

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0611.01 Jennifer Berman x3286

SENATE BILL 21-152

SENATE SPONSORSHIP

Lee and Gardner, Buckner, Cooke, Rodriguez

HOUSE SPONSORSHIP

Herod and Soper, Snyder, Van Winkle, Weissman

Senate Committees

Legal Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING IMPLEMENTATION OF THE COMMITTEE ON LEGAL**
102 **SERVICES' RECOMMENDATIONS IN CONNECTION WITH**
103 **LEGISLATIVE REVIEW OF STATE AGENCIES' RULES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Committee on Legal Services. Based on the findings and recommendations of the committee on legal services, the bill extends all state agency rules that were adopted or amended on or after November 1, 2019, and before November 1, 2020, with the exception of certain rules of the following agencies, as specifically listed in the bill:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unamended
March 29, 2021

- The state board of education concerning administration of the public school transportation fund;
- The air quality control commission concerning stationary source permitting and air pollutant emission notice requirements; and
- A number of boards and commissions within the department of regulatory agencies concerning rules implementing H.B. 20-1326 and S.B. 20-102.

Those specified rules will expire as scheduled in the "State Administrative Procedure Act" on May 15, 2021, on the grounds that the rules either conflict with statute or lack statutory authority.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Extension of rules scheduled for expiration May**
 3 **15, 2021 - exceptions.** (1) Except as indicated, the expiration of all rules
 4 of agencies in the following principal departments, which rules were
 5 adopted or amended on or after November 1, 2019, and before November
 6 1, 2020, and that are therefore scheduled for expiration May 15, 2021, is
 7 postponed:

8 (a) Department of agriculture;

9 (b) Department of corrections;

10 (c) Department of education; except that the following rule of the
 11 state board of education concerning administration of the public school
 12 transportation fund (1 CCR 301-14) is not extended: Rule
 13 2251-R-2.02(1), which states in part "A district annually shall submit a
 14 form CDE-40 no later than August 15 ...";

15 (d) Department of health care policy and financing;

16 (e) Department of higher education;

17 (f) Department of human services;

18 (g) Department of labor and employment;

19 (h) Department of law;

- 1 (i) Department of local affairs;
- 2 (j) Department of military and veterans affairs;
- 3 (k) Department of natural resources;
- 4 (l) Department of personnel;
- 5 (m) Department of public health and environment; except that the
6 following rule of the air quality control commission concerning stationary
7 source permitting and air pollutant emission notice requirements (5 CCR
8 1001-5) is not extended: Rule II.A.2.a., which states in part "Owners or
9 operators of well production facilities for which commencement of
10 operation occurs after January 1, 2020, must ...";
- 11 (n) Department of public safety;
- 12 (o) Department of regulatory agencies; except that the following
13 rules are not extended:
 - 14 (I) The following rules of the state board of social work examiners
15 concerning social work examiners rules and regulations (4 CCR 726-1):
 - 16 (A) Rule 1.12 C., which states in part "Criteria. In accordance
17 with 12-20-202 (3)(d), C.R.S., the Board has established the following
18 criteria for determining whether an applicant possesses experience and
19 credentials ...";
 - 20 (B) Rule 1.12 D., which states in part "Licenses, certifications, or
21 registrations from outside the United States. Applicants who are licensed,
22 certified, listed or registered ..."; and
 - 23 (C) Rule 1.23 E.4, which states "The licensee or certificate holder
24 does not have a direct treatment relationship or have direct contact with
25 the patient.";
 - 26 (II) The following rules of the board of licensed professional
27 counselor examiners concerning licensed professional counselor

1 examiners rules and regulations (4 CCR 737-1):

2 (A) Rule 1.12 C., which states in part "Criteria. In accordance
3 with 12-20-202 (3)(d), C.R.S., the Board has established the following
4 criteria for determining whether an applicant possesses experience and
5 credentials ...";

6 (B) Rule 1.12 D., which states in part "Licenses, certifications, or
7 registrations from outside the United States. Applicants who are licensed,
8 certified, listed or registered ..."; and

9 (C) Rule 1.23 E.4, which states "The licensee or certificate holder
10 does not have a direct treatment relationship or have direct contact with
11 the patient.";

12 (III) Rule 1.35 E.4 of the board of chiropractic examiners
13 concerning chiropractic examiners rules and regulations (3 CCR 707-1),
14 which states "The licensee does not have a direct treatment relationship
15 or have direct contact with the patient.";

16 (IV) The following rules of the board of psychologist examiners
17 concerning psychologist examiners rules and regulations (3 CCR 721-1):

18 (A) Rule 1.12 C., which states in part "Criteria. In accordance
19 with section 12-20-202 (3)(d) C.R.S., the Board has established the
20 following criteria for determining whether an applicant possesses
21 experience and credentials ...";

22 (B) Rule 1.12 D., which states in part "Licenses, certifications, or
23 registrations from outside the United States. Applicants who are licensed,
24 certified, listed or registered ..."; and

25 (C) Rule 1.22 E.4, which states "The licensee does not have a
26 direct treatment relationship or have direct contact with the patient.";

27 (V) The following rules of the board of addiction counselor

1 examiners concerning board of addiction counselor examiners rules (4
2 CCR 744-1):

3 (A) Rule 1.12 D., which states in part "Licenses, certifications, or
4 registrations from outside the United States."; and

5 (B) Rule 1.23 E.4, which states "The licensee does not have a
6 direct treatment relationship or have direct contact with the patient.";

7 (VI) Rule 1.6 E.4 of the state physical therapy board concerning
8 physical therapy rules and regulations (4 CCR 732-1), which states "The
9 licensee or certificate holder does not have a direct treatment relationship
10 or have direct contact with the patient.";

11 (VII) Rule 1.16 E.4 of the board of unlicensed psychotherapists
12 concerning unlicensed psychotherapists rules and regulations (4 CCR
13 734-1), which states "The registrant does not have a direct treatment
14 relationship or have direct contact with the patient.";

15 (VIII) Rule 1.12 E.4 of the director of the division of professions
16 and occupations in the department of regulatory agencies (director) for
17 the office of acupuncture licensure concerning acupuncture licensure
18 rules and regulations (4 CCR 738-1), which states "The provider does not
19 have a direct treatment relationship or have direct contact with the
20 patient.";

21 (IX) Rule 1.24 E.4 of the director for the office of direct-entry
22 midwives registration concerning midwives registration rules and
23 regulations (4 CCR 739-1), which states "The provider does not have a
24 direct treatment relationship or have direct contact with the patient.";

25 (X) The following rules of the board of marriage and family
26 therapist examiners concerning marriage and family therapist examiners
27 rules and regulations (4 CCR 736-1):

1 (A) Rule 1.12 C., which states in part "Criteria. In accordance
2 with 12-20-202 (3)(d), C.R.S., the Board has established the following
3 criteria for determining whether an applicant possesses experience and
4 credentials ...";

5 (B) Rule 1.12 D., which states in part "Licenses, certifications,
6 listings or registrations from outside the United States. Applicants who
7 are licensed, certified, listed or registered ..."; and

8 (C) Rule 1.22 E.4, which states "The licensee does not have a
9 direct treatment relationship or have direct contact with the patient.";

10 (XI) The following rules of the director for the office of barber
11 and cosmetology licensure concerning barber and cosmetology licensure
12 rules and regulations (4 CCR 731-1):

13 (A) Rule 1.4 A, which states in part "An applicant who possesses
14 a current and unrestricted license in good standing under the laws of
15 another state, territory, or foreign country ...";

16 (B) Rule 1.4 B.2, which states in part "An applicant must submit
17 verification of at least one active/valid license, in good standing at the
18 time of the application, from another state, territory, or foreign country.";
19 and

20 (C) Rule 1.4 C., which states in part "**ADDITIONAL**
21 **REQUIREMENTS FOR APPLICANTS FROM FOREIGN**
22 **COUNTRIES**";

23 (XII) Rule 1.11 E.4 of the director for the office of respiratory
24 therapy licensure concerning respiratory therapy licensure rules and
25 regulations (4 CCR 741-1), which states "The provider does not have a
26 direct treatment relationship or have direct contact with the patient.";

27 (XIII) Rule 1.13 E.4 of the director for the office of athletic

1 trainer licensure concerning athletic trainer licensure rules and regulations
2 (4 CCR 735-1), which states "The provider does not have a direct
3 treatment relationship or have direct contact with the patient.";

4 (XIV) Rule 1.19 E.4 of the director for the office of naturopathic
5 doctor registration concerning naturopathic doctors rules and regulations
6 (4 CCR 749-1), which states "The provider does not have a direct
7 treatment relationship or have direct contact with the patient.";

8 (XV) The following rules of the director for the office of hearing
9 aid provider licensure concerning hearing aid provider rules and
10 regulations (3 CCR 711-1):

11 (A) Rule 1.12 E.4, which states "The licensee does not have a
12 direct treatment relationship or have direct contact with the patient."; and

13 (B) Rule 1.2 A.1, which states "Possess an active license in good
14 standing to practice as a hearing aid provider in another state or territory
15 of the United States or in a foreign country; and";

16 (XVI) The following rules of the director for the office of
17 audiology licensure concerning audiology rules and regulations (3 CCR
18 711-2):

19 (A) Rule 1.13 C.4, which states "The provider does not have a
20 direct treatment relationship or have direct contact with the patient."; and

21 (B) Rule 1.2 A.1, which states "Possess an active license in good
22 standing to practice audiology in another state or territory of the United
23 States or in a foreign country; and";

24 (XVII) Rule 1.23 E.4 of the director for the office of
25 speech-language pathology certification concerning speech-language
26 pathologist rules and regulations (4 CCR 748-1), which states "The
27 provider does not have a direct treatment relationship or have direct

1 contact with the patient.";

2 (XVIII) Rule 1.8 E.4 of the director for the office of surgical
3 assistant and surgical technologist registration concerning surgical
4 assistant and surgical technologist rules and regulations (4 CCR 745-1),
5 which states "The provider does not have a direct treatment relationship
6 or have direct contact with the patient.";

7 (XIX) The following rules of the director for the office of
8 massage therapy licensure concerning massage therapy licensure rules
9 and regulations (3 CCR 722-1):

10 (A) Rule 1.4 introductory portion, which states "Licensure by
11 Endorsement [-] The purpose of this Rule is to delineate the requirements
12 for licensure by endorsement set forth in section 12-20-202 (3), C.R.S.
13 An applicant who currently possesses an unrestricted license or
14 registration, in good standing, to practice massage therapy under the laws
15 of another state, territory or foreign country may apply for licensure by
16 endorsement, provided that:"; and

17 (B) Rule 1.14 E.4, which states "The provider does not have a
18 direct treatment relationship or have direct contact with the patient."; and

19 (XX) Rule 1.28 E.4 of the board of nursing concerning nursing
20 rules and regulations (3 CCR 716-1), which states "The licensee does not
21 have a direct treatment relationship or have direct contact with the
22 patient.".

23 (p) Department of revenue;

24 (q) Department of state;

25 (r) Department of transportation; and

26 (s) Department of the treasury.

27 (2) The expiration of all rules of the public employees' retirement

1 association, which rules were adopted or amended on or after November
2 1, 2019, and before November 1, 2020, and which are therefore scheduled
3 for expiration May 15, 2021, is postponed.

4 (3) The expiration of all rules of the board of equalization, which
5 rules were adopted or amended on or after November 1, 2019, and before
6 November 1, 2020, and which are therefore scheduled for expiration May
7 15, 2021, is postponed.

8 (4) The recommendations of the committee on legal services as
9 reflected in this act apply to the specified rules in the form in which the
10 rules were considered and acted upon by the committee. Any amendments
11 or other changes in the specified rules that became effective before
12 November 1, 2020, that comply with the recommendations of the
13 committee on legal services are not affected by this act. Any subsequent
14 amendments or other changes in the specified rules that became effective
15 on or after November 1, 2020, are not affected by this act.

16 **SECTION 2. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety.