

COLORADO DEPARTMENT OF LAW
Administrator – Uniform Consumer Credit Code
Statement of Basis, Specific Statutory Authority, and Purpose

4 CCR 903–1

Section 5-16-114, C.R.S., provides that compliance with the Colorado Fair Debt Collection Practices Act (“CFDCPA”) shall be enforced by the Administrator and provides that the Administrator “may makes reasonable rules for the administration and enforcement of [the CFDCPA], including standards of conduct for licensees and collection notices and forms.” The specific statutory authority for these rules is section 5-16-114, C.R.S.

The Administrator’s existing rules under the CFDCPA have not been substantively amended since 2010. The Administrator is updating the header and title of the rules under the CFDCPA because the provision establishing the Collection Agency Board, 5-16-116, C.R.S. was repealed in 2017.

The Administrator is updating her rules to change timing requirements from being counted by “business days”, which *do not* include Sundays or legal holidays, to simply days, which *do* include Sundays and legal holidays, and from 5 business days (or multiples thereof) to 7 days (or multiples thereof), which will clarify the rules and provide consistency with other state and federal statutes. A commenter in the rulemaking hearing suggested that two additional rules than those in the proposed rule, Rule and 1.02(2) and 1.04(2), had day ranges could also be updated to be divisible by 7 and the Administrator has accepted this suggestion. The Administrator is also eliminating communications by facsimile from her rules as the Administrator believes fax is no longer a common form of communication for consumers, licensees, and the Administrator.

The Administrator is amending Rule 1.02(2) to shorten the number of days an applicant has to complete an application after notice from the Administrator that the application is incomplete from 90 days to 60 days. In the Administrator’s experience, 90 days is too long for an application to remain open and this length of time creates confusion. Sixty days is also consistent with an analogous provision in the Colorado Student Loan Servicer Act, § 5-20-106(8). Consistent with a suggestion described above, the Administrator is finalizing the day range in Rule 1.02(2) as 63 days to be divisible by 7. The Administrator is amending Rule 1.04 to provide that in addition to providing letters of admonition by first-class certified mail, letters of admonition may be emailed to the general mailings contact provided in the licensee’s most recent renewal application. This change is to reflect that email is a common and convenient way for the Administrator to communicate with licensees and to issue letters of admonition.

The Administrator is removing a reference to the Collection Agency Board in Rule 1.05(1) because, as noted above, the section establishing the Collection Agency Board has been repealed. The Administrator is eliminating a requirement from Rule 1.05(4), which prohibited a licensee from purchasing the right to collect client accounts from another licensee but permitted the licensees to purchase the right to solicit their reassignment from the client. The Administrator believes this requirement was a source of confusion for licensees and is no longer necessary for the administration and enforcement of the CFDCPA.

The Administrator is clarifying Rule 2.03(2), which provides that no licensee shall advise, suggest, or request a client add collection costs to any existing debt unless such costs are specifically authorized by statute. The Administrator is clarifying that a licensee would not be prohibited from advising, suggesting, or requesting a client add collection costs to any existing debt if the collection costs are specifically authorized by the contract, agreement, note, or other instruments creating the debt and that are not otherwise prohibited by law. The Administrator believes this additional language clarifies the requirement and makes Rule 2.03(2) consistent with other requirements contained in Rule 2.03.

The Administrator is increasing the maximum permitted fee for additional account statements in Rule 2.06(1) from \$5 to \$10 based on comments received from representatives of collection agencies that the cost of providing the statements has increased.

The Administrator is amending Rule 2.07 to clarify that where both summaries and records are kept both must be accurate. She is also requiring collection agencies that record calls to retain call recordings for two years in an accessible format upon request by the Administrator. Data from the 2020 renewals indicates that the majority of licensees retain call records and of those that retain calls, a majority of them already retain the call records for more than 2 years. The Administrator believes this requirement will facilitate administration and enforcement of the CFDCPA.

The Administrator is amending Rule 2.09 to clarify that the required written authorization may be provided in electronic form so long as the licensee maintains a contemporaneous record of the authorization from the creditor. The Administrator received feedback from a representative of a collection agency that clarification of this requirement would alleviate confusion.

The Administrator received no written comments to her proposed rule. She did receive comments at her rulemaking hearing. One commenter reiterated comments made at a prior stakeholder meeting. The commenter had raised concerns about possible amendments to Rule 2.04. The Administrator is not modifying Rule 2.04 in this rulemaking. The commenter also raised additional topics for rulemaking.

As noted in the Notice of Rulemaking Hearing, the Administrator sought comment on medical debt disclosures in the December stakeholder meeting, but did not include those disclosures in the proposed rule. She intends to seek additional comment and continue to consider those disclosures in the future.