

DEPARTMENT OF REGULATORY AGENCIES

Division of Professions and Occupations Office of Speech-Language Pathology

RULES REGULATING SPEECH-LANGUAGE PATHOLOGIST CERTIFICATION, PRACTICE,
AND DISCIPLINE (4 CCR 748-1)

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING OCTOBER 2, 2014

Pursuant to Section 24-4-103, C.R.S., and Section 12-43.7-113, C.R.S., a public rule making hearing on will be held on Thursday, October 2, 2014 at 1560 Broadway, Conference Room 110D, Denver, Colorado 80202, beginning at 1:30 p.m.

Interested persons are encouraged to submit written comments regarding the attached proposed rule revisions to Karen McGovern, Program Director by email to karen.mcgovern@state.co.us or by postal mail to Office of Speech-Language Pathology Certification, 1560 Broadway, Suite 1300, Denver, CO 80202, no later than Friday, September 26, 2014. In addition, at the time and place designated in this notice, the Director will afford interested parties an opportunity to submit written information and/or to make brief oral presentations unless the Director in her discretion determines that oral presentations are unnecessary. All submissions will be considered.

The rules under consideration may be changed or modified after public comment and hearing.

SPECIFIC PURPOSE OF THIS RULEMAKING

The specific purpose of this rulemaking hearing is to promulgate Rule 9 and amend existing Rule 7 and Rule 8 with respect to the requirements of continuing professional competency and ensures that speech-language pathologists are familiar with the requirements of § 12-43.7-107.

PROPOSED NEW AND AMENDED RULES

The rules regulating speech-language pathologist certification, practice, and discipline with proposed revision are attached hereto. Deleted material is shown ~~struck through~~, and new material is shown in **ALL CAPS**. Unaffected rules or portions of rules are reproduced.

BY ORDER OF THE OFFICE OF SPEECH-LANGUAGE PATHOLOGY CERTIFICATION



Karen M. McGovern, Program Director

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4 CCR 748-1

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

Basis, Purpose, and Statutory Authority

The basis for these rules is House Bill 12-1303, which is codified in Article 43.7 of Title 12, C.R.S., and is known as the Speech-Language Pathology Practice Act. The purpose of these rules is to regulate persons practicing speech-language pathology in Colorado by implementing the requirements of the Act. The rules generally include provisions regulating certification, reinstatement, continuing competency, reporting, liability insurance, patient records, fines, and non-certified practice. The statutory authority for these rules can be found in §§ 12-43.7-105(1), 106, 107, 108(1)(e), 110(2), 113, and 116(5); [12-70-101](#); [24-4-103](#); 24-4-105(11); ~~and~~ 24-34-102(8) and (8.5); [24-34-105](#); and, [24-34-107](#); C.R.S.

Rule 1 – Application for Certification

The purpose of this rule is to specify the form and manner of an application for speech-language pathologist certification, as required by § 12-43.7-106, C.R.S.

- A. An applicant for certification must:
1. Submit a completed application for certification in a manner prescribed by the Director;
 2. Submit with the application all fees established by the Director pursuant to § 12-43.7-106(6), C.R.S.;
 3. Attest that the applicant will, prior to providing speech-language pathology services to patients, maintain the professional liability insurance coverage required under Rule 6;
 4. Attest that the applicant has developed a written plan ensuring the security of patient records in compliance with § 12-43.7-116, C.R.S.;
 5. Attest that the information in the application is true and correct to the best of the applicant's knowledge and belief; and
 6. Submit additional information as may be required by the Director.

Rule 2 – Education and Clinical Fellowship Requirements

The purpose of this rule is to detail the educational and clinical fellowship requirements for certification set forth in § 12-43.7-106(1), C.R.S.

- A. An applicant for certification must have successfully completed a master's or higher degree in communication sciences and disorders granted by an accredited institution of higher education recognized by the United States Department of Education. An applicant is presumed to have met the requirements of this paragraph if the applicant has successfully completed a master's or higher degree in a speech-language pathology program that is accredited by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or its successor association.
- B. An applicant for certification must have successfully completed a speech-language pathology clinical fellowship approved by either the Director or a Director-approved national certifying body. The American Speech-Language-Hearing Association is a Director-approved national certifying body.
- C. An applicant who holds a current Certificate of Clinical Competence (CCC) granted by the American Speech-Language-Hearing Association in speech-language pathology meets the education and clinical fellowship requirements of this rule.
- D. The Director does not require that an applicant maintain ASHA membership as a condition of certification.

Rule 3 – Examination Requirement

The purpose of this rule is to clarify the examination requirement set forth in § 12-43.7-106(1)(c), C.R.S.

- A. An applicant is eligible for certification by examination only if the applicant:
 - 1. has passed the national examination approved by the American Speech-Language-Hearing Association or its successor association;
 - 2. has passed an examination that, in the Director's determination, is substantially equivalent to the examination approved by the American Speech-Language-Hearing Association or its successor association, subject to the requirements of paragraph (B) of this rule; or
 - 3. holds a current Certificate of Clinical Competence (CCC), granted by the American Speech-Language-Hearing Association or its successor association, in speech-language pathology.
- B. An applicant seeking certification under subparagraph (A)(2) of this rule bears the burden of proving to the Director that the examination is substantially equivalent to the examination approved by the American Speech-Language-Hearing Association or its successor association.

Rule 4 – Certification by Endorsement

The purpose of this rule is to delineate the requirements for certification by endorsement set forth in 12-43.7-106(4), C.R.S.

- A. An applicant who holds a current, valid license or certification as a speech-language pathologist in another jurisdiction may apply for certification by endorsement.
- B. A jurisdiction that requires, as a condition of licensure or certification, a current Certificate of Clinical Competence (CCC) granted by the American Speech-Language-Hearing Association in speech-language pathology is deemed to have qualifications substantially equivalent to those required in Colorado.

- C. An applicant for certification by endorsement must meet the requirements set forth in Rules 1, 2, and 3. An endorsement applicant who was licensed or certified in another jurisdiction on the basis of a current Certificate of Clinical Competence (CCC) granted by the American Speech-Language-Hearing Association in speech-language pathology is deemed to have met the requirements of Rules 2 and 3.
- D. In addition to meeting the requirements set forth in Rules 1-3, an applicant for certification by endorsement must demonstrate competency to practice speech-language pathology. To demonstrate competency an applicant must submit, in a manner required by the Director, information establishing that the applicant:
 - 1. has actively practiced as a speech-language pathologist for at least 400 hours within a 12 month period during the three years immediately preceding the application;
 - 2. has completed, during the two years immediately preceding the application, 48 hours of continuing education that:
 - a. relates to the practice of speech-language pathology; and
 - b. meets the approval of the Director;
 - 3. holds a current Certificate of Clinical Competence (CCC) granted by the American Speech-Language-Hearing Association in speech-language pathology; or
 - 4. has otherwise maintained competency as a speech-language pathologist, as determined by the Director.

Rule 5 – Certification Requirements: Credit for Military Experience

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

- A. An applicant for certification as a speech-language pathologist may submit information about the applicant's education, training, or experience acquired during military service. It is the applicant's responsibility to provide timely and complete information for the Director's review.
- B. In order to meet the requirements for certification, such education, training, or experience must be substantially equivalent to the required qualifications that are otherwise applicable at the time the application is received by the Director.
- C. The Director will determine, on a case-by-case basis, whether the applicant's military education, training, or experience meet the requirements for certification.

Rule 6 – Professional Liability Insurance

The purpose of this rule is to delineate the professional liability insurance requirements set forth in § 12-43.7-106(2) and (4), C.R.S.

- A. A certificate holder who provides speech-language pathology services to patients shall maintain professional liability insurance coverage:
 - 1. with an insurance company authorized to do business in Colorado; and
 - 2. in an amount no less than one million dollars per claim and three million dollars per annum in the aggregate.

- B. A certificate holder who is not providing speech-language pathology services to patients is exempt from maintaining professional liability insurance coverage.
- C. An applicant or certificate holder shall submit proof of coverage to the Director upon request.

Rule 7 – Reinstatement of Expired Certification

The purpose of this rule is to state the requirements for reinstatement of a certification that has expired, pursuant to §§ 24-34-102(8) and 24-34-105, C.R.S.

~~A. A.~~—An applicant seeking reinstatement of an expired certification must complete a reinstatement application, pay a reinstatement fee, attest to complying with the professional liability insurance coverage requirements of Rule 6, and attest that the applicant has developed a written plan ensuring the security of patient records in compliance with § 12-43.7-116, C.R.S.

~~B. AN APPLICANT SEEKING TO REINSTATE A CERTIFICATION THAT HAS BEEN EXPIRED FOR LESS THAN TWO YEARS FROM THE DATE OF RECEIPT OF THE REINSTATEMENT APPLICATION MUST PROVIDE DOCUMENTATION OF TEN (10) PROFESSIONAL DEVELOPMENT ACTIVITIES (PDA), AS DEFINED IN RULE 9, FOR EACH YEAR THE CERTIFICATE WAS LAPSED.~~

~~C.~~

~~B.~~—An applicant seeking to reinstate a certification that has been expired for ~~more than~~ two ~~OR MORE~~ years but less than five years from the date of receipt of the reinstatement application must demonstrate competency to practice, in a manner required by the Director, by:

1. providing verification of licensure or certification in good standing from another state, along with proof of active practice in that state for two of the previous five years from the date of application for reinstatement;
2. providing ~~DOCUMENTATION evidence~~ of the applicant's completion of ~~TEN (10) 30 hours of continuing education OR PROFESSIONAL DEVELOPMENT ACTIVITIES PDA, AS DEFINED IN RULE 9, FOR EACH YEAR THE CERTIFICATE WAS LAPSED WITHIN during~~ the two years immediately preceding the application for reinstatement, ~~that:~~
 - ~~a. relates to the practice of speech-language pathology; and~~
 - ~~b. meets the approval of the Director;~~
3. providing documentation that the applicant has active certification by the American Speech-Language-Hearing Association; or
4. any other means approved by the Director.

~~C.~~ An applicant seeking to reinstate a certification that has been expired for ~~more than~~ five ~~OR MORE~~ years from the date of receipt of the reinstatement application must demonstrate competency to practice, in a manner required by the Director, by:

1. providing verification of licensure or certification in good standing from another state, along with proof of active practice in that state for two of the previous five years from the date of application for reinstatement;
2. providing evidence of supervised practice for a period of no less than six months, subject to the terms established by the Director; or
3. any other means approved by the Director.

Rule 8 – Inactive Certification Status AND REACTIVATION OF CERTIFICATION

The purpose of this rule is to specify the regulations governing inactive certification status AND REACTIVATION OF CERTIFICATION AS authorized under § 12-70-101, C.R.S.

- A. A certified speech-language pathologist may request inactive certification status in the manner prescribed by Director.
- B. A speech-language pathologist with an inactive certificate shall not engage in any act or conduct that constitutes the practice of speech-language pathology.
- C. A speech-language pathologist with an inactive certificate is exempt from the continuing professional competency requirements of § 12-43.7-107, C.R.S., and Rule 9.
- D. Inactive certificate status does not:
 1. prevent the Director from investigating complaints or imposing discipline against a speech-language pathologist in accordance with Article 43.7 of Title 12, C.R.S.; or
 2. limit or restrict the Director's functions, duties, or obligations, under Article 43.7 of Title 12, C.R.S.
- E. Except as otherwise provided by this rule, a speech-language pathologist with an inactive certificate remains subject to all provisions of these rules and all provisions of Article 43.7 of Title 12, C.R.S.
- F. A speech-language pathologist may reactivate an inactive certificate by:
 1. submitting a completed application for reactivation and paying a fee established by the Director;
 2. submitting proof, in a manner prescribed by the Director, that the speech-language pathologist's licenses or certificates held in other states or jurisdictions are in good standing;
 3. attesting that the applicant will, prior to providing speech-language pathology services to patients, maintain the professional liability insurance coverage required under Rule 6; and
 4. demonstrating compliance with the Director's continuing professional competency rules, ~~with respect to certificate reactivation.~~

Rule 9 – Continuing Professional Competency [Reserved]

THE PURPOSE OF THIS RULE IS TO ESTABLISH A PROGRAM OF ONGOING CONTINUING PROFESSIONAL COMPETENCY AS SET FORTH IN § 12-43.7-107, C.R.S. WHEREIN A CERTIFIED

SPEECH-LANGUAGE PATHOLOGIST SHALL MAINTAIN AND DEMONSTRATE CONTINUING PROFESSIONAL COMPETENCY IN ORDER TO RENEW, REINSTATE, OR REACTIVATE A CERTIFICATE TO PRACTICE SPEECH-LANGUAGE PATHOLOGY IN THE STATE OF COLORADO.

A. DEFINITIONS

1. CONTINUING PROFESSIONAL COMPETENCY: THE ONGOING ABILITY OF A SPEECH-LANGUAGE PATHOLOGIST TO LEARN, INTEGRATE, AND APPLY THE KNOWLEDGE, SKILL, AND JUDGMENT TO PRACTICE AS A SPEECH-LANGUAGE PATHOLOGIST ACCORDING TO GENERALLY ACCEPTED STANDARDS AND PROFESSIONAL ETHICAL STANDARDS.
2. CONTINUING PROFESSIONAL DEVELOPMENT (CPD): THE DIRECTOR'S PROGRAM THROUGH WHICH A CERTIFICATE HOLDER CAN SATISFY THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS IN ORDER TO RENEW, REINSTATE, OR REACTIVATE A CERTIFICATE.
3. DEEMED STATUS: A CERTIFICATE HOLDER WHO SATISFIES THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS OF AN ACCREDITING BODY OR ENTITY APPROVED BY THE DIRECTOR PURSUANT TO § 12-43.7-107(2), C.R.S., MAY QUALIFY FOR DEEMED STATUS.
4. LEARNING PLAN: THE DIRECTOR--APPROVED FORM THROUGH WHICH A CERTIFICATE HOLDER DOCUMENTS HIS/HER GOALS AND PLANS OF LEARNING THAT WERE DEVELOPED FROM HIS/HER REFLECTIVE SELF-ASSESSMENT (RSAT), WHICH IS DEFINED BELOW. A CERTIFICATE HOLDER SHALL EXECUTE HIS/HER LEARNING PLAN BY COMPLETING PROFESSIONAL DEVELOPMENT ACTIVITIES (PDA) AS REQUIRED BEFORE A CERTIFICATE IS RENEWED.
5. MILITARY EXEMPTION: AS SET FORTH IN § 12-70-102, C.R.S., A CERTIFICATE HOLDER WHO HAS BEEN CALLED TO FEDERALLY FUNDED ACTIVE DUTY FOR MORE THAN 120 DAYS FOR THE PURPOSE OF SERVING IN A WAR, EMERGENCY OR CONTINGENCY MAY REQUEST AN EXEMPTION FROM THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS FOR THE RENEWAL, REINSTATEMENT, OR REACTIVATION OF HIS/HER CERTIFICATION FOR THE ONE (1) YEAR RENEWAL PERIOD THAT FALLS WITHIN THE PERIOD OF SERVICE OR WITHIN SIX MONTHS FOLLOWING THE COMPLETION OF SERVICE.
6. PROFESSIONAL DEVELOPMENT ACTIVITIES (PDA): LEARNING ACTIVITIES UNDERTAKEN TO INCREASE THE CERTIFICATE HOLDER'S KNOWLEDGE AND SKILL OR HONE EXISTING KNOWLEDGE AND SKILL FOR THE PURPOSE OF CONTINUING PROFESSIONAL COMPETENCY. PROFESSIONAL DEVELOPMENT ACTIVITIES ARE EQUIVALENT TO CLOCK HOURS: ONE PDA IS EQUAL TO ONE (1) CLOCK HOUR (60 MINUTES).
7. PROGRAM MANUAL: AN INSTRUCTIONAL GUIDE TO ASSIST THE CERTIFICATE HOLDER IN UNDERSTANDING THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS AND THE CONTINUING PROFESSIONAL DEVELOPMENT (CPD) PROGRAM.
8. REFLECTIVE SELF-ASSESSMENT TOOL (RSAT): A REFLECTIVE PRACTICE TOOL IN WHICH A CERTIFICATE HOLDER CAN REFLECT UPON HIS/HER KNOWLEDGE AND SKILLS PERTAINING TO THE FOUNDATIONAL AREAS OF SPEECH-LANGUAGE

PATHOLOGY TAKING INTO ACCOUNT THE CERTIFICATE HOLDER'S CURRENT LEVEL AND AREA OF PRACTICE.

B. CONTINUING PROFESSIONAL-COMPETENCY REQUIREMENTS

1. EFFECTIVE AFTER THE 2014 RENEWAL OF A CERTIFICATE, OR UPON THE COMPLETION OF THE FIRST RENEWAL OF A CERTIFICATE THEREAFTER, THE CERTIFICATE HOLDER SHALL DEMONSTRATE CONTINUING PROFESSIONAL COMPETENCY IN ORDER TO RENEW BY:
 - a. PARTICIPATION IN THE CONTINUING PROFESSIONAL DEVELOPMENT (CPD) PROGRAM;
 - b. PARTICIPATION IN A PROGRAM OF CONTINUING PROFESSIONAL COMPETENCY THROUGH AN ACCREDITING BODY OR AN ENTITY APPROVED BY THE DIRECTOR AS SET FORTH IN § 12-43.7-107(2), C.R.S. THIS STATUS IS HEREAFTER KNOWN AS "DEEMED STATUS" AS DEFINED HEREINSCRIBED IN SECTION D OF THIS RULE; OR
 - c. RECEIVING AN EXEMPTION FOR MILITARY SERVICE AS DEFINED IN § 12-70-102, C.R.S. MILITARY EXEMPTIONS MUST BE APPROVED BY THE DIVISION OF PROFESSIONS AND OCCUPATIONS. A CERTIFICATE HOLDER SEEKING A MILITARY EXEMPTION SHALL SUBMIT A REQUEST IN WRITING WITH EVIDENCE THAT HIS/HER MILITARY SERVICE MEETS THE CRITERIA ESTABLISHED IN § 12-70-102, C.R.S., AND SECTION E OF THIS RULE.
2. A CERTIFICATE HOLDER SHALL ATTEST AT THE TIME OF THE RENEWAL OF A CERTIFICATE TO HIS/HER COMPLIANCE WITH CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS.

C. CONTINUING PROFESSIONAL DEVELOPMENT (CPD) PROGRAM

1. THE CONTINUING PROFESSIONAL DEVELOPMENT (CPD) PROGRAM ENTAILS THE FOLLOWING:
 - a. THE CERTIFICATE HOLDER SHALL COMPLETE THE REFLECTIVE SELF-ASSESSMENT TOOL (RSAT) ONCE PER RENEWAL PERIOD. A CERTIFICATE HOLDER SHALL USE THE FORM APPROVED BY THE DIRECTOR.
 - b. THE EXECUTION OF A LEARNING PLAN ONCE PER RENEWAL PERIOD THAT IS BASED UPON THE CERTIFICATE HOLDER'S REFLECTIVE SELF-ASSESSMENT TOOL (RSAT). THE CERTIFICATE HOLDER SHALL USE THE FORM APPROVED BY THE DIRECTOR.
 - c. ACCRUAL OF TEN (10) PDAROFESSINAL DEVELOPMENT ACTIVITIES (PDA) PER YEAR OFDURING EACH RENEWAL PERIOD.
2. PROFESSIONAL DEVELOPMENT ACTIVITIES (PDA)
 - a. PDAROFESSINAL DEVELOPMENT ACTIVITIES MUST BE RELEVANT TO THE CERTIFICATE HOLDER'S PRACTICE AS A SPEECH-LANGUAGE PATHOLOGIST AND PERTINENT TO HIS/HER LEARNING PLAN. THE DIRECTOR WILL NOT PRE-APPROVE SPECIFIC COURSES OR PROVIDERS. THE CERTIFICATE

HOLDER SHALL DETERMINE WHICH ACTIVITIES AND TOPICS WILL MEET HIS/HER LEARNING PLAN, AND SELECT AN APPROPRIATE COURSE AND PROVIDER.

PROFESSIONAL DEVELOPMENT ACTIVITIES ARE EQUIVALENT TO CLOCK HOURS; ONE PDA IS EQUAL TO ONE HOUR (60 MINUTES).

b. PDAROFESSIOAL DEVELOPMENT ACTIVITIES ARE ORGANIZED INTO THE FOLLOWING -SIX (6) CATEGORIES. NO MORE THAN HALF (1/2) OF THE TOTAL REQUIRED PDA IN A RENEWAL CYCLE SHALL BE CREDITED TOWARD ANY ONE (1) CATEGORY. PROFESSIONAL DEVELOPMENT ACTIVITIES MUST BE EARNED THROUGH A MINIMUM OF TWO (2) CATEGORIES. SPECIFICALLY, FOR EACH YEAR OF A RENEWAL PERIOD, NO MORE THAN FIVE (5) PDA WILL BE CREDITED IN ANY ONE (1) CATEGORY. WITH THE EXCEPTION OF RULE 2(C)(2)(C)(III), ONE (1) PDA IS GRANTED PER ONE (1) CLOCK HOUR OF QUALIFYING ACTIVITY WITH THE EXCEPTION OF THE CATEGORY "PRESENTATIONS" IN WHICH TWO (2) PDA ARE CREDITED FOR EVERY ONE (1) HOUR OF PRESENTATION DELIVERY. THIS 2:1 RATIO ACKNOWLEDGES THE PREPARATION OF THE PRESENTATION. PDAS ARE CREDITED ONLY ONCE PER PRESENTATION.

i. VOLUNTEER SERVICE.

ii. MENTORING/SUPERVISION

iii. PRESENTATIONS. FOR THIS CATEGORY, TWO (2) PDA ARE CREDITED FOR EVERY ONE (1) HOUR OF PRESENTATION DELIVERY. THIS 2:1 RATIO ACKNOWLEDGES THE PREPARATION OF THE PRESENTATION. PDAS ARE CREDITED ONLY ONCE PER PRESENTATION.

iv. COURSEWORK

v. INDEPENDENT LEARNING

vi. GROUP STUDY

c. PROFESSIONAL DEVELOPMENT ACTIVITIES MUST BE EARNED THROUGH A MINIMUM OF TWO (2) CATEGORIES. SPECIFICALLY, FOR EACH YEAR OF A RENEWAL PERIOD, NO MORE THAN FIVE (5) PDA WILL BE CREDITED IN ANY ONE (1) CATEGORY. THE EXCEPTION TO THIS REQUIREMENT IS THE "COURSEWORK" CATEGORY IN WHICH ALL TEN (10) PDA MAY BE ACCRUED AND CREDITED.

d. PDAROFESSIOAL DEVELOPMENT ACTIVITIES WILL BE ACCEPTED IF THE ACTIVITY IS INCLUDED IN THE CURRENT PROGRAM MANUAL. THE CURRENT PROGRAM MANUAL WILL BE AVIALABLE TO ALL CERTIFICATE HOLDERS THROUGH THE PROGRAM AND WILL SET FORTH ACCEPTED PDA WITHIN EACH CATEGORY. THE DIRECTOR HAS SOLE DISCRETION TO ACCEPT OR REJECT PDAACTIVITIES THAT ARE NOT IDENTIFIED IN THE CURRENT PROGRAM MANUAL.

e. THE TOTAL REQUIRED ANNUAL PDA MUST BE EARNED WITHIN THE SAME YEAR IN WHICH CREDIT IS REQUESTED. PDAROFESSIOAL DEVELOPMENT ACTIVITIES WILL BE CREDITED TOWARD ONLY ONE (1) RENEWAL PERIOD.

3. AUDIT OF COMPLIANCE. THE FOLLOWING DOCUMENTATION IS REQUIRED FOR AN AUDIT OF COMPLIANCE OF A CERTIFICATE HOLDER'S PARTICIPATION IN THE CPD PROGRAM:

a. THE FOLLOWING DOCUMENTATION IS REQUIRED FOR AN AUDIT OF COMPLIANCE OF A CERTIFICATE HOLDER'S PARTICIPATION IN THE CPD PROGRAM:

- i. A SIGNED LEARNING PLAN THAT IS SIGNED AND EXECUTED WHICH CONTAINS THE CERTIFICATE HOLDER'S GOALS IN THE FORM AND MANNER SET FORTH IN THE CURRENT PROGRAM AS APPROVED BY THE DIRECTOR.
- ii. DOCUMENTATION OF THE REQUIRED PDA IN COMPLIANCE WITH THE CURRENT PROGRAM MANUAL AND THIS RULE.
- iii. THE DIRECTOR HAS SOLE DISCRETION TO ACCEPT OR REJECT PDATHAT DO NOT MEET THE CRITERIA ESTABLISHED BY THE DIRECTOR AS DEFINED IN THE CURRENT PROGRAM MANUAL AND THIS RULE.

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b. AS SET FORTH IN § 12-43.7-107(4), C.R.S., RECORDS OF ASSESSMENTS OR OTHER DOCUMENTATION DEVELOPED OR SUBMITTED IN CONNECTION WITH THE CONTINUING PROFESSIONAL COMPETENCY PROGRAM ARE CONFIDENTIAL AND NOT SUBJECT TO INSPECTION BY THE PUBLIC OR DISCOVERY IN CONNECTION WITH A CIVIL ACTION AGAINST A SPEECH-LANGUAGE PATHOLOGIST OR OTHER PROFESSIONAL REGULATED UNDER THIS TITLE. A PERSON OR THE DIRECTOR SHALL NOT USE THE RECORDS OR DOCUMENTS UNLESS USED BY THE DIRECTOR TO DETERMINE WHETHER A SPEECH-LANGUAGE PATHOLOGIST IS MAINTAINING CONTINUING PROFESSIONAL COMPETENCY TO ENGAGE IN THE PROFESSION.

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c. THE CURRENT PROGRAM MANUAL WILL SET FORTH THE DOCUMENTATION METHODS AND STANDARDS FOR COMPLIANCE WITH THIS RULE.

D. DEEMED STATUS. A CERTIFICATE HOLDER WHO SATISFIES THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS OF AN ACCREDITING BODY OR ENTITY APPROVED BY THE DIRECTOR PURSUANT TO § 12-43.7-107(2), C.R.S., MAY QUALIFY FOR DEEMED STATUS.

1. QUALIFICATION. IN ORDER TO QUALIFY FOR DEEMED STATUS UPON RENEWAL, THE CERTIFICATE HOLDER SHALL:

a. ATTEST TO HIS/HER DEEMED STATUS AND:

b. ATTEST THAT THE REQUESTED CONTINUING PROFESSIONAL COMPETENCY PROGRAM IS SUBSTANTIALLY EQUIVALENT TO THE CPD PROGRAM ADMINISTERED BY THE DIRECTOR AND MUST INCLUDE, AT A MINIMUM EACH RENEWAL PERIOD, THE FOLLOWING COMPONENTS:

- i. AN ASSESSMENT OF KNOWLEDGE AND SKILLS;
- ii. TEN (10) CONTACT HOURS OF CONTINUING EDUCATION OR LEARNING ACTIVITIES PER YEAR OF THE RENEWAL PERIOD; AND
- iii. DEMONSTRATION OF COMPLETION OF CONTINUING COMPETENCY ACTIVITIES.

2. ADMINISTRATIVE APPROVAL. THE DIRECTOR HAS SOLE DISCRETION TO ADMINISTRATIVELY APPROVE ACCREDITING BODIES AND/OR ENTITIES MEETING THE CRITERIA ESTABLISHED IN THIS SECTION. ONCE, AN ACCREDITING BODY AND/OR ENTITY IS APPROVED, SUCH APPROVAL WILL BE PUBLICALLY PUBLISHED.

3. COMPLIANCE AUDIT. CERTIFICATE HOLDERS CLAIMING DEEMED STATUS ARE SUBJECT TO AN AUDIT OF COMPLIANCE. TO SATISFY AN AUDIT OF COMPLIANCE, THE CERTIFICATE HOLDER SHALL SUBMIT APPROPRIATE EVIDENCE OF PARTICIPATION IN A QUALIFYING PROGRAM THROUGH SUBMISSION OF:

- a. A LETTER FROM THE ACCREDITING BODY OR ENTITY APPROVED BY THE DIRECTOR SPECIFYING THAT THE CERTIFICATE HOLDER HAS COMPLETED THE CONTINUING PROFESSIONAL COMPETENCY PROGRAM, OR
- b. OTHER DOCUMENTATION APPROVED BY THE DIRECTOR WHICH REFLECTS THE CERTIFICATE HOLDER'S COMPLETION OF A PROGRAM OF CONTINUING PROFESSIONAL COMPETENCY.

E. MILITARY EXEMPTION. AS SET FORTH IN § 12-70-102, C.R.S., CERTIFICATE HOLDERS WHO HAVE BEEN CALLED TO FEDERALLY FUNDED ACTIVE DUTY FOR MORE THAN 120 DAYS FOR THE PURPOSE OF SERVING IN A WAR, EMERGENCY OR CONTINGENCY MAY REQUEST AN EXEMPTION FROM THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS FOR THE RENEWAL, REINSTATEMENT, OR REACTIVATION OF HIS/HER CERTIFICATION FOR THE ONE (1) YEAR RENEWAL PERIOD THAT FALLS WITHIN THE PERIOD OF SERVICE OR WITHIN SIX MONTHS FOLLOWING THE COMPLETION OF SERVICE.

1. MILITARY EXEMPTIONS MUST BE APPROVED BY THE DIVISION OF PROFESSIONS AND OCCUPATIONS. A CERTIFICATE HOLDERS SEEKING A MILITARY EXEMPTION SHALL SUBMIT A REQUEST IN WRITING WITH EVIDENCE THAT HIS/HER MILITARY SERVICE MEETS THE CRITERIA ESTABLISHED IN § 12-70-102, C.R.S.
2. AFTER BEING GRANTED A MILITARY EXEMPTION, IN ORDER TO COMPLETE THE RENEWAL PROCESS, A CERTIFICATE HOLDER SHALL ATTEST TO HIS/HER MILITARY EXEMPTION.

F. RECORDS RETENTION. A CERTIFICATE HOLDER SHALL RETAIN DOCUMENTATION DEMONSTRATING HIS/HER COMPLIANCE FOR TWO (2) COMPLETE RENEWAL PERIODS.

G. NON-COMPLIANCE. FALSIFYING AN ATTESTATION OR OTHER DOCUMENTATION REGARDING THE CERTIFICATE HOLDER'S COMPLIANCE WITH CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS CONSTITUTES THE FALSIFICATION OF INFORMATION IN AN APPLICATION AND MAY BE GROUNDS FOR DISCIPLINE PURSUANT TO §§ 12-43.7-110(2)(B) AND (K), C.R.S.

H. REINSTATEMENT AND REACTIVATION. A CERTIFICATE HOLDER SEEKING TO REINSTATE OR REACTIVATE A CERTIFICATE SHALL MEET THE CONTINUING PROFESSIONAL COMPETENCY REQUIREMENTS DETAILED IN RULE 7 AND RULE 8.

Rule 10 – Duty to Self-Report Certain Medical Conditions

The purpose of this rule is to specify the notification requirements regarding a physical or mental illness or condition that affects a certificate holder's ability to practice speech-language pathology or practice as a speech-language pathologist with reasonable skill and safety to patients, pursuant to § 12-43.7-115, C.R.S.

- A. No later than 30 days from the date a physical or mental illness or condition affects a certified speech-language pathologist's ability to perform speech-language pathology services with reasonable skill and safety, the certified speech-language pathologist shall provide the Director, 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; and
 4. A description of the certified speech-language pathologist's practice and any modifications, limitations or restrictions to that practice that have been made as a result of the illness or condition.
- B. The certified speech-language pathologist shall notify the Director of any worsening of the illness or condition, or any significant change in the illness or condition that affects the certified speech-language pathologist's ability to practice with reasonable skill and safety, within 30 days of the change of the illness or condition. The certified speech-language pathologist shall provide the Director, in writing, the following information:
1. the name of the current treatment provider, documentation from the current treatment provider confirming the change of the illness or condition, the date that the illness or condition changed, the nature of the change of the illness or condition, and the current treatment plan; and
 2. a description of the certified speech-language pathologist's practice, and any modifications, limitations, or restrictions to that practice that have been made as a result of the change of condition.
- C. Compliance with this rule is a prerequisite for eligibility to enter into a Confidential Agreement with the Director pursuant to § 12-43.7-115(2), C.R.S. However, mere compliance with this rule does not require the Director to enter into a Confidential Agreement. Rather, the Director will evaluate all facts and circumstances to determine whether a Confidential Agreement is appropriate.
- D. If the Director discovers that a certified speech-language pathologist has a mental or physical illness or condition that affects the certified speech-language pathologist's ability to practice with reasonable skill and safety, and the certified speech-language pathologist has not timely notified the Director of such illness or condition, the certified speech-language pathologist may be subject to disciplinary action pursuant to § 12-43.7-110(2)(d)(I), C.R.S.

Rule 11 – Duty to Report Convictions, Judgments, and Adverse Actions

The purpose of this rule is to clarify the requirements and procedures for reporting convictions, judgments, and other adverse actions in order to enforce the provisions of § 12-43.7-110, C.R.S.

- A. A certified speech-language pathologist shall report to the Director, in a manner established by the Director, within 30 days of:
 - 1. A felony conviction of the certificate holder, or a conviction of any crime related to the practice of speech-language pathology, whether under the laws of this or any other state or the United States (a guilty verdict, or a plea of guilty, nolo contendere, or no contest accepted by the court is considered a conviction);
 - 2. A disciplinary action imposed upon the certificate holder by another jurisdiction that licenses, certifies, or registers speech-language pathologists which would otherwise be a violation of § 12-43.7-110, C.R.S., including but not limited to a citation, sanction, probation, civil penalty, or a denial, suspension, revocation or modification of a license or certificate, whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license fee by the due date or failure to meet continuing professional education or competency requirements;
 - 3. Revocation or suspension by another state board, municipality, federal or state agency of any health services related license or certificate; or
 - 4. Any judgment, award, or settlement of a civil action or arbitration, in any jurisdiction, in which there was a final judgment or settlement against the licensee or certificate holder with respect to the practice of speech-language pathology.
- B. Report contents.
 - 1. If the event is an action by any governmental agency, the report to the Director must include the name of the agency, its jurisdiction, the case name, court docket, proceeding or case number by which the event is designated, and a copy of the consent decree, order, or decision.
 - 2. If the event is a felony conviction, the report to the Director must include the court, its jurisdiction, the case name, the case number, a description of the matter or a copy of the indictment or charges, and any plea or verdict entered by the court. Within 30 days of the imposition of sentence for a felony conviction, the certificate holder shall provide to the Director a copy of the imposition of sentence. Within 30 days of the completion of any terms of the sentence, the certificate holder shall provide written notice to the Director of the completion of the sentence terms.
 - 3. If the event concerns a civil action or arbitration proceeding, the report to the Director must include the court or arbiter, the jurisdiction, the case name, the case number, a description of the matter or a copy of the complaint, and a copy of the verdict, the court or arbitration decision, or, if settled, the settlement agreement and court's order of dismissal.
- C. In addition to any report required under this rule, the speech-language pathologist may also submit a written statement of explanation.

Rule 12 – Duty to Report Change of Contact Information to the Director's Office

The purpose of this rule is to clarify the requirement for certificate holders to notify the Director of a change in submitted information pursuant to § 24-34-107, C.R.S.

A certified speech-language pathologist shall report to the Office of Speech-Language Pathology Certification any name, address, telephone, or email change within 30 days of the change. The Office of Speech-Language Pathology Certification will not change a certified speech-language pathologist's information of record without explicit written notification from the certified speech-language pathologist. Notification in any written manner approved by the Division is acceptable.

Rule 13 – Use of Title

The purpose of this rule is to clarify the appropriate use of authorized titles pursuant to § 12-43.7-104, C.R.S.

- A. A speech-language pathologist shall only use the titles authorized by § 12-43.7-104(1), C.R.S., in conjunction with the practice of speech-language pathology.
- B. A speech-language pathologist shall not use the term "Doctor" or "Dr." in conjunction with the practice of speech-language pathology unless the speech-language pathologist has successfully completed a doctoral degree in communication sciences and disorders as described in § 12-43.7-106(1)(a), C.R.S.

Rule 14 – Protection & Disposition of Patient Records

The purpose of this rule is to specify a certified speech-language pathologist's responsibilities with respect to the patient access to, and security, maintenance, storage, disposal, and disposition of patient records as set forth in § 12-43.7-116, C.R.S.

- A. For purposes of this rule and § 12-43.7-116, C.R.S., "certified speech-language pathologist responsible for patient records" means a certified speech-language pathologist who is
 - 1. required under generally accepted standards of practice to document, without limitation, patient history, care, progress, or status; or
 - 2. responsible for patient access to, or the security, maintenance, storage, disposal, or disposition of patient records.
- B. A certified speech-language pathologist responsible for patient records shall comply with the requirements of § 12-43.7-116, C.R.S., and with state and federal laws pertaining to patient access to, or the security, maintenance, storage, disposal, or disposition of patient records.
- C. A certified speech-language pathologist responsible for patient records may comply with the requirements of § 12-43.7-116(1), C.R.S., by adopting a written plan used by a hospital, clinic, or other organization with whom the speech-language pathologist is affiliated, provided that the written plan complies with the requirements of this rule.
- D. A certified speech-language pathologist responsible for patient records shall comply with his or her written plan developed under § 12-43.7-116(1), C.R.S., to the extent said plan does not violate state or federal law.
- E. If a practice is composed of multiple certified speech-language pathologists responsible for patient records, the practice may provide the information required by § 12-43.7-116(3), C.R.S., on behalf of all certificate holders in the practice.
- F. In the case of an investigation, pending disciplinary action, or other administrative action undertaken by the Director, a certified speech-language pathologist shall retain patient records until the investigation, disciplinary action, or other administrative action is complete.

Rule 15 – Imposition of Fines

The purpose of this rule is to establish a fine structure and the circumstances under which fines may be imposed by the Director as authorized by § 12-43.7-110(2), C.R.S.

- A. The Director may impose a fine in lieu of or in addition to any other disciplinary sanction.
- B. The Director may impose a separate fine for each violation of Article 43.7 of Title 12, C.R.S., any rule adopted by the Director, or any Order issued by the Director.
- C. The Director may impose fines consistent with the following fining schedule:
 - 1. For a certificate holder's first violation, a fine of no more than one thousand dollars (\$1,000.00).
 - 2. For a certificate holder's second violation, a fine of no more than two thousand five hundred dollars (\$2,500.00).
 - 3. For a certificate holder's third and any additional violations, a fine of no more than five thousand dollars (\$5,000.00).
- D. Unless ordered otherwise, a certificate holder shall pay any total fine amount of five hundred dollars (\$500.00) or less, including any applicable surcharge, at the time the Final Agency Order or Stipulation between the parties becomes effective. A certificate holder shall pay any total fine amount greater than five hundred dollars (\$500.00), including any applicable surcharge, in accordance with the terms of the Final Agency Order or Stipulation. A certificate holder who fails to pay a fine required pursuant to a Final Agency Order or Stipulation is subject to additional disciplinary action as set forth in Section 12-43.7-110(2)(e) and (r), C.R.S., including suspension or revocation of the certificate holder's speech-language pathologist certificate.
- E. Payment of a fine does not exempt the certificate holder from compliance with the statutes and rules governing the practice of speech-language pathology or any orders of the Director.
- F. Except as otherwise required by law, all fines collected under this rule will be transferred and credited to the State's General Fund.

Rule 16 – The Authorized Practice of Speech-Language Pathology by a Person Not Certified in Colorado

The purpose of this rule is to outline the conditions under which a speech-language pathologist not registered in Colorado may practice for a limited period of time under § 12-43.7-108(1)(e), C.R.S.

- A. A legally qualified speech-language pathologist from another state or country may provide speech-language pathology services, without need for certification in Colorado, on behalf of a temporarily absent speech-language pathologist registered in this state. The uncertified practice may not occur more than once annually and may not exceed a total of thirty days' duration.
- B. The temporarily absent Colorado certified speech-language pathologist shall ensure that the visiting, uncertified speech-language pathologist possesses a current and active license, certification, or registration in good standing in another state or country.
- C. The temporarily absent Colorado certified speech-language pathologist shall provide the visiting, uncertified speech-language pathologist with the Colorado Speech-Language Pathology Practice Act, Article 43.7 of Title 12, C.R.S., and the Director's rules and policies governing the regulation of speech-language pathologists in Colorado.

Rule 17 – Declaratory Orders

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

- A. Any person or entity may petition the Director for a declaratory order to terminate controversies or remove uncertainties as to the applicability of any statutory provision or of any rule or order of the Director.
- B. The Director will determine, at her discretion and without notice to petitioner, whether to rule upon such petition. If the Director determines not rule upon such a petition, the Director will promptly notify the petitioner of her action and state the reasons for such decision.
- C. In determining whether to rule upon a petition filed pursuant to this rule, the Director will consider the following matters, among others:
 - 1. Whether a ruling on the petition will terminate a controversy or remove uncertainties as to the applicability to petitioner of any statutory provisions or rule or order of the Director.
 - 2. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Director or a court involving one or more petitioners.
 - 3. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Director or a court but not involving any petitioner.
 - 4. Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.
 - 5. Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to C.R.C.P. 57, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule, or order in question.
- D. Any petition filed pursuant to this rule must set forth the following:
 - 1. The name and address of the petitioner and whether the petitioner is certified pursuant to Title 12, Article 43.7, C.R.S.
 - 2. The statute, rule, or order to which the petition relates.
 - 3. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner.
- E. If the Director determines that she will rule on the petition, the following procedures apply:
 - 1. The Director may rule upon the petition based solely upon the facts presented in the petition. In such a case:
 - a. Any ruling of the Director will apply only to the extent of the facts presented in the petition and any amendment to the petition.

- b. The Director may order the petitioner to file a written brief, memorandum, or statement of position.
 - c. The Director may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.
 - d. The Director may dispose of the petition on the sole basis of the matters set forth in the petition.
 - e. The Director may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition.
 - f. The Director may take administrative notice of facts pursuant to the Colorado Administrative Procedure Act at § 24-4-105(8), C.R.S., and may utilize her experience, technical competence, and specialized knowledge in the disposition of the petition.
 - g. If the Director rules upon the petition without a hearing, she will promptly notify the petitioner of her decision.
2. The Director may, at her discretion, set the petition for hearing, upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The hearing notice to the petitioner must set forth, to the extent known, the factual or other matters that the Director intends to inquire. For the purpose of such a hearing, to the extent necessary, the petitioner has the burden of proving all the facts stated in the petition; all of the facts necessary to show the nature of the controversy or uncertainty; and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the Director to consider.
- F. The parties to any proceeding pursuant to this rule are the Director and the petitioner. Any other person may seek leave of the Director to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Director. A petition to intervene must set forth the same matters as are required by Section D of this Rule. Any reference to a "petitioner" in this rule also refers to any person who has been granted leave to intervene by the Director.
- G. Any declaratory order or other order disposing of a petition pursuant to this rule constitutes agency action subject to judicial review pursuant to the Colorado Administrative Procedure Act at § 24-4-106, C.R.S.

Editor's Notes

History

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| 2013 | Statement of Basis and Purpose, Rules 1 through 8, and Rules 10 through 17 adopted 3/28/2014; effective 5/15/2013. |
| <u>2014</u> | <u>Amended Basis, Purpose, Statutory Authority, Rules 7 and 8 adopted 10/6/2014; effective 11/30/2014.</u> |

| 2014 Rule 9 adopted 10/6/2014; effective 11/30/2014.