctive action, up to and including revocation.

(b) Reactivation requirements. To be considered for license reactivation, an applicant must submit a completed reactivation application and the reactivation fee.

(c) Required statements.

(1) Each applicant for reactivation shall certify the following:

(A) Every license, certificate, or registration to practice professional counseling held by the applicant is in good standing;

(B) Applicant has no knowledge of any injunction or disciplinary action completed or pending against her/his license, certificate, registration, or listing to practice psychotherapy or professional counseling;

(C) Applicant has no knowledge of any malpractice judgment against her/him, has no knowledge of any settlement of a malpractice action or claim against them, and has no knowledge of any malpractice action or claim pending against her/him, where the malpractice alleged relates to her/his practice of psychotherapy or professional counseling;

(D) Applicant has no knowledge of any complaint pending, investigation being conducted by, or disciplinary proceeding pending before the licensing, grievance, or disciplinary board of any jurisdiction in which she/he is licensed, certified, registered, or listed to practice psychotherapy or professional counseling where the complaint, investigation, or proceeding concerns her/his practice of psychotherapy or professional counseling.

(2) The Board may decline to issue a license to an applicant for reactivation if disciplinary action is pending or if there is an unresolved complaint.

(d) Continuing Professional Competence. Pursuant to C.R.S. §12-43-605, effective January 1, 2011, Licensees shall demonstrate continuing professional competence in order to reactivate.

(1) An applicant for reactivation must comply with all Continuing Professional Development reactivation requirements pursuant to Board

Rule 18 within the two (2) years immediately preceding the application receipt date.

(e) Licenses inactive more than two (2) years. The Board has established the following criteria for determining whether an applicant for reactivation has demonstrated competency to practice as required by C.R.S. §12-43-204(3).

(1) In addition to the requirements set forth in Rule 19(d)(1), an applicant whose license has been inactive more than two (2) years shall pass a Board approved jurisprudence examination and demonstrate her/his competency to practice by either:

(A) A written statement detailing work experience related to the practice of professional counseling or psychotherapy during the time the license has been inactive. If work experience was in another jurisdiction(s), verification of licensure from each jurisdiction(s) is required; or

(B) Retaking and passing the National Board for Certified Counselors, Inc. Examination (NBCC); or

(C) Completion of an additional ten (10) Professional Development Hours as defined in Board Rule 18 for each year or portion thereof the license has been inactive; or

(D) Other means determined by the Board.

RULE 20 - IMPOSITION OF ADMINISTRATIVE FINES (C.R.S. § 12-43-223(1)(b))

(a) Fines; Non-Exclusive Sanction. The Board, in its discretion, may impose a fine or fines in lieu of, or in addition to, any other disciplinary sanction. The term “Licensee” as contemplated under C.R.S. § 12-43-223(1)(b) and this Rule shall include any person who has been licensed at any time under the Mental Health Practice Act to practice Licensed Professional Counseling.

(b) Fine for Each Violation. Pursuant to C.R.S. § 12-43-223(1)(b) provides authority for The Board to impose an administrative fine against a licensed professional counselor for a violation of an administrative requirement. The Board, in its discretion, may impose a separate fine for each violation and shall consider the nature and seriousness of the violation prior to imposing any fine.

(c) Fines: Schedule of Fines. The Board may so impose a fine or fines consistent with the following schedule:

(1) For a Licensee's first violation, a fine of no more than one thousand dollars (\$1,000.00).

(2) For a Licensee's second violation, a fine of no more than two thousand five hundred dollars (\$2,500.00).

(3) For a Licensee's third and any additional or subsequent violations, a fine of no more than five thousand dollars (\$5,000.00).

In a disciplinary proceeding, in which fines are sought to be imposed, the Board in determining the number of a Licensee's violations for purposes of application of the above schedule, the Board may count as a violation, each prior violation adjudicated against the Licensee in a prior disciplinary proceeding.

(d) Payment of Fines.

(1) Fine Amount; When Due. A total fine amount of five hundred dollars (\$500.00) or less imposed by the Board must be paid in full, including the applicable surcharge, at the time the Final Agency Order is entered or a Stipulation is reached between the parties. A total fine amount greater than five hundred dollars (\$500.00) imposed by the Board must be paid in full, including the applicable surcharge, in accordance with the time frame set forth in the Final Agency Order or Stipulation.

(2) Delinquent Payment Consequences. A Licensee who fails to pay a fine imposed under this rule when due as defined above or pursuant to a Final Agency Order or Stipulation may be subject to further discipline, including suspension or revocation of his or her License to Practice. C.R.S. § 12-43-222(1)(b) provides that violation of an order of the Board is a Prohibited Activity.

(e) Compliance With Law. Payment of a fine does not exempt the Licensee from continuing compliance with the Mental Health Practice Act or any orders of the Board.

RULE 21 - CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE FOR PHYSICAL OR MENTAL ILLNESS (C.R.S. § 12-43-221.5)

A licensed professional counselor is only subject to disciplinary action for a physical or mental illness if the licensed professional counselor fails to: comply with the limitations of a Confidential Agreement entered into pursuant to Section C.R.S. § 12-43-221.5; fails to act within the limitations created by the physical or mental illness or condition; or fails to notify the Board of a physical or mental illness or condition that impacts a licensed professional counselor's ability to perform a Professional Service with reasonable skill and safety to Clients.

(a) Notice to Board. No later than thirty (30) days from the date a physical or mental illness or condition impacts a Licensee's ability to perform Professional Services with reasonable skill and safety, the Licensee shall provide the Board, in writing, the following information:

- (1) the diagnosis and a description of the illness or condition;
- (2) the date that the illness or condition was first diagnosed;
- (3) the name of the current treatment provider and documentation from the current treatment provider confirming the diagnosis, date of onset, and treatment plan;
- (4) 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 illness or condition;
- (5) 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.

(b) Change of Circumstances; Further Notice. 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 Professional Service with reasonable skill and safety. The Licensee must notify the Board of a positive or negative change of condition. Such notification shall occur within thirty (30) days of the change of condition. The Licensee shall provide the Board, in writing, the following information:

- (1) The date of the change of condition;
- (2) 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;
- (3) 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;
- (4) whether the Licensee has been evaluated by, or is currently receiving services from, the peer health assistance program related to the change of condition and, if so, the date of initial contact and whether services are ongoing.

(c) Confidential Agreement; Board Discretion. Compliance with this rule is a prerequisite for eligibility to enter into a Confidential Agreement with the Board pursuant to C.R.S. § 12-43-221.5. However, mere compliance with this rule does not require the Board to negotiate regarding, or enter into, a Confidential Agreement. Rather, the Board will evaluate all facts and circumstances to determine if a Confidential Agreement is appropriate.

(d) Failure to Notify. If the Board discovers that a Licensee has a mental or physical illness or condition that impacts the Licensee's ability to perform a Professional Service with reasonable skill and safety and the Licensee has not timely notified the Board of such illness or condition as required under these rules, the Licensee shall not be eligible for a Confidential Agreement and may be subject to disciplinary action for failure to notify under C.R.S. § 12-43-221.5(1), and other related violations contemplated under C.R.S. § 12-43-222(f).