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**STATE OF COLORADO**  
**DEPARTMENT OF LAW**

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**CY 2022 REGULATORY AGENDA**

Pursuant to section 2-7-203(2)(a)(IV), C.R.S., this document contains the Colorado Department of Law's regulatory agenda for calendar year ("CY") 2021 and details new rules or revisions to existing rules expected to be proposed in CY 2022.

**I. PEACE OFFICERS STANDARDS AND TRAINING (P.O.S.T.)**

**A. Rule 1**

**Proposed Rule Amendments and Purpose:**

- a. Expand and update the definition of "Disqualifying Incident," including:
  - Conviction for the use of unlawful physical force or failure to intervene or being found by an administrative law judge, by a hearing officer, by an internal investigation or civilly liable for the same;
  - Intentional failure to activate a body worn camera or dash camera or tampering with the same with intent to conceal unlawful or inappropriate actions;
  - Providing inaccurate data for the database created in section 24-31-303(1)(r), C.R.S.;
  - Violating the requirements of section 18-8-805, C.R.S. related to the prohibited use or direction of administration of ketamine; and
- b. Addition of Definitions for Records Management System and Termination for Cause.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 1 was adopted on September 24, 2021, with an effective date of November 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

**B. Rule 5**

**Proposed Rule Amendments and Purpose:**

- a. Rename "Non-revocation Hearings" to "Show Cause Hearings;" and

- b. Add an appeal process for fines or other administrative sanctions administered by the Attorney General, as well as cleaning up, modifying, streamlining, and more clearly identifying the different types of POST involved hearings and their processes.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 5 was adopted on March 26, 2021, with an effective date of May 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

**C. Rule 5**

**Proposed Rule Amendments and Purpose:**

- a. Distinguish between a show cause hearing related to criminal convictions and an administrative hearing for actions against certification;
- b. Include suspension or voluntary surrender as an option for disciplinary action; and
- c. Ensure rules mirror the hearings process as outlined in section 24-4-105, C.R.S.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 5 was adopted on September 24, 2021, with an effective date of November 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

**D. Rule 7**

**Proposed Rule Amendments and Purpose:**

- a. Add that the process outlined in Rule 7 also applies to a peace officer seeking review of the peace officer's status in the database created per section 24-31-303(1)(r), C.R.S.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 7 was adopted on September 24, 2021, with an effective date of November 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

**E. Rule 8**

**Proposed Rule Amendments and Purpose:**

- a. Provide the ability to seek exemption from certificate denial or reinstatement of a certificate via written submission, and the process accompanying such petition.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 8 was adopted on March 26, 2021, with an effective date of May 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

**F. Rule 9**

**Proposed Rule Amendments and Purpose:**

- a. Correctly identify the types of revocations described in Rule 1 for which a copy of court conviction or agreement constitutes prima facie evidence of conviction; and
- b. Replace disqualifying incident with more specific language, i.e., “denial or revocation for conviction of a misdemeanor offense as described in subsection (1.5) of Part 305, Article 31, Title 24.”

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 9 was adopted on March 26, 2021, with an effective date of May 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

**G. Rule 9**

**Proposed Rule Amendments and Purpose:**

- a. Changing the title from Revocation of Certification to Actions on Certification;
- b. Include ability for a certificate holder to voluntarily surrender a certificate;

- c. Include suspension as a possible disciplinary action; and
- d. Apply Rule 5 Hearings procedures to Rule 9.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 9 was adopted on September 24, 2021, with an effective date of November 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

**H. Rule 10**

**Proposed Rule Amendments and Purpose:**

- a. Remove a strikethrough that was inadvertently left during a prior rulemaking.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 10 was adopted on September 24, 2021, with an effective date of November 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

**I. Rule 17**

**Proposed Rule Amendments and Purpose:**

- a. Add Part E, identifying that upon failure to comply with Rule 17, certificate holders and/or agencies may incur fines or other administrative sanctions as described in Rule 31.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 17 was adopted on March 26, 2021, with an effective date of May 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

## **J. Rule 17**

### **Proposed Rule Amendments and Purpose:**

- a. Creates a process for the Certificate Holder and the Law Enforcement Agency to report to POST various disqualifying incidents as required by statute; and
- b. Addition that failure to adhere to the reporting requirements could result in fines or other sanctions.

### **Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

### **Contemplated Schedule for Adoption:**

Rule 17 was adopted on September 24, 2021, with an effective date of November 15, 2021.

### **Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

## **K. Rule 21**

### **Proposed Rule Amendments and Purpose:**

- a. Replace “the Board” with POST for consistency with other rules;
- b. Add “refresher” to the list of types of academies comprising continuing academies;
- c. Designate the start date for the three (3) year period referenced in the rule;
- d. Clarify the submission requirements that a continuing academy director must meet;
- e. Reintroduce text inadvertently removed from the rule during the last rulemaking session in August 2020;
- f. Re-designate college academies and private occupational school academies as “all academies not based at a law enforcement agency;”
- g. Require existing academies to petition the POST Board to renew their authority to operate an academy every five (5) years;
- h. Require entities interested in creating a new POST-approved academy to receive approval from the full POST Board;
- i. Require the academy director of a proposed new academy to contact POST at least twelve (12), rather than six (6), months prior to the anticipated start date of the new academy, and specify that completing the new academy approval process includes approval of site safety plans, lesson plans, and other associated documents;
- j. Require training sites to be clearly marked as law enforcement training sites, and require written permission prior to providing online/remote training;
- k. Supplement the list of academic and skills lesson information to include the date the lesson plan was prepared and the date of last revision, if applicable, and the name and title of the lesson plan’s author, and name and title of the person approving the lesson plan;
- l. Provide that daily schedules are to be submitted on the form provided by POST;
- m. Require academies to report injuries less severe than death, gunshot wounds or serious bodily injury caused by training activities, and other injuries to any person unaffiliated with an

academy, in order to allow POST to track injury trends statewide to promote safe training environments; and

- n. Require trainee files to include trainee current contact information and a signed and dated acknowledgement of privacy and appeal rights form.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 21 was adopted on March 26, 2021, with an effective date of May 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

**L. Rule 21**

**Proposed Rule Amendments and Purpose:**

- a. Require training sites to have reasonable access to restroom facilities;
- b. More specificity as to what is required in Lesson Plans including a list of all source materials, performance rubrics, safety plan control measures, and comprehensive content information;
- c. Require that lesson plans are written to allow any instructor to effectively teach the course; and
- d. Require Academies to maintain a record of tests, including written test results and copies of associated rubrics.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 21 was adopted on September 24, 2021, with an effective date of November 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

**M. Rule 28**

**Proposed Rule Amendments and Purpose:**

- a. Provide that failure to complete training may result not only in suspension or revocation of certification;
- b. Provide that an agency or individual found not compliant with training requirements may face an administrative sanction; and
- c. Replace “post” with “POST” to promote consistency throughout the rules.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 28 was adopted on March 26, 2021, with an effective date of May 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

**N. Rule 31**

**Proposed Rule Amendments and Purpose:**

A new rule, Rule 31 – Administrative Sanctions, to provide for the assessment of administrative fines or other sanctions by the POST Board or the Attorney General, where applicable for violations of Title 24, Article 31, Part 3.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 31 was adopted on March 26, 2021, with an effective date of May 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, that will be affected by this proposed rulemaking; community organizations and stakeholder organizations.

**O. Rule 32**

**Proposed Rule Amendments and Purpose:**

A new rule, Rule 32 – POST Records Management System, implementing the creation of a database containing decertification information, as required in SB 20-217.

- a. Lists the information that will be contained in the POST database created per section 24-31-303(1)(r), C.R.S.; and
- b. Allows a Peace Officer to seek review of the information contained in the database through the procedures listed in Rule 7.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

Rule 32 was adopted on September 24, 2021, with an effective date of November 15, 2021.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, law enforcement academy staff, and law enforcement agencies, that will be affected by this proposed rulemaking; community organizations and stakeholder organizations.

**P. Rule Modifications Anticipated in Subsequent Calendar Years**

**Proposed Rule Amendments and Purpose:**

Update existing rules to include definitions and to perform general clean up.

**Statutory Basis:**

§§ 24-31-303 (1)(g), (l) and (m), 24-31-305, and 24-31-307(1), C.R.S.

**Contemplated Schedule for Adoption:**

December 2021 POST Board Meeting, with an effective date of January 30, 2022.

**Listing of Persons and Parties Affected:**

Peace officers, including those applying for certification and those currently employed as certified peace officers, law enforcement agencies and law enforcement academy staff that will be affected by the rule amendments; community organizations and stakeholder organizations.

At this time, the POST Board does not anticipate promulgating or amending any rules during calendar year 2022. However, if the General Assembly passes new laws impacting the POST's Board's authority during the 2022 Legislative Session, the POST Board will promulgate any necessary rules to effectively implement.

**II. CONSUMER CREDIT UNIT**

**A. Income Share Agreement ("ISA") Rulemaking: Colorado Uniform Consumer Credit Code ("UCCC") and Colorado Student Loan Equity Act ("SLEA")**

**Proposed Rule Amendments and Purpose:**

In response to questions concerning the regulatory treatment of the relatively new financial product called an Income Share Agreement ("ISA"), the UCCC Administrator anticipates issuing rules regarding the application of the UCCC and SLEA to ISAs, creditors making ISAs, and ISA servicers. Rules will address: the applicability of and required information for disclosure and compliance with the Truth in Lending Act; methods for complying with Regulation Z; maximum finance charges; right to prepay and rebates; licensure and registration requirements; prohibitions against false, misleading, or deceptive statement or representation; prohibition against assignment of earnings; the definition of private education loan and student loan servicer; necessary protections for consumers entering into ISAs; and areas that need clarification to aid creditors or servicers in their efforts to comply with Colorado law.

**Statutory Basis:**

§ 5-6-104(1)(e), (2), (5), C.R.S.

**Contemplated Schedule for Adoption:**

Rules are anticipated to be adopted and/or repealed by July 2022.



**Listing of Persons and Parties Affected:**

Creditors making ISAs and ISA servicers that may be affected by the anticipated rulemaking.

**B. Rulemaking Setting Fees under the Colorado Student Loan Equity Act (“SLEA”) for Private Education Lenders**

**Proposed Rule Amendments and Purpose:**

The UCCC Administrator issued emergency rules under the SLEA to implement the private education lender registration fees required pursuant section 5-20-203, C.R.S. The Administrator plans to issue permanent rules implementing this requirement.

**Statutory Basis:**

§ 5-20-203, C.R.S.

**Contemplated Schedule for Adoption:**

Rules are anticipated to be adopted and/or repealed by February 2022.

**Listing of Persons and Parties Affected:**

Private education lenders as defined by the SLEA.

**III. CONSUMER PROTECTION**

**Proposed Rule Amendments and Purpose:**

**A. Investigative Hearing Rules**

Proposed rules have been promulgated to manage and guide procedures for Investigative hearings conducted by the Attorney General, pursuant to the Colorado Consumer Protection Act (“CCPA”), C.R.S. § 6-1-108(1), and the Colorado Antitrust Act, C.R.S. § 6-4-110(1)(b). The rules address the format for investigative hearings, who may conduct and attend investigative hearings, the process for taking a hearing of designated representatives of entities such as corporation or partnerships, the recording of investigative hearings, the procedures to apply in investigative hearings, and the confidential nature of investigative hearings.

**Statutory Basis:**

§§ 6-1-108(1), 6-4-110(1)(b);

**Contemplated Schedule for Adoption:**

Proposed rules were adopted on September 23, 2021 and filed with the Secretary of State with an anticipated effective date of November 14, 2021.

**Listing of Persons and Parties Affected:**

Persons subject to the CCPA and the Colorado Antitrust Act, including individuals and entities who are the targets of investigations, and those with relevant knowledge, who receive subpoenas from the Department to answer questions at investigative hearings.

## **B. Colorado Privacy Act Mandatory Rulemaking**

### **Proposed Rule and Purpose:**

The Colorado Privacy Act (“CPA”) mandates that the Attorney General promulgate new rules that detail the technical specifications for one or more universal opt-out tools. These tools will allow Colorado residents to automatically communicate their choice to opt out of the processing of personal data to controllers that Coloradans interact with online or in the digital space. The Attorney General will engage with individual Coloradans, stakeholders, experts, advocacy groups, and other members of the public before and during the rulemaking process to ensure this new technology conforms to the CPA’s requirements.

### **Statutory Basis:**

§ 6-1-1313(2), C.R.S.

### **Contemplated Schedule for Adoption:**

Rulemaking is anticipated to begin in 2022 and the rules will be adopted the same year.

### **Listing of Persons and Parties Affected:**

Private and public entities subject to the Colorado Privacy Act that process the personal data of Colorado residents for the purposes of targeted advertising or the sale of personal data; Colorado residents and consumers.

## **C. Colorado Privacy Act Permissive Rulemaking**

### **Proposed Rules and Purpose:**

The CPA authorizes the Attorney General to promulgate rules for the purpose of carrying out the CPA. The Attorney General will adopt rules clarifying and providing further detail to certain CPA provisions. The rules will ensure the fair and efficient implementation and enforcement of the CPA. The rules will also provide guidance on CPA provisions including but not limited to defined terms, individual rights, controller obligations, and Attorney General enforcement. The Attorney General will seek input from individual Coloradans, stakeholders, experts, advocacy groups, and other members of the public before and during the rulemaking process.

### **Statutory Basis:**

§ 6-1-1313(1), C.R.S.

### **Contemplated Schedule for Adoption:**

Rulemaking is anticipated to begin in 2022 and many of the rules will be adopted the same year. Some rulemaking may potentially carry into later years.

### **Listing of Persons and Parties Affected:**

Private and public entities subject to the Colorado Privacy Act that process the personal data of Colorado residents for the purposes of targeted advertising or the sale of personal data; Colorado residents and consumers.

## **D. Data Breach Notification Rulemaking**

**Proposed Rules and Purpose:**

Proposed rules to require reporting entities to use the Department's online form to submit data breach notices and requiring reporting entities to submit certain pieces of information in their data breach notices to the Department.

**Statutory Basis:**

The CCPA gives the Attorney General authority to adopt rules necessary to the implementation of Article 1 of the CCPA. § 6-1-108(1), C.R.S. The Attorney General is authorized to promulgate rules to carry out the Data Breach Notification Statute as the law is codified in Part 7 of Article 1 of the CCPA. § 6-1-716, C.R.S.

**Contemplated Schedule for Adoption:**

Proposed rules are anticipated to be adopted by April 2022 or later.

**Listing of Persons and Parties Affected:**

Companies, organizations, and entities that experience a data breach as defined in state law that affects over five hundred Colorado residents; Colorado consumers and advocacy organizations.

This list provides a brief summary of all permanent and temporary rules actually adopted since the previous departmental regulatory agenda was filed pursuant to 2-7-202(6)(f), C.R.S.

1. Consumer Credit Unit

**Colorado Fair Debt Collection Practices Act ("CFDPCA"):** Rule adopted May 7, 2021 and effective June 30, 2021. The adopted rule amended existing rules under the CFDPCA to provide clarity, increase consistency with similar federal requirements, and update and modernize requirements.

**Colorado Student Loan Equity Act ("CSLEA"):** Emergency Rule adopted July 30, 2021. The emergency rule was needed to establish registration fees pursuant to section 5-20-203, C.R.S. after the Governor signed the CSLEA into law on June 29, 2021. It was imperatively necessary to set fees prior to the statutory registration date, September 1, 2021 and to meet these legislative charges and responsibilities in order to preserve the public health, safety, and welfare of the State of Colorado.