

DEPARTMENT OF REGULATORY AGENCIES

STATE BOARD OF ADDICTION COUNSELOR EXAMINERS

4 CCR 744-1

Index

AUTHORITY 2
SCOPE AND PURPOSE 2
RULE 1 -- DEFINITIONS..... 2
RULE 2 -- PUBLIC PARTICIPATION AT BOARD MEETINGS (C.R.S. §§ 12-43-203, 12-43-221)..... 3
RULE 3 -- CONFIDENTIALITY OF PROCEEDINGS AND RECORDS OF THE BOARD (C.R.S. § 12-43-218, 12-43-221, 12-43-224(4))..... 3
RULE 4 -- DECLARATORY ORDERS (C.R.S. § 24-4-105(11)) 4
RULE 5 -- MANDATORY DISCLOSURE STATEMENT (C.R.S. §§ 12-43-214, 12-43-222(1)(p))..... 6
RULE 6 -- INFORMATION REQUIRED TO BE REPORTED TO THE BOARD (C.R.S. §§ 12-43-224(8), 12-43-224(9))..... 6
RULE 7 -- SUPERVISION OF MENTAL HEALTH PRACTITIONERS AND SUPERVISORY RELATIONSHIPS (C.R.S. §§ 12-43-221(2), 12-43-222(1)(n))..... 7
RULE 8 -- REPORTING CHANGE OF ADDRESS, TELEPHONE NUMBER, OR NAME (C.R.S. §§ 12-43-203, 12-43-205) 9
RULE 9 -- RENEWAL OF LICENSE (C.R.S. § 12-43-204(3)) 9
RULE 10 -- DUPLICATE OR REPLACEMENT LICENSE (C.R.S. §§ 12-43-205, 12-43-207) 10
RULE 11 -- AUTHORITY TO INVESTIGATE (C.R.S. § 12-43-203)..... 10
RULE 12 --- LICENSURE BY ENDORSEMENT (C.R.S. § 12-43-206) 10
RULE 13 -- REINSTATEMENT OF AN EXPIRED LICENSE OR CERTIFICATE (C.R.S. § 12-43-204).....11
RULE 14 – MILITARY EDUCATION, TRAINING AND EXPERIENCE (C.R.S. § 24-34-102(8.5))..... 13
RULE 17 -- CONTINUING PROFESSIONAL COMPETENCE (C.R.S. 12-43-805)..... 16
RULE 18 -- INACTIVE LICENSE STATUS AND REACTIVATION OF LICENSE 20
RULE -- 19 IMPOSITION OF ADMINISTRATIVE FINES (C.R.S. § 12-43-223(1)(b))... 21
RULE 20 -- CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE FOR PHYSICAL OR MENTAL ILLNESS (C.R.S. § 12-43-221.5)..... 22

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 8	Addiction Counselors	12-43-801 - 12-43-805

Part 2 contains general provisions applicable to all Mental Health Professionals. Part 8 applies specifically to addiction counselors.

The State Board of Addiction Counselor Examiners was newly created by legislation effective July 1, 2011 which amended Part 8 relating to addiction counselors.

Certain other rules promulgated by the Department of Human Services also apply to addiction counselors. These relevant statutes authorizing such promulgation include C.R.S. §§ 27-80-108 (1)(e) and 12-43-804(3) similarly authorizing such Board to promulgate certification requirement rules, with the approval of the State Board Of Addiction Counselor Examiners.

SCOPE AND PURPOSE

These rules were promulgated in order to carry out the powers and duties of the State Board of Addiction Counselor Examiners pursuant to C.R.S. §§12-43-203 and 12-43-802. The rules affect every person seeking Colorado certification or licensure as an addiction counselor, and every person who practices as a certified or licensed addiction 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 12-43-801, unless the context requires otherwise, as used in these Rules:

- (a) “The Board” means the State Board of Addiction Counselor Examiners established pursuant to 12-43-802.

(b) “Certificate Holder” or “Licensee” as contemplated under C.R.S. § 12-43-223(1)(b) shall include any person who has been certified or licensed as an addiction counselor at any time under the Mental Health Practice Act.

(c) “Certificate Holder or Licensee in good standing” means a Certificate or License to practice Addiction Counseling is not restricted in any manner.

(d) “DHS Rules” shall mean the rules relating to certification requirements for Addiction Counselors and related rules promulgated by the State Board of Human Services pursuant to C.R.S. § 27-80-108(1)(e) and C.R.S. § 12-43-804(3). The rules as promulgated are contained in 6 CCR 1008-3 “Addiction Counselor Certification and Licensure.”

(e) ” Director” means the Board’s Program Director and staff.

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 discretion, the granting of the request will not result in delay or disruption of the Board’s meeting.

(b) Except in unusual circumstances and in the Board’s sole discretion, the Board will rely exclusively on written materials during its initial consideration of inquiries and the Board 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 certified Addiction Counselor or Licensed Addiction Counselor.

(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, in its discretion, may take one or more of the following actions:

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

(2) The Board may request that the petitioner 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) If the recipient of addiction counselor 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), the mandatory disclosure is made to the guardian or legal representative.

(2) "Emergency" means those situations in which, on presentation, the client's condition requires immediate intervention and/or stabilization.

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

(a) General. Certified and licensed addiction 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 or as otherwise provided by DHS Rules. Certified or licensed addiction 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 certified or licensed addiction 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 certified or licensed addiction 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 required by statute.

RULE 7 -- SUPERVISION OF MENTAL HEALTH PRACTITIONERS AND SUPERVISORY RELATIONSHIPS (C.R.S. §§ 12-43-221(2), 12-43-222(1)(n))

(a) General. 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 certification or licensure as an addiction counselor.

(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 an addiction 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) Certificate Holders and 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 -- RENEWAL OF LICENSE (C.R.S. § 12-43-204(3))

(a) Failure to Receive Renewal Notice. Failure to receive notice for renewal of a license or certificate from the Board does not excuse a certified or licensed addiction counselor from the requirement for renewal under the Act and this Rule.

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

(c) Continuing Professional Competence. Pursuant to C.R.S. §12-43-805 and Rule 17, effective January 1, 2011, licensed addiction counselors and certified addiction counselors Levels II and III shall demonstrate continuing professional competence in order to renew.

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

RULE 10 -- 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 11 -- AUTHORITY TO INVESTIGATE (C.R.S. § 12-43-203)

An application for initial licensure or certification, for renewal of licensure or certification, or for reinstatement of licensure or certification 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 must 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. § 12-43-804. 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. § 12-43-804 and as otherwise required by DHS Rules:

- (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 certified or licensed addiction 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.
 - (d) Licenses, certifications, or registrations from outside the United States. Applicants who are licensed, certified, listed or registered in a jurisdiction outside the United States must submit their educational credentials for evaluation and satisfy the requirements of this Rule.
 - (e) Jurisprudence Examination. Each applicant shall pass a Board developed jurisprudence examination.

**RULE 13 -- REINSTATEMENT OF AN EXPIRED LICENSE OR CERTIFICATE
(C.R.S. § 12-43-204)**

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

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

(c) Required statements. Each applicant for reinstatement shall certify the following:

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

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

(3) 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 addiction counseling or psychotherapy.

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

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

(e) Continuing Professional Competence. Pursuant to C.R.S. §12-43-805, effective January 1, 2011, licensed addiction counselors and certified addiction counselors Levels II and III shall demonstrate continuing professional competence in order to reinstate.

(1) An applicant for reinstatement must comply with all Continuing Professional Development requirements pursuant to Rule 17 within the two (2) years immediately preceding the application receipt date.

(f) Criteria. The Board has established the following criteria for determining whether an applicant for reinstatement has demonstrated competency to practice as required by §12-43-204(3), C.R.S. An applicant must meet all applicable criteria to establish her/his continued professional competence

(1) Registration expired more than two years. An applicant whose license or certificate has been expired more than two (2) years shall pass a Board approved jurisprudence examination and either:

(A) A written statement detailing work experience related to the practice of addiction

counseling or psychotherapy during the time the license or certificate has been expired. If work experience was in other jurisdiction(s), verification of licensure or certification from each jurisdiction(s) is required; or

(B) Retaking and passing the appropriate examination which covers the general areas of knowledge in addiction counseling which shall be approved by the Board. Addiction counselor reinstatement applicants shall take the appropriate examination required for the level of licensure or certification sought, as applicable; or

(C) Completion of an additional ten (10) Professional Development Hours as defined in Rule 17 for each year or portion thereof the license or certificate has been expired; or

(D) Other means determined by the Board.

RULE 14 – 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 15 RECORDS REQUIRED TO BE KEPT AND RECORD RETENTION (C.R.S. §§ 12-43-203(3), 12-43-222(1)(u))

(a) General. Every certified addiction counselor and licensed addiction 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.

(b) Record. Every addiction counselor shall maintain, as applicable to the mental health services provided, a record containing 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 records must be legible and 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) Information on each referral made to and each consultation with another therapist or other health care provider. This information shall include the date of referral or consultation, the name of the person to whom the client was referred, the name of the person with whom consultation was sought; the outcome (if known) of the referral, and the outcome (if known) of the consultation;
- (12) Records of counseling, interview notes, correspondence, audio or visual recordings, electronic data storage, and other documents considered professional information for use in counseling; and
- (13) A final closing statement (if services are over).

(c) Record Storage. Every certified or licensed addiction 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.

(d) Transfer Of Records. Whenever an addiction counselor deems it necessary to transfer her/his records to another certified or licensed addiction counselor or other health care provider, the certified or licensed addiction counselor making the transfer shall obtain the client's consent to transfer (when possible).

(e) Disposition of Records. If the certified or licensed addiction counselor is not available to handle her/his own records, the certified or licensed addiction 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 certified or licensed addiction counselors for the following conditions:

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

(f) Record destruction. Every certified or licensed addiction 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.

(g) Record Keeping in agency/institutional setting. An addiction counselor need not create and maintain client records if the certified or licensed addiction counselor practices in an agency or institution and if the certified or licensed addiction 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 16 -- 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.

RULE 17 -- CONTINUING PROFESSIONAL COMPETENCE (C.R.S. 12-43-805)

Pursuant to C.R.S. §12-43-805, effective January 1, 2011, licensed addiction counselors and certified addiction counselors Levels II and III 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 Addiction Counseling in the State of Colorado.

(a) Definitions.

(1) Continuing Professional Competence. Continuing Professional Competence (CPC) means the ongoing ability of a licensed addiction counselors and certified addiction counselors Levels II and III 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 licensed addiction counselors and certified addiction counselors Levels II and III satisfies the Continuing Professional Competence requirements set forth in C.R.S. §12-43-805 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 cycle in the CPD program.

(b) Requirements.

(1) Licensed addiction counselors and certified addiction counselors Levels II and III 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 addiction counseling in the State of Colorado.

(2) Licensed addiction counselors and certified addiction counselors Levels II and III 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. Certified and licensed addiction counselors shall draft a Personal Learning Plan based upon the Professional Practice Survey. The Learning Plan shall consist of PDA as set forth in Rule 17(f). Addiction counselors shall execute their Learning Plan by completing all PDA and PDH 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. Certified and licensed addiction counselors shall complete forty (40) PDH each renewal cycle in order to renew their license or certification.

(1) Certified and licensed addiction counselors shall document their completion of their PDA and PDH according to the guidelines set forth in the current CPD Portfolio. Certified and licensed addiction counselors 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) Certified and licensed addiction counselors receiving an original, reinstated or reactivated certificate or license during the renewal cycle must accrue one point sixty six (1.66) PDH for each month or portion thereof they are certified or 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) Certified and licensed addiction counselors shall retain documentation of their CPD compliance for a minimum of five (5) years from the certificate or license expiration date for the renewal cycle during which PDH were accrued.

(f) Professional Development Activities. To qualify for PDH credit, certified and licensed addiction counselors must select PDA that are allowed by the Board.

(1) The Board allows the following PDA:

- (A) Volunteer Service;
- (B) Mentoring;
- (C) Presenting;
- (D) Supervision;
- (E) Coursework;
- (F) Independent and Group Learning.

(2) Professional Development Activities develop your professional skill and must be directly relevant to the certified or licensed addiction counselor's competence in the Behavioral Health field. Professional Development Hours cannot be accrued for activities that fulfill duties for one's primary role or job description.

(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 §12-43-805(3), C.R.S.

(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. §12-43-805(1)(C), a State Department CPC program must satisfy the definition of Continuing Professional Competence pursuant to §12-43-805(3), C.R.S. Employees and contractors of qualifying programs in State Departments shall be deemed to have met the CPC requirements.

(2) Certified and licensed addiction counselors deemed to have met the CPC requirements are subject to an audit. The audit shall review the program for which the certified or licensed addiction counselor has justified their Deem Status to ensure that it meets the definition of CPC outlined in §12-43-805(3), C.R.S and shall verify the certified or licensed addiction counselor's successful completion of the program.

(3) Certified or licensed addiction counselors 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 addiction counselor has fulfilled the CPD requirements set forth in: C.R.S. § 12-43-411; C.R.S. § 12-43-506; or C.R.S. §12-43-605.

RULE 18 -- INACTIVE LICENSE STATUS AND REACTIVATION OF LICENSE

(a) Inactive status. Pursuant to C.R.S. § 12-70-101, any certified or licensed addiction counselor 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 certificate or license shall not be required to comply with the continuing competency requirements for renewal so long as he or she remains inactive.

(1) During such time as a certified or licensed addiction counselor remains in an inactive status, he or she shall not perform those acts restricted to active certified or licensed addiction counselors pursuant to C.R.S. § 12-43-803. The Board shall retain jurisdiction over inactive certified or licensed addiction counselor for the purposes of disciplinary action pursuant to C.R.S. § 12-43-221(1)(d).

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

(b) Reactivation requirements. To be considered for certificate or 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 addiction counseling held by the applicant is in good standing;

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

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

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

(2) The Board may decline to issue a certificate or 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. §12-43-805, effective January 1, 2011, licensed addiction counselors and certified addiction counselors Levels II and III 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 Rule 17 within the two (2) years immediately preceding the application receipt date.

(e) Additional criteria for a certificate or a license 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) An applicant whose certificate or license has been inactive more than two (2) years shall pass a Board approved jurisprudence examination and either:

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

(B) Retaking and passing the appropriate examination which covers the general areas of knowledge in addiction counseling which shall be approved by the Board. Addiction counselor reactivation applicants shall take the appropriate examination required for the level of licensure or certification sought; or

(C) Completion of an additional ten (10) Professional Development Hours as defined in Rule 17 for each year or portion thereof the certificate or license has been inactive; or

(D) Other means determined by the Board.

RULE -- 19 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 addiction counselor as contemplated under C.R.S. § 12-43-223(1)(b) and this Rule shall include any person who has been Certified or Licensed at any time under the Mental Health Practice Act to practice addiction 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 an addiction 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 an addiction counselor's first violation, a fine of no more than one thousand dollars (\$1,000.00).

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

(3) For an addiction counselor'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 violations for purposes of application of the above schedule, may count as a violation, each prior violation adjudicated against the addiction counselor 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. An Addiction counselor 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 Addiction counselor from continuing compliance with the Mental Health Practice Act or any orders of the Board.

RULE 20 -- CONFIDENTIAL AGREEMENTS TO LIMIT PRACTICE FOR PHYSICAL OR MENTAL ILLNESS (C.R.S. § 12-43-221.5)

(a) Notice to Board. No later than thirty (30) days from the date a physical or mental illness or condition impacts an addiction counselor's ability to perform professional services with

reasonable skill and safety, the addiction counselor 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 addiction counselor'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 addiction counselor 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 addiction counselor shall further notify the Board of any significant change in the illness or condition ("change of condition") that impacts the addiction counselor's ability to perform a professional service with reasonable skill and safety. The addiction counselor 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 addiction counselor 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 addiction counselor'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 addiction counselor 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 an addiction counselor has a mental or physical illness or condition that impacts the addiction counselor's ability to perform a

professional service with reasonable skill and safety and the addiction counselor has not timely notified the Board of such illness or condition as required under these rules, the addiction counselor 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).