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Basis

These rules are promulgated and adopted by the Director of ~~Registrations~~ the Division of Professions and Occupations ("Director") pursuant to section 12-41.5-113, C.R.S.

Purpose

These rules are adopted to implement the Director's authority to license persons as respiratory therapists and to set forth the requirements for being so licensed.

Rule 1 - Oxygen Deliveries

The purpose of this rule is to define the respiratory therapy services that can be rendered by an unlicensed person delivering oxygen supplies as exempted from the practice of respiratory therapy in section 12-41.5-110(2)(e), C.R.S.

- A. An unlicensed delivery person can deliver, setup, inspect and maintain an oxygen apparatus in a patient's home. An unlicensed delivery person may also instruct the patient about the apparatus' operation.
- B. An unlicensed delivery person may not perform pulse oximetry testing, interpret or report physician orders, titrate the oxygen level, discuss disease status with the patient, or engage in any other task or duty that constitutes the practice of respiratory therapy as defined in section 12-41.5-103(6), C.R.S.
- C. This rule does not pertain to other licensed health-care professionals practicing within the permitted scope of their profession.

Rule 2 - 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 Procedures Act at section 24-4-105(11), C.R.S.

- A. Any person or entity may petition the Director ~~of Registrations~~ ("Director") for a declaratory order to terminate controversies or to 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 any such petition. If the Director determines that she will not rule upon such a petition, the Director shall 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 of the 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.

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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 CRCP 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 shall set forth the following:

1. The name and address of the petitioner and whether the petitioner is registered pursuant to Title 12, Article 41.5.
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 shall 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 Administrative Procedure Act at section 24-4-105(8), C.R.S., and may utilize her experience, technical competence and specialized knowledge in the disposition of the petition.
2. If the Director rules upon the petition without a hearing, she shall promptly notify the petitioner of her decision.
3. 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 notice to the petitioner shall set forth, to the extent known, the factual or other matters into which the Director intends to inquire.

For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all of the facts stated in the petition; all of the facts necessary to show

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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 shall be 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 shall 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 shall constitute agency action subject to judicial review pursuant to the Colorado Administrative Procedures Act at section 24-4-106, C.R.S.

Rule 3 - Requirement for Reinstatement

The purpose of this rule is to state the requirements for reinstatement of a license that expired under sections 12-41.5-107 and 24-34-102, C.R.S.

- A. An applicant seeking reinstatement of an expired license shall complete the reinstatement application and pay the reinstatement fee.
- B. If the license has been expired for more than two years from the date of receipt of the reinstatement application, but less than five years the applicant will have to establish "competency to practice" under section 24-34-102 (8)(d)(II), C.R.S., as follows by submitting:
 - 1. Verification of licensure in good standing from another state along with proof of active practice in that state for two years of the previous five years from the date of application for reinstatement; OR
 - 2. Documentation to demonstrate that they have otherwise maintained competency as a respiratory therapist by completing 30 hours of continuing education courses related to the practice of respiratory therapy during the two years immediately preceding the application for reinstatement. The continuing education must meet the approval of and shall be attested to in the manner prescribed by the Director; OR
 - 3. Documentation to demonstrate that the applicant re-took and achieved a passing score on the National Examination within two years immediately preceding submission of an application for reinstatement; OR
 - 4. By any other means approved by the Director.
- C. An applicant seeking to reinstate a license that has been expired for more than five years will need to demonstrate "competency to practice" as required in section 24-34-102(8)(d)(II), C.R.S. by:
 - 1. Verification of licensure in good standing from another state along with proof of active practice for two years of the previous five years prior to an application for reinstatement; OR
 - 2. Supervised practice for a period no less than six months subject to the terms established by the Director; OR
 - 3. Retaking and achieving a passing score on the National Examination within two years immediately preceding submission of an application for reinstatement; OR
 - 4. By any other means approved by the Director.

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Rule 4 - Reporting Convictions and Other Adverse Actions

The purpose of the rule is to clarify the procedures for reporting convictions, and other adverse actions to include judgments and administrative proceedings pursuant to section 12-41.5-109, C.R.S.

A licensee shall inform the Director within 90 days of any of the following events:

- A. The conviction of the licensee of a felony under the laws of any state or of the United States which would be a violation of section 12-41.5-109(2)(b), C.R.S.
- B. A disciplinary action imposed upon the licensee by another jurisdiction that licenses respiratory therapists which would be a violation of section 12-41.5-109(2)(d), C.R.S.
- C. Revocation or suspension by another state board, municipality, federal or state agency of any health service related license, other than an expired license for respiratory therapy as described in section 12-41.5-109(2)(p), C.R.S.
- D. Any judgment, award or settlement or a civil action or arbitration in which there was a final judgment or settlement against the licensee for malpractice of respiratory therapy.
- E. The notice to the Director shall include the following information:
 1. If the event is an action by governmental agency (as described above), the name of the agency, its jurisdiction, the case name, and the docket, proceeding or case number by which the event is designated, and a copy of the consent decree, or decision.
 2. If the event is a felony conviction, 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 of verdict entered by the court. The licensee shall also provide to the Director a copy of the imposition of sentence related to the felony conviction and the completion of all terms of the sentence with in 90 days of such action.
 3. If the event concerns a civil action or arbitration proceeding, 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.
- F. The licensee notifying the Director may submit a written statement with the notice to be included in the licensee's records.

Rule 5 - Duty to Report Information to the Director's Office

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

- A. The licensee shall inform the Office of Respiratory Therapy Licensure in clear, explicit and unambiguous written statement of any name, address, telephone or email change within 30 days of the change. The Office of Respiratory Therapy Licensure will not change licensees' information without explicit written notification from the licensee. Notification by any manner approved by the Office of Respiratory Therapy Licensure is acceptable.
 1. The Division of ~~Registration Professions and Occupations~~ ("Division") maintains one contact address for each licensee, regardless of the number of licenses the licensee may hold.

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2. Address change requests for some, but not all communications, or for confidential communications only, are not accepted.
- B. The Office of Respiratory Therapy Licensure requires one of the following forms of documentation to change a licensee's name or social security number:
1. Marriage license;
 2. Divorce decree;
 3. Court order; OR
 4. Driver's license or social security card with a second form of identification may be acceptable at the discretion of the Division.

Rule 6 – Licensure 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 section 24-34-102(8.5), C.R.S.

- A. An applicant for licensure as a respiratory therapist 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 licensure, 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 7 - Duty to Self-Report Certain Medical Conditions (Section 12-41.5-109.7, C.R.S.)

The purpose of this rule is to specify the notification requirements regarding a physical or mental illness or condition that affects a license holder's ability to practice respiratory therapy or practice as a respiratory therapist with reasonable skill and safety to patients, pursuant to section 12-41.5-109.7, C.R.S.

- A. No later than 30 days from the date a physical or mental illness or condition impacts a licensed respiratory therapist's ability to perform respiratory therapy services with reasonable skill and safety, the licensed respiratory therapist 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 respiratory therapist'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 licensed respiratory therapist shall notify the Director of any worsening of the illness or condition, or any significant change in the illness or condition that affects the licensed respiratory therapist's ability to practice with reasonable skill and safety, within 30 days of the change of the illness or

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condition. The respiratory therapist shall provide to 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 licensed respiratory therapist'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 Section 12-41.5-109.7(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 licensed respiratory therapist has a mental or physical illness or condition that affects the licensed respiratory therapist's ability to practice with reasonable skill and safety, and the licensed respiratory therapist did not timely notify the Director of such illness or condition, the licensed respiratory therapist may be subject to disciplinary action pursuant to Section 12-41.5-109(2)(i), C.R.S.