

## **DEPARTMENT OF REVENUE**

### **DIVISION OF GAMING**

## **RULES OF FANTASY CONTEST OPERATOR LICENSING AND REGISTRATION**

1 CCR 207-3

### **BASIS AND PURPOSE FOR RULE 1**

THE PURPOSE OF RULE 1 IS TO PROVIDE DEFINITIONS OF VARIOUS TERMS USED THROUGHOUT THE FANTASY CONTEST OPERATOR RULES OF THE COLORADO DIVISION OF GAMING SO THAT THE RULES CAN BE UNIFORMLY APPLIED AND UNDERSTOOD. THE DEFINITIONS IN 44-30-103, C.R.S. AND 44-30-1501, C.R.S. SHALL ALSO APPLY THROUGHOUT THIS DOCUMENT. THE STATUTORY BASIS FOR RULE 1 IS FOUND IN SECTIONS 44-30-1604(1), C.R.S., 44-30-203, C.R.S., AND PART 16 OF ARTICLE 30 OF TITLE 44, C.R.S.

### **RULE 1 GENERAL RULES AND REGULATIONS**

#### **1.1 Authority.**

The licensing and regulation of fantasy contest operators is found in title 44 article 30 part 16 ("Fantasy Contests") of the Colorado Revised Statutes. These Rules are promulgated pursuant to section 44-30-1604 (1), C.R.S.

#### **1.21 Scope and Purpose.**

These Rules are promulgated in order to carry out the powers and duties of the Director of the Division of Gaming, Department of Revenue ("Director") pursuant to Article 30 of Title 44, C.R.S., for the purpose of licensure or registration of fantasy contest operators **AND TO ENSURE THE INTEGRITY OF FANTASY CONTESTS CONDUCTED IN THE STATE OF COLORADO**. These Rules shall be binding on every person authorized to operate as a fantasy contest operator or a small fantasy contest operator in Colorado. All persons licensed or registered under Article 30 of Title 44, C.R.S., are charged with having knowledge of the existence of these Rules and shall be deemed to be familiar with their provisions and to understand the Rules.

These Rules are severable. If one Rule or portion of a Rule is found to be invalid, all other Rules or portions of Rules that can be enforced without the invalid Rules shall be enforced and shall remain valid.

These Rules are not intended, and shall not be construed, to affect or limit in any way the jurisdiction or regulation of any individual or entity by any federal, state, or local government or subdivision thereof, including but not limited to the Colorado Department of Revenue and its Divisions.

#### **1.32 Definitions.**

All terms defined in sections 44-30-103, C.R.S., **AND 44-30-1501, C.R.S.**, shall have the same meaning in these Rules. In addition, as used in Article 30 of Title 44, C.R.S., and these Rules:

- (1) **"ACTIVE PATRON ACCOUNTS" MEANS A PATRON'S ACCOUNT THAT HAS THE PATRON'S EMAIL ADDRESS ON FILE WITH THE FANTASY CONTEST OPERATOR, A RESIDENTIAL ADDRESS IN COLORADO, AND HAS PAID AN ENTRY FEE FOR A FANTASY CONTEST, AGREED TO PAY AN ENTRY FEE FOR A FANTASY CONTEST, OR HAS MADE A MONETARY DEPOSIT TO THE PATRON'S ACCOUNT WITHIN THE PAST 365 DAYS.**
- (2) "Applicant" means any individual or entity that **applies** **HAS APPLIED** for an initial license or registration or a renewal license or registration to operate in Colorado as a fantasy contest

operator or a small fantasy contest operator. The applicant shall be the individual or entity that is responsible for the financial and contractual obligations of the fantasy contest ~~operator~~PROVIDER.

(23) "Beginner player," as used in section 44-30-1607(1)(h), C.R.S., means any fantasy contest ~~player~~ PATRON who has entered fewer than fifty-one contests offered by a single fantasy contest ~~operator~~ PROVIDER and who does not meet the definition of highly experienced player by virtue of having won MORE THAN three fantasy contest prizes of \$1,000 or more FROM THAT SINGLE FANTASY CONTEST PROVIDER.

(4) "CASH EQUIVALENT" MEANS AN ELECTRONIC FUNDS TRANSFER, CREDIT CARD, DEBIT CARD, CHECK, WIRE TRANSFER, CRYPTO CURRENCY, WINNINGS, PROMOTIONAL OR BONUS CREDIT, AND ANY OTHER FORM OF PAYMENT AS APPROVED BY THE DIVISION.

(35) "Director" means the ~~D~~irector of the ~~D~~ivision of ~~G~~aming or the ~~D~~irector's designee.

(46) "Division" means the Division of Gaming in the Department of Revenue.

(7) "ENTRY FEE" MEANS CASH OR A CASH EQUIVALENTS THAT ARE REQUIRED TO BE PAID BY A FANTASY CONTEST PATRON TO A FANTASY CONTEST PROVIDER IN ORDER TO PARTICIPATE IN A FANTASY CONTEST.

(8) "FANTASY CONTEST PROVIDER" MEANS BOTH A FANTASY CONTEST OPERATOR LICENSEE AND A SMALL FANTASY CONTEST OPERATOR REGISTRANT, AS WELL AS THEIR EMPLOYEES AND AGENTS, UNLESS SPECIFICALLY MENTIONED.

(59) "Highly experienced player," as used in section 44-30-1607(1)(h), C.R.S., means any fantasy contest ~~player~~PATRON who has: (a) entered more than 1,000 contests offered by a single fantasy contest ~~operator~~PROVIDER; or (b) has won more than three fantasy contest prizes valued at \$1,000 or more FROM THAT SINGLE FANTASY CONTEST PROVIDER. Once a fantasy contest ~~player~~PATRON is classified as highly-experienced player, ~~a player~~THE PATRON will remain classified as such.

(10) "INTERNAL CONTROLS" MEANS THE MINIMUM LEVEL OF OPERATIONAL CONTROLS DEVELOPED BY A FANTASY CONTEST PROVIDER TO ENSURE THE INTEGRITY OF FANTASY CONTESTS.

(611) "Prize," as used in Article 30 of Title 44, C.R.S., means anything of monetary value, including but not limited to, money, ~~contest credits~~CASH EQUIVALENTS, merchandise, or admission to another contest in which a prize may be awarded.

(712) "Script," as used in section 44-30-1607(1)(i), C.R.S., means commands that a fantasy contest-related computer program can execute that are created by fantasy contest ~~players~~PATRONS (or by third parties for the use of fantasy contest ~~players~~PATRONS) to automate processes in a fantasy contest.

(13)

(A) "SPORTING EVENT" MEANS:

(i) ANY INDIVIDUAL OR TEAM SPORT OR ATHLETIC EVENT IN WHICH THE OUTCOME IS NOT DETERMINED SOLELY BY CHANCE, WHETHER AMATEUR OR PROFESSIONAL, INCLUDING AN OLYMPIC OR INTERNATIONAL SPORT OR ATHLETIC EVENT AND ANY COLLEGIATE SPORTS EVENT;

(ii) ANY PORTION OF A SPORT OR ATHLETIC EVENT LISTED IN SUBSECTION (13)(A) OF THIS SECTION;

(iii) THE INDIVIDUAL PERFORMANCE OF ATHLETES IN A SPORTS EVENT OR COMBINATION OF SPORTS EVENTS;

(iv) ANY SANCTIONED MOTORSPORT AS AUTHORIZED BY THE DIVISION;

(v) PROFESSIONAL ELECTRONIC SPORTS OR VIDEO GAMES SANCTIONED BY A SPORTS GOVERNING BODY AS AN ELECTRONIC COMPETITION; AND

(vi) ANY OTHER SPORTS EVENT OR COMBINATION OF SPORTS EVENTS AS AUTHORIZED BY THE DIVISION.

(b) "PROHIBITED SPORTING EVENT" INCLUDES HIGH SCHOOL OR YOUTH SPORTS.

(14) "UTILIZATION OF STATISTICS" MEANS THE METHOD OR FORMULA IN WHICH FANTASY POINTS ARE ACCUMULATED BASED ON THE STATISTICAL RESULTS OF THE PERFORMANCE OF ATHLETES IN SPORTING EVENTS.

### **1.53 AUTHORIZED FANTASY CONTESTS:**

FANTASY CONTESTS OFFERED PURSUANT TO PART 16, ARTICLE 30 OF TITLE 44, C.R.S., SHALL COMPLY WITH THE FOLLOWING RESTRICTIONS:

(1) FANTASY CONTESTS MUST REQUIRE AN ENTRY FEE, OFFER A PRIZE(S) TO THE PATRON(S), AND HAVE THE WINNING OUTCOME BASED ON THE UTILIZATION OF STATISTICS FROM MULTIPLE ATHLETES.

(2) FANTASY CONTESTS SHALL INCLUDE CONTESTS WHERE PATRONS COMPETE AGAINST OTHER PATRONS. CONTESTS THAT INCLUDE PARLAY STYLE WAGERS THAT ARE STACKED WAGERS ON SINGLE ATHLETES AGAINST FANTASY CONTEST PROVIDERS SHALL BE PROHIBITED.

(3) FANTASY CONTESTS BASED ON PROPOSITION STYLE PICKS WHERE A PATRON SELECTS INDIVIDUAL ATHLETES, SPECIFIC POSITIONS ON A TEAM, OR A COMBINATION OF ATHLETES TO OUTPERFORM OR UNDERPERFORM A PREDETERMINED FANTASY POINT SCORE OR OTHER INDIVIDUAL ATHLETE(S), POSITION(S), OR COMBINATION OF ATHLETES MUST INCLUDE THE FOLLOWING:

(A) THE SELECTION OF A MINIMUM OF TWO ATHLETES OR POSITIONS, OR THE UTILIZATION OF STATISTICS FROM A MINIMUM OF TWO ADDITIONAL ATHLETES OR POSITIONS.

(B) THE ATHLETES OR POSITIONS SELECTED MUST BE FROM AT LEAST TWO DIFFERENT TEAMS.

(C) THE OUTCOME OF THE CONTESTS MUST BE BASED ON THE ACCUMULATION OF FANTASY POINTS FROM ALL ATHLETES OR POSITIONS SELECTED.

(4) FANTASY CONTESTS MAY BE OF ANY DURATION BUT MUST SPECIFY A BEGINNING AND END.

(5) FANTASY CONTESTS THAT ARE FREE TO ALL PARTICIPANTS AND DO NOT REQUIRE AN ENTRY FEE ARE NOT REGULATED AS FANTASY CONTESTS.

## **BASIS AND PURPOSE FOR RULE 2**

THE PURPOSE OF RULE 2 IS TO ENABLE APPLICATIONS AND LICENSURE AS RELATED TO FANTASY CONTEST OPERATORS, INCLUDING TO ESTABLISH AND PROVIDE THE SPECIFIC INFORMATION REQUIRED ON LICENSE APPLICATIONS, RENEWALS, AND LICENSE FEES FOR EACH TYPE OF LICENSE. THE STATUTORY BASIS FOR RULE 2 IS FOUND IN SECTIONS 24-4-105(11), C.R.S., 44-30-203(2)(A.5), C.R.S., 44-30-1605, C.R.S., 44-30-1606, 44-30-1607, C.R.S., AND PART 16 OF ARTICLE 30 OF TITLE 44.

## **RULE 2 APPLICATIONS AND LICENSURE**

### **2.1 CATEGORIES:**

- (1) THE DIVISION HAS TWO CATEGORIES OF FANTASY CONTEST OPERATORS BASED ON THE NUMBER OF ACTIVE PATRONS.
  - (A) SMALL FANTASY CONTEST OPERATORS.
    - (i) SMALL FANTASY CONTEST OPERATORS HAVE 7,500 OR LESS ACTIVE PATRON ACCOUNTS OVER THE PRECEDING 365 DAYS.
    - (ii) SMALL FANTASY CONTEST OPERATORS ARE REQUIRED TO APPLY FOR REGISTRATION WITH THE DIVISION.
  - (B) FANTASY CONTEST OPERATORS.
    - (i) FANTASY CONTEST OPERATORS HAVE MORE THAN 7,500 ACTIVE PATRON ACCOUNTS OVER THE PRECEDING 365 DAYS.
    - (ii) FANTASY CONTEST OPERATORS ARE REQUIRED TO APPLY FOR LICENSURE WITH THE DIVISION.
- (2) SMALL FANTASY CONTEST OPERATOR REGISTRATIONS AND FANTASY CONTEST OPERATOR LICENSES WILL EXPIRE ON JULY 31 AND NOT EXCEED A TWO-YEAR PERIOD.
- (3) THE FEE FOR REGISTRATION AND LICENSURE SHALL BE THE FOLLOWING:
  - (A) SMALL FANTASY CONTEST OPERATOR REGISTRATION:
    - (i) INITIAL APPLICATION FEE \$350.
    - (ii) RENEWAL FEE \$350.
  - (B) FANTASY CONTEST OPERATOR LICENSE:
    - (i) INITIAL APPLICATION FEE \$15,000.
    - (ii) RENEWAL FEE \$15,000.

### **1.42.2 Application for Registration.**

- (1) Registrant Name
  - (a) Registrants shall not operate as a small fantasy contest operator using a name that has not been provided to the Director.
  - (b) If a registrant operates as a small fantasy contest operator under a trade name, such trade name must be filed with the Colorado Secretary of State pursuant to section 7-71-101, C.R.S.
  - (c) All names under which a registrant operates as a small fantasy contest operator (including business, assumed, or trade names) shall be provided to the Director.

- (2) A small fantasy contest operator must apply for registration with the Division. An applicant for registration must:
- (a) Submit a completed application for registration on a form and in a manner approved by the Division.
  - (b) Submit with the application all fees established by the Director.
  - (c) Submit documentation validating the number of fantasy contest players in Colorado with active ~~individual~~ **PATRON** accounts ~~who participate in fantasy contests with an entry fee.~~ The number of said ~~players~~ **PATRONS** shall not exceed 7,500, pursuant to section 44-30-1603(7), C.R.S. The documentation shall comprise customer base data from the ~~ninety~~ **365** days preceding the date of application submission. ~~An account shall be considered "active" if (i) the player has an email address on file with the small fantasy contest operator and (ii) has paid an entry fee for a fantasy contest, agreed to pay an entry fee for a fantasy contest, or has made a monetary deposit to a player account.~~
  - (D) SUBMIT DETAILED INFORMATION ABOUT THE NATURE AND TYPE OF FANTASY CONTESTS TO BE OFFERED BY THE APPLICANT AND THE UTILIZATION OF STATISTICS WITH EXAMPLES OF ALL INFORMATION AND MATERIALS TO BE PROVIDED TO CONTESTANTS.**
  - ~~(dE)~~ Submit additional information as may be requested by the Division to evaluate the applicant's qualification for registration. An application submitted without the required fees and documentation will be considered incomplete.
- (3) If a registered small fantasy contest operator at any time ~~exceeds the count of 7,500 fantasy contest players~~ **ACTIVE PATRON ACCOUNTS**, the fantasy contest operator must apply for licensure. The applicant must notify the Division within twenty ~~(20)~~ days of exceeding ~~the count of 7,500 fantasy contest players~~ **ACTIVE PATRON ACCOUNTS**, and shall have forty five (45) days from notifying the Division to submit an application for licensure. If, after licensure, the fantasy contest operator drops below ~~the number of 7,500 fantasy contest players~~ **ACTIVE PATRON ACCOUNTS**, the applicant may submit an application for registration **AT THE TIME OF RENEWAL** instead of renewing licensure.

### **4.52.3 Application for Licensure.**

- (1) Licensee Name
- (a) Licensees shall not operate as a fantasy contest operator using a name that has not been provided to the Director.
  - (b) If a licensee operates as a fantasy contest operator under a trade name, such trade name must be filed with the Colorado Secretary of State pursuant to section 7-71-101, C.R.S.
  - (c) All names under which a licensee operates as a fantasy contest operator (including business, assumed, or trade names) shall be provided to the Director.
- (2) A fantasy contest operator ~~that is not a small fantasy contest operator, i.e., a fantasy contest operator~~ that has more than 7,500 ~~fantasy contest players~~ **ACTIVE PATRON ACCOUNTS** in Colorado with active accounts, must apply for licensure with the Division. ~~An account shall be considered "active" if (i) the player has an email address on file with the small fantasy contest operator and (ii) has paid an entry fee for a fantasy contest, agreed to pay an entry fee for a fantasy contest, or has made a monetary deposit to a player account.~~ An applicant for licensure must:

- (a) Submit a completed application for licensure on a form and in a manner approved by the Director;
  - (b) Submit with the application all fees established by the Director;
  - (c) Attest to the validity of the information listed on the application;
  - (d) Submit a written oath or affirmation on the form and in the manner prescribed by the Director;
  - (e) Submit the information required by section 44-30-1606(2)(c), C.R.S., including, but not limited to, detailed information about the nature and type of fantasy contests to be conducted by the applicant, and the manner in which statistics are utilized, with examples of all information and materials to be provided to contestants.
- (F) SUBMIT DETAILED INFORMATION ABOUT THE NATURE AND TYPE OF FANTASY CONTESTS TO BE CONDUCTED BY THE APPLICANT AND THE UTILIZATION OF STATISTICS WITH EXAMPLES OF ALL INFORMATION AND MATERIALS TO BE PROVIDED TO CONTESTANTS.
- (fg) Submit additional information as may be requested by the Director to evaluate the applicant's qualification for licensure. An application submitted without the required fees and documentation will be considered incomplete.
- (3) If a fantasy contest operator drops below the number of 7,500 fantasy contest players ACTIVE PATRON ACCOUNTS in Colorado, the applicant may submit an application for registration as a small fantasy contest operator instead of renewing licensure.

#### **1.62.4 Renewal and Reinstatement of Registration or Licensure.**

- (1) If a registrant or licensee fails to renew its license or registration pursuant to the schedule established by the Director, the license or registration shall expire. FANTASY CONTEST PROVIDERS MUST SUBMIT RENEWAL APPLICATIONS FOR REGISTRATION OR LICENSURE RENEWAL TO THE DIVISION AT LEAST FORTY-FIVE (45) DAYS PRIOR TO THE RESPECTIVE REGISTRATION OR LICENSE EXPIRATION DATE.
- (2) AN APPLICANT FOR REGISTRATION AND LICENSE RENEWAL MUST:
- (A) SUBMIT A COMPLETED, SIGNED APPLICATION FOR REGISTRATION OR LICENSURE RENEWAL ON A FORM AND IN A MANNER APPROVED BY THE DIVISION;
  - (B) SUBMIT THE RESULTS OF THE ANNUAL INDEPENDENT AUDIT AND/OR INTERNAL CONTROLS REVIEW, CONDUCTED PURSUANT TO SECTION 44-30-1607(2), C.R.S.;
    - (i) THE AUDIT MAY BE AN ANNUAL FINANCIAL AUDIT OF THE OPERATOR'S PREVIOUS FISCAL YEAR-END FINANCIAL STATEMENTS BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; OR
    - (ii) THE AUDIT MAY BE AN ANNUAL COMPLIANCE ATTESTATION COMPLETED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT TO VERIFY COMPLIANCE WITH THE PART 16, ARTICLE 30, TITLE 44, C.R.S., AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER.
  - (C) SUBMIT THE AGGREGATE AMOUNT OF MONEY PAID BY COLORADO PATRONS IN ENTRY FEES TO FANTASY CONTESTS OVER THE PREVIOUS CALENDAR YEAR; AND,
  - (D) SUBMIT ALL FEES ESTABLISHED BY THE DIRECTOR.

(3) IF AN APPLICANT FAILS TO SUBMIT THEIR COMPLETED RENEWAL APPLICATION WHEN DUE, THE APPLICANT SHALL NOT BE CONSIDERED TO HAVE MADE A TIMELY AND SUFFICIENT APPLICATION FOR RENEWAL, AS SUCH TERM IS USED IN SECTION 24-4-104(7), C.R.S., AND THE LICENSE OR REGISTRATION SHALL EXPIRE.

(A) THE APPLICANT SHALL CEASE OPERATIONS UNTIL THEIR REGISTRATION OR LICENSE HAS BEEN REINSTATED.

(B) THE APPLICANT MAY BE SUBJECT TO ADMINISTRATIVE ACTION.

(24) In order to reinstate an expired registration or license, an applicant must:

(a) Submit a completed application for ~~license~~ reinstatement on a form and in a manner approved by the Director; ~~and~~

(B) SUBMIT AN INDEPENDENT AUDIT TO ENSURE COMPLIANCE WITH PART 16 AS REQUIRED BY 44-30-1607(2), C.R.S.;

(bc) Submit ~~with the application~~ all fees established by the Director; ~~AND~~

(D) ADHERE TO ANY ADMINISTRATIVE ACTION IMPOSED BY THE DIRECTOR.

(5) IF A FANTASY CONTEST PROVIDER CHOOSES NOT TO RENEW THEIR LICENSE OR REGISTRATION, THE FANTASY CONTEST PROVIDER WILL NOT BE ALLOWED TO REAPPLY FOR A LICENSE OR REGISTRATION FOR A PERIOD OF ONE YEAR UNLESS IN ADDITION TO A NEW APPLICATION, THE REQUIREMENTS SET FORTH IN (2)(B) AND (2)(C) OF THIS REGULATION 2.4 ARE MET.

#### **1.72.5 Rules of Conduct UNTRUE STATEMENTS.**

(1) ~~A registrant or licensee~~ AN APPLICANT FOR FANTASY CONTEST OPERATOR LICENSE OR SMALL FANTASY CONTEST REGISTRATION shall not make any false statements or fail to disclose any facts requested in connection with an application or any communication with the Director.

(2) THE DIRECTOR MAY REFUSE TO GRANT A LICENSE OR REGISTRATION TO AN APPLICANT WHO MAKES DELIBERATE MISSTATEMENTS, DELIBERATE OMISSIONS, MISREPRESENTATIONS, OR UNTRUTHS IN ANY APPLICATION OR IN CONNECTION WITH THE APPLICANT'S BACKGROUND INVESTIGATION.

#### **2.6 APPROVAL WITH CONDITIONS OR FOR A LIMITED PERIOD.**

THE DIRECTOR MAY GRANT A REGISTRATION OR LICENSE WITH SPECIAL CONDITIONS OR FOR A LIMITED PERIOD, OR BOTH.

#### **2.7 REQUIREMENTS FOR NON-RENEWAL YEARS.**

PER RULE 2.1(2), FANTASY CONTEST OPERATOR LICENSES AND REGISTRATIONS ARE VALID FOR UP TO TWO YEARS. IN THE OFF YEAR IN WHICH A RENEWAL APPLICATION IS NOT REQUIRED, FANTASY CONTEST PROVIDERS MUST SUBMIT THE RESULTS OF THEIR ANNUAL INDEPENDENT AUDITS AND/OR INTERNAL CONTROL REVIEWS, CONDUCTED PURSUANT TO SECTION 44-30-1607(2), C.R.S., BY JULY 31.

(1) THE AUDIT MAY BE AN ANNUAL FINANCIAL AUDIT OF THE OPERATOR'S FISCAL YEAR-END FINANCIAL STATEMENTS BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; OR

(2) THE AUDIT MAY BE AN ANNUAL COMPLIANCE ATTESTATION ALONG WITH THE RESULTS COMPLETED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT TO VERIFY COMPLIANCE WITH THE PART 16, ARTICLE 30, TITLE 44, C.R.S., AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER.

## **12.8 Petitions for Declaratory Order.**

- (1) Any person may petition the Director for a declaratory order to terminate controversies or to remove uncertainties as to the applicability to the petitioner of any provision of Article 30 of Title 44, C.R.S., or of any rule or order of the Director.
- (2) The Director will determine, in his or her discretion and without notice to petitioner, whether to rule upon any such a petition. The Director shall promptly notify the petitioner of his or her action and state the reasons for such action.
- (3) In determining whether to rule upon a petition filed pursuant to this Rule, the Director will consider the following matters, among others:
  - (a) Whether a ruling on the petition will terminate a controversy or remove uncertainties.
  - (b) Whether the petition involves any subject, question or issue which 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.
  - (c) Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the Director or a court but not involving any petitioner.
  - (d) Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.
  - (e) Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Rule 57, Colorado Rules of Civil Procedure, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule, or order in question.
- (4) Any petition filed pursuant to this Rule shall set forth the following:
  - (a) The name and address of the petitioner and whether the petitioner is registered pursuant to section 44-30-1606, C.R.S.
  - (b) The statute, rule, or order to which the petition relates.
  - (c) 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.
- (5) If the Director determines that he or she will rule on the petition, the following procedure shall apply:
  - (a) The Director may rule upon the petition based solely upon the facts presented in the petition. In such a case:
    - (i) Any ruling of the Director will apply only to the extent of the facts presented in the petition and any amendment to the petition.
    - (ii) The Director may order the petitioner to file a written brief, memorandum, or statement of position.



- (iii) The Director may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.
  - (iv) The Director may dispose of the petition on the sole basis of the matters set forth in the petition.
  - (v) 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.
  - (vi) The Director may take administrative notice of facts pursuant to the State Administrative Procedure Act and may utilize available experience, technical competence and specialized knowledge in the disposition of the petition.
  - (vii) If the Director rules upon the petition without a hearing, the Director shall promptly notify the petitioner of the decision.
- (b) The Director may, in his or her sole 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 setting such hearing 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 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.
- (6) 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 required by Rule 42.8(3)(D). Any reference to a “petitioner” in this Rule also refers to any person who has been granted leave to intervene by the Director.
- (7) Any declaratory order or other order disposing of a petition pursuant to this Rule shall constitute final agency action subject to judicial review pursuant to section 24-4-106, C.R.S.

### **BASIS AND PURPOSE FOR RULE 3**

**THE PURPOSE OF RULE 3 IS TO SPECIFY THE RIGHTS, RESPONSIBILITIES, AND DUTIES OF FANTASY CONTEST OPERATORS IN REGARD TO THE LAWFUL METHODS OF OPERATION, DISCOVERY OF VIOLATIONS, CHANGES IN OWNERSHIP AND CONTROL, RETENTION OF RECORDS AND ACCESS TO THE DIVISION, ADVERTISING, AND CEASING OPERATIONS. THE STATUTORY BASIS FOR RULE 3 IS FOUND IN SECTIONS 44-30-203, C.R.S., 44-30-204, C.R.S., 44-30-1604, C.R.S., 44-30-1605, C.R.S., 44-30-1607, C.R.S., 44-30-1608, C.R.S., 44-30-1610, C.R.S., AND PART 16 OF ARTICLE 30 OF TITLE 44.**

### **RULE 3 DUTIES OF FANTASY CONTEST PROVIDERS**

#### **3.1 RESPONSIBILITIES OF FANTASY CONTEST PROVIDERS.**

**RESPONSIBILITY FOR THE EMPLOYMENT AND MAINTENANCE OF LAWFUL METHODS OF OPERATION RESTS WITH THE FANTASY CONTEST PROVIDER, AND WILLFUL OR PERSISTENT USE OR TOLERATION OF METHODS OF OPERATION CONSIDERED UNLAWFUL BY THE DIVISION IS PROHIBITED. EACH FANTASY CONTEST PROVIDER SHALL FULLY AND**

TIMELY PERFORM EACH AND EVERY TERM, CONDITION AND DUTY REQUIRED UNDER PART 16, ARTICLE 30, OF TITLE 44, C.R.S., AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER GOVERNING FANTASY CONTESTS.

### **3.2 DISCOVERY OF VIOLATIONS.**

FANTASY CONTEST PROVIDERS MUST NOTIFY THE DIVISION WITHIN SEVENTY-TWO (72) HOURS OF THE TIME ANY VIOLATION OR SUSPECTED VIOLATION WAS DISCOVERED OR SHOULD HAVE BEEN DISCOVERED OF PART 16, ARTICLE 30, OF TITLE 44, C.R.S., OR THE RULES AND REGULATIONS PROMULGATED THEREUNDER, SECURITY BREACHES, UNINTENDED DISCLOSURE OF PATRON'S PERSONAL INFORMATION, SUSPICIOUS ACTIVITY, OR ANY OTHER CRIMINAL VIOLATION.

### **3.3 DUTY TO UPDATE INFORMATION.**

ALL FANTASY CONTEST PROVIDERS SHALL NOTIFY THE DIVISION, IN WRITING, WITH ANY CHANGE TO INFORMATION REQUIRED IN AN APPLICATION OR RENEWAL APPLICATION WITHIN FORTY-FIVE (45) DAYS OF THE CHANGE. SUCH CHANGES SHALL INCLUDE, BUT NOT BE LIMITED TO, CHANGES IN OFFICERS OR DIRECTORS, EFFECTIVE OWNERSHIP OF GREATER THAN 10%, AND TRADE NAMES.

### **3.4 RETENTION OF RECORDS.**

FANTASY CONTEST PROVIDERS SHALL RETAIN ALL BOOKS, RECORDS, AND DATA RELATING TO THE OPERATION AND MANAGEMENT OF FANTASY CONTESTS, AS WELL AS INFORMATION SUFFICIENT TO TRACE THE DEPOSITS AND WITHDRAWALS TO A PATRON'S ACCOUNT FOR AT LEAST THREE (3) YEARS FROM THE DATE OF CREATION. A FANTASY CONTEST PROVIDER MAY PETITION THE DIRECTOR FOR APPROVAL TO DISPOSE OF RECORDS PRIOR TO THE THREE (3) YEAR RETENTION REQUIREMENT.

### **3.5 INSPECTIONS.**

A FANTASY CONTEST PROVIDER MUST IMMEDIATELY MAKE AVAILABLE FOR INSPECTION BY THE DIVISION, OR ITS AGENTS OR INVESTIGATORS, LOCAL SHERIFFS, OR THEIR AGENTS OR INVESTIGATORS, AND POLICE DEPARTMENTS UPON DEMAND, ALL RECORDS PRODUCED, USED OR KEPT IN CONNECTION WITH FANTASY CONTESTS, AND ALL PORTIONS OF THE PREMISES WHERE FANTASY CONTEST SYSTEM IS HOUSED. UPON DEMAND, EMPLOYEES AND AGENTS OF THE DIVISION, MUST BE GIVEN IMMEDIATE ACCESS TO ANY PORTION OF THEIR PREMISES FOR THE PURPOSE OF INSPECTING OR EXAMINING RECORDS OR DOCUMENTS, FANTASY CONTEST SYSTEMS, OR THE CONDUCT OF FANTASY CONTEST ACTIVITY.

### **3.6 ACCESS TO PREMISES AND PRODUCTION OF RECORDS.**

NO FANTASY CONTEST PROVIDER MAY NEGLECT OR REFUSE TO PRODUCE RECORDS OR EVIDENCE OR TO GIVE INFORMATION UPON DEMAND BY THE DIVISION. NO FANTASY CONTEST PROVIDER SHALL INTERFERE OR ATTEMPT TO INTERFERE WITH LAWFUL EFFORTS BY THE DIVISION TO OBTAIN OR PRODUCE SUCH INFORMATION.

### **3.7 ADVERTISING.**

A FANTASY CONTEST PROVIDER SHALL NOT ALLOW, CONDUCT, OR PARTICIPATE IN ANY FALSE OR MISLEADING ADVERTISING CONCERNING ITS OPERATIONS.

(1) IN ADDITION, ALL OFFERS AND BONUSES MUST:

(A) INCLUDE TERMS AND CONDITIONS THAT ARE FULL, ACCURATE, CLEAR, CONCISE, TRANSPARENT, AND DO NOT CONTAIN MISLEADING INFORMATION;

- (B) HAVE ADVERTISING MATERIALS THAT INCLUDE ANY MATERIAL TERMS AND CONDITIONS FOR THAT OFFER OR BONUS AND HAVE THOSE MATERIAL TERMS IN CLOSE PROXIMITY TO THE HEADLINE CLAIM OF THE OFFER OR BONUS AND IN REASONABLY PROMINENT SIZE;
- (C) NOT BE DESCRIBED AS FREE UNLESS THEY ABSOLUTELY ARE FREE. IF THE CUSTOMER HAS TO RISK OR LOSE THEIR OWN MONEY OR HAS CONDITIONS ATTACHED TO THEIR OWN MONEY, THEN THE OFFER OR BONUS MUST DISCLOSE THOSE TERMS;
- (D) NOT BE DESCRIBED AS RISK FREE IF THE CUSTOMER NEEDS TO INCUR ANY LOSS OR RISK THEIR OWN MONEY TO USE OR WITHDRAW WINNINGS FROM THE RISK FREE CONTESTS; AND
- (E) NOT RESTRICT THE CUSTOMER FROM WITHDRAWING THEIR OWN FUNDS OR WITHDRAWING WINNINGS FROM CONTESTS PLACED USING THEIR OWN FUNDS.
- (F) OPERATORS SHALL IMPLEMENT COMMERCIALY REASONABLE METHODS TO ENSURE PLAYERS THAT SELF-EXCLUDE SHALL NOT, WHILE ON THE EXCLUSION LIST, BE ABLE TO REDEEM POINTS, BONUSES, COMPS OR FREEPLAY.

### **3.8 CLOSING OF A FANTASY CONTEST OPERATION; DISSOLUTION.**

- (1) A FANTASY CONTEST PROVIDER MUST NOTIFY THE DIVISION AT LEAST SIXTY (60) DAYS PRIOR TO CEASING OPERATIONS, OR THE CHANGE OF OWNERSHIP, OR AS SOON AS THE OPERATOR KNOWS THAT CLOSING IS IMMINENT, WHICHEVER PERIOD IS SHORTER.
- (2) WITHIN 30 DAYS OF NOTICE TO THE DIVISION, THE FANTASY CONTEST PROVIDER MUST SUBMIT TO THE DIVISION A CLOSING PLAN REGARDING THE DISPOSITION OF PATRON ACCOUNTS, FUNDS IN THOSE ACCOUNTS, AND ON- GOING FANTASY CONTESTS.
- (3) UPON THE DISSOLUTION OF A FANTASY CONTEST PROVIDER THAT IS A CORPORATION, COMPANY, PARTNERSHIP OR ASSOCIATION, THE FANTASY CONTEST PROVIDER SHALL SURRENDER THEIR LICENSE OR REGISTRATION WITHIN 10 DAYS OF THE DISSOLUTION EFFECTIVE DATE.

## **BASIS AND PURPOSE FOR RULE 4**

THE PURPOSE OF RULE 4 IS TO ESTABLISH THE REQUIREMENTS FOR PATRON ACCOUNTS AND TO DIRECT FANTASY CONTEST OPERATORS TO ESTABLISH INTERNAL CONTROL PROCEDURES. THE STATUTORY BASIS FOR RULE 4 IS FOUND IN SECTIONS 44-30-203, C.R.S., 44-30-204, C.R.S., 44-30-1604, C.R.S., 44-30-1606, C.R.S., 44-30-1607, C.R.S., AND 44-30-1610, C.R.S., AND PART 16 OF ARTICLE 30 OF TITLE 44.

## **RULE 4 REQUIREMENTS OF FANTASY CONTEST PROVIDERS**

### **4.1 PATRON ACCOUNTS.**

- (1) ACCOUNT REQUIRED.
  - (A) A FANTASY CONTEST PROVIDER SHALL USE TECHNOLOGICALLY REASONABLE MEASURES TO LIMIT EACH PATRON TO ONE (1) ACTIVE ACCOUNT.
  - (B) A FANTASY CONTEST PROVIDER SHALL IMPLEMENT RULES AND PUBLISH PROCEDURES TO TERMINATE ALL ACCOUNTS OF ANY PATRON THAT KNOWINGLY AND INTENTIONALLY ESTABLISHES OR SEEKS TO ESTABLISH MULTIPLE ACTIVE ACCOUNTS, IN CONTRAVENTION OF THIS RULE, WHETHER DIRECTLY OR BY USE OF ANOTHER PERSON AS A PROXY.

**(2) ACCOUNT REQUIREMENTS.**

**BEFORE A PATRON IS ALLOWED TO ENTER A FANTASY CONTEST, AN OPERATOR SHALL:**

**(A) CREATE AN ELECTRONIC PATRON FILE, WHICH SHALL INCLUDE AT A MINIMUM:**

**(i) THE PATRON'S LEGAL NAME;**

**(ii) THE PATRON'S DATE OF BIRTH;**

**(iii) THE PATRON'S FANTASY ACCOUNT NUMBER OR USERNAME;**

**(iv) THE PATRON'S RESIDENTIAL ADDRESS; A POST OFFICE BOX IS NOT ACCEPTABLE;**

**(v) THE PATRON'S ELECTRONIC MAIL ADDRESS;**

**(vi) THE PATRON'S TELEPHONE NUMBER;**

**(vii) ANY OTHER INFORMATION COLLECTED FROM THE PATRON USED TO VERIFY HIS OR HER IDENTITY;**

**(viii) THE METHOD USED TO VERIFY THE PATRON'S IDENTITY; AND**

**(ix) THE DATE OF VERIFICATION.**

**(B) ENCRYPT ALL OF THE FOLLOWING INFORMATION CONTAINED IN AN ELECTRONIC PATRON FILE:**

**(i) ANY PORTION OF THE PATRON'S SOCIAL SECURITY NUMBER OR EQUIVALENT IDENTIFICATION NUMBER FOR A NONCITIZEN PATRON, SUCH AS A PASSPORT OR TAXPAYER IDENTIFICATION NUMBER;**

**(ii) THE PATRON'S PASSWORDS AND PINS; AND**

**(iii) THE PATRON'S PERSONAL FINANCIAL INFORMATION.**

**(C) RECORD THE PATRON'S ACCEPTANCE OF THE FANTASY CONTEST PROVIDER'S TERMS AND CONDITIONS.**

**(3) AGE AND IDENTITY VERIFICATION.**

**A FULL IDENTITY CHECK AND VERIFICATION MUST BE COMPLETED BEFORE A PATRON IS ALLOWED TO ENTER A FANTASY CONTEST:**

**(A) ONLY PATRONS EIGHTEEN (18) YEARS OF AGE AND OLDER MAY DEPOSIT FUNDS OR PARTICIPATE IN A FANTASY CONTEST.**

**(B) PATRON VERIFICATION MUST USE COMMERCIALY REASONABLE STANDARDS TO CONFIRM THAT THE PATRON IS NOT A PROHIBITED PARTICIPANT.**

**(C) THIRD-PARTY SERVICE PROVIDERS MAY BE USED FOR AGE AND IDENTITY VERIFICATION OF PATRONS.**

**(4) TRANSFER OF FUNDS PROHIBITED.**

**A FANTASY CONTEST PROVIDER SHALL NOT PERMIT A PATRON TO TRANSFER FUNDS FROM THEIR PATRON ACCOUNT TO ANOTHER PATRON'S ACCOUNT.**

(5) ACCOUNT CLOSURE.

A FANTASY CONTEST PROVIDER SHALL PROVIDE A CONSPICUOUS AND READILY ACCESSIBLE METHOD FOR A PATRON TO CLOSE THEIR ACCOUNT. ANY BALANCE REMAINING IN A PATRON'S ACCOUNT CLOSED BY A PATRON SHALL BE REFUNDED PURSUANT TO THE OPERATOR'S INTERNAL CONTROLS.

(6) PATRON ACCOUNT WITHDRAWAL.

(A) A PATRON MUST BE ALLOWED TO WITHDRAW FUNDS MAINTAINED IN HIS OR HER ACCOUNT, WHETHER SUCH ACCOUNT IS OPEN OR CLOSED.

(B) A FANTASY CONTEST PROVIDER MUST HONOR SUCH PATRON REQUEST TO WITHDRAW FUNDS WITHIN FIVE (5) BUSINESS DAYS OF THE REQUEST, UNLESS THE CONDITIONS SET FORTH IN SUBSECTION (D) ARE MET.

(C) A FANTASY CONTEST PROVIDER SHOULD USE COMMERCIALY REASONABLE STANDARDS TO VERIFY THAT THE FUNDS WITHDRAWN PURSUANT TO A PATRON REQUEST ARE TRANSFERRED TO AN ACCOUNT IN THE NAME OF THE PATRON OR MAILED BY CHECK TO THE PATRON'S ADDRESS.

(D) A FANTASY CONTEST PROVIDER MAY DECLINE TO HONOR A PATRON REQUEST TO WITHDRAW FUNDS IF THE PROVIDER BELIEVES IN GOOD FAITH THAT THE PATRON ENGAGED IN EITHER FRAUDULENT CONDUCT OR OTHER CONDUCT THAT WOULD PUT THE OPERATOR IN VIOLATION OF THE LAW. IN SUCH CASES, THE FANTASY CONTEST PROVIDER SHALL:

(i) PROVIDE NOTICE TO THE PATRON OF THE NATURE OF THE INVESTIGATION OF THE ACCOUNT; AND

(ii) CONDUCT ITS INVESTIGATION IN A REASONABLE AND EXPEDIENT FASHION, PROVIDING THE PATRON ADDITIONAL WRITTEN NOTICE OF THE STATUS OF THE INVESTIGATION EVERY TENTH BUSINESS DAY STARTING FROM THE DAY THE ORIGINAL NOTICE WAS PROVIDED TO THE PATRON.

(E) FOR PURPOSES OF THIS PROVISION, A REQUEST FOR WITHDRAWAL WILL BE CONSIDERED HONORED IF IT IS PROCESSED BY THE FANTASY CONTEST PROVIDER NOTWITHSTANDING A DELAY BY A PAYMENT PROCESSOR, CREDIT CARD ISSUER, OR THE CUSTODIAN OF A FINANCIAL ACCOUNT.

(7) DORMANT PATRON ACCOUNTS.

A FANTASY CONTEST PROVIDER SHALL CONSIDER A PATRON ACCOUNT TO BE DORMANT IF THE PATRON HAS NOT LOGGED INTO THE ACCOUNT FOR AT LEAST THREE (3) YEARS. A DORMANT ACCOUNT SHALL BE CLOSED BY THE FANTASY CONTEST PROVIDER.

(8) UNCLAIMED FUNDS IN A DORMANT PATRON ACCOUNT.

(i) SUBJECT TO THE PROVISIONS OF COLORADO REVISED STATUTE 38-13-201, FUNDS OF PATRONS THAT REMAIN IN A DORMANT PATRON ACCOUNT SHALL BE PRESUMED ABANDONED.

(ii) THE FANTASY CONTEST PROVIDER SHALL REPORT AND DELIVER ALL FUNDS OF PATRONS THAT ARE PRESUMED ABANDONED TO THE OFFICE OF THE COLORADO DEPARTMENT OF THE TREASURY AS PROVIDED IN COLORADO REVISED STATUTE 38-13-201.

(iii) AT LEAST SIXTY (60) DAYS PRIOR TO REPORTING ANY FUNDS OF THE PATRON TO THE COLORADO DEPARTMENT OF THE TREASURY, THE FANTASY CONTEST PROVIDER SHALL PROVIDE NOTICE TO

THE PATRON'S LAST KNOWN PHYSICAL OR EMAIL ADDRESS AND CONDUCT DUE DILIGENCE TO LOCATE THE PATRON.

#### **4.2 INTERNAL CONTROLS.**

- (1) FANTASY CONTEST PROVIDERS SHALL ESTABLISH AND ADHERE TO INTERNAL CONTROLS THAT, AT MINIMUM, ADDRESS COMPLIANCE WITH THE FOLLOWING:
  - (A) MONITORING, INVESTIGATING, RESOLVING, DOCUMENTING, AND REPORTING SECURITY INCIDENTS ASSOCIATED WITH INFORMATION TECHNOLOGY SYSTEMS;
  - (B) TESTING TO ENSURE THAT THE FANTASY CONTEST PROVIDER'S PLATFORM MEETS OR EXCEEDS CURRENT INDUSTRY STANDARDS;
  - (C) PROTECTING THE PRIVACY AND ONLINE SECURITY OF PATRONS AND THEIR ACCOUNTS, INCLUDING PROCEDURES PREVENTING UNAUTHORIZED WITHDRAWALS FROM PATRON ACCOUNTS;
  - (D) GEOLOCATION SERVICES TO VERIFY A PATRON'S PHYSICAL LOCATION;
  - (E) SUSPENDING OR BANNING THE ACCOUNT OF PATRONS WHO VIOLATE A FANTASY CONTEST PROVIDER'S INTERNAL PROCEDURES, THE RULES OR TERMS OF A FANTASY CONTEST, OR FANTASY CONTEST LAW;
  - (F) PROVIDING FANTASY CONTEST PATRONS WITH ACCESS TO INFORMATION ON RESPONSIBLE GAMING;
  - (G) MITIGATING THE RISK OF FRAUD, CHEATING, AND/OR MONEY LAUNDERING;
  - (H) VERIFYING THE TRUE IDENTITY OF PATRONS;
  - (I) HANDLING PATRON COMPLAINTS;
  - (J) CREATING, UPDATING, ADJUSTING, AND CLOSING PATRON ACCOUNTS;
  - (K) CLOSING OUT DORMANT PATRON ACCOUNTS; AND
  - (L) PROCEDURES TO ADDRESS THE CONSUMER PROTECTIONS LISTED IN 44-30-1607(1), C.R.S., INCLUDING:
    - (i) PREVENTING PROHIBITED PARTICIPANTS FROM COMPETING IN FANTASY CONTESTS OFFERED BY THE OPERATOR;
    - (ii) PREVENTING THE SHARING OF CONFIDENTIAL INFORMATION THAT COULD AFFECT A FANTASY CONTEST UNTIL THE INFORMATION IS MADE PUBLIC;
    - (iii) VERIFYING PATRONS ARE EIGHTEEN (18) YEARS OF AGE OR OLDER;
    - (iv) ALLOWING PATRONS TO A VOLUNTARILY RESTRICT THEMSELVES FROM ENTERING FANTASY CONTESTS PROGRAM AND PREVENTING THOSE INDIVIDUALS FROM ENTERING FANTASY CONTESTS;
    - (v) CLEARLY DISCLOSING THE MAXIMUM NUMBER OF ENTRIES THAT A FANTASY CONTEST PATRON MAY SUBMIT TO EACH FANTASY CONTEST AND PREVENT PATRONS FROM EXCEEDING THAT NUMBER;

- (vi) SEGREGATING FANTASY CONTEST PATRON FUNDS FROM OPERATION FUNDS AND MAINTAINING A RESERVE FOR THE BENEFIT AND PROTECTION OF THE FUNDS;
  - (vii) DISTINGUISHING HIGHLY EXPERIENCED PLAYERS FROM BEGINNER PLAYERS AND ENSURING THAT HIGHLY EXPERIENCED PLAYERS ARE CLEARLY IDENTIFIED TO ALL PATRONS;
  - (viii) IDENTIFYING AUTHORIZED SCRIPTS THAT ARE MADE READILY AVAILABLE TO ALL FANTASY CONTEST PLAYERS AND DETECTING AND PREVENTING UNAUTHORIZED SCRIPTS;
  - (ix) CLEARLY DISCLOSING ALL RULES GOVERNING THE FANTASY CONTESTS;
  - (x) CLEARLY DISCLOSING THE MATERIAL TERMS OF EACH PROMOTIONAL OFFER AT THE TIME THE OFFER IS ADVERTISED; AND
  - (xi) LIMITING EACH FANTASY CONTEST PATRON TO ONE ACCOUNT.
- (2) FANTASY CONTEST PROVIDERS SHALL SUBMIT A COPY OF THEIR INTERNAL CONTROLS TO THE DIVISION UPON REQUEST.

## **BASIS AND PURPOSE FOR RULE 5**

THE PURPOSE OF RULE 5 IS TO SPECIFY THE REQUIREMENTS OF FANTASY CONTEST OPERATORS REGARDING RESPONSIBLE GAMING AND PATRON SELF-EXCLUSION. THE STATUTORY BASIS FOR RULE 5 IS FOUND IN SECTIONS 44-30-203, C.R.S., 44-30-204, C.R.S., 44-30-1604, C.R.S., 44-30-1607, C.R.S., AND PART 16 OF ARTICLE 30 OF TITLE 44.

## **RULE 5 RESPONSIBLE GAMING AND SELF EXCLUSION**

### **5.1 DISPLAY OF RESPONSIBLE GAMING LOGO.**

EACH FANTASY CONTEST PROVIDER'S WEBSITE OR MOBILE APPLICATION SHALL DISPLAY A RESPONSIBLE GAMING LOGO IN A MANNER APPROVED BY THE DIRECTOR TO DIRECT A PATRON TO THE OPERATOR'S RESPONSIBLE GAMING WEBPAGE. THE RESPONSIBLE GAMING WEBPAGE SHALL BE ACCESSIBLE TO A PATRON THROUGHOUT A PATRON SESSION AND SHALL CONTAIN, AT A MINIMUM, THE FOLLOWING:

- (1) A PROMINENT MESSAGE THAT STATES, "GAMBLING PROBLEM? CALL OR TEXT 1-800-GAMBLER";
- (2) A DIRECT LINK TO A WEBSITE AND OTHER REPUTABLE INTERNET RESOURCES DEDICATED TO HELPING PEOPLE WITH POTENTIAL GAMBLING PROBLEMS; AND,
- (3) A CLEAR STATEMENT OF THE FANTASY CONTEST PROVIDER'S POLICY AND COMMITMENT TO RESPONSIBLE GAMING ALONG WITH A LINK TO THE PROVIDER'S SELF-EXCLUSION PROGRAM.

### **5.2 SELF-EXCLUSION PROGRAM.**

- (1) EACH FANTASY CONTEST PROVIDER SHALL ESTABLISH AND MAINTAIN A SELF-EXCLUSION PROGRAM FOR PATRONS. THE PROGRAM SHALL BE CLEARLY ACCESSIBLE TO PATRONS AND INCLUDE, AT MINIMUM, THE ABILITY FOR PATRONS TO SELF-EXCLUDE FROM ALL FANTASY CONTESTS.
- (2) FANTASY CONTEST PROVIDERS SHALL MAKE ALL REASONABLE EFFORTS TO ENSURE PATRONS THAT HAVE SELF-EXCLUDED DO NOT RECEIVE DIRECT MARKETING OR ADVERTISING MATERIAL FROM THE OPERATOR AND/OR THE OPERATOR'S MARKETING AFFILIATES.

## **BASIS AND PURPOSE FOR RULE 6**

THE PURPOSE OF RULE 6 IS TO ESTABLISH PROCEDURES FOR PATRON DISPUTES AND CITIZEN COMPLAINTS. THE STATUTORY BASIS FOR RULE 6 IS FOUND IN SECTIONS 44-30-203, C.R.S., 44-30-204, C.R.S., 44-30-1604, C.R.S., 44-30-1605, C.R.S., 44-30-1610, C.R.S., AND PART 16 OF ARTICLE 30 OF TITLE 44.

## **RULE 6 PATRON COMPLAINTS**

### **6.1 PATRON DISPUTES.**

- (1) FANTASY CONTEST PROVIDERS SHALL DEVELOP AND PROMINENTLY PUBLISH PROCEDURES BY WHICH A PATRON MAY FILE A COMPLAINT WITH THE PROVIDER ABOUT ANY ASPECT OF THE PROVIDER'S OPERATIONS.
- (2) IT IS THE RESPONSIBILITY OF THE FANTASY CONTEST PROVIDER TO ATTEMPT TO RESOLVE ALL VALID DISPUTES DIRECTLY WITH THE PATRON.
- (3) WHENEVER A FANTASY CONTEST PROVIDER REFUSES PAYMENT OF ALLEGED WINNINGS TO A PATRON OR THERE IS OTHERWISE A DISPUTE WITH A PATRON REGARDING THEIR PATRON ACCOUNT, ENTRIES, WINS, OR LOSSES FROM FANTASY CONTESTS, AND THE PROVIDER AND THE PATRON ARE UNABLE TO RESOLVE THE DISPUTE TO THE SATISFACTION OF THE PATRON, THE PROVIDER SHALL NOTIFY THE PATRON OF THEIR RIGHT TO FILE A WRITTEN COMPLAINT WITH THE PROVIDER. THE NOTICE SHALL INCLUDE THE PROCEDURE FOR FILING A WRITTEN COMPLAINT AND THE COMPLAINT RESOLUTION PROCESS.
- (4) UPON RECEIPT OF A WRITTEN COMPLAINT, A FANTASY CONTEST PROVIDER SHALL INVESTIGATE AND PROVIDE A WRITTEN RESPONSE TO THE PATRON WITHIN TEN (10) DAYS. THE RESPONSE SHALL INCLUDE A STATEMENT THAT IF THE DISPUTE IS NOT RESOLVED TO THE SATISFACTION OF THE PATRON, THE PATRON MAY SUBMIT THEIR COMPLAINT IN WRITING TO THE DIVISION WITHIN 30 DAYS OF RECEIVING THE RESPONSE PURSUANT TO REGULATION 6.2.

### **6.2 CITIZEN COMPLAINTS AUTHORIZED.**

ANY PERSON CLAIMING THAT A FANTASY CONTEST PROVIDER HAS ENGAGED IN CONDUCT VIOLATING A PROVISION OF PART 16, ARTICLE 30, OF TITLE 44, C.R.S. OR THE RULES AND REGULATIONS PROMULGATED THEREUNDER MAY FILE A SWORN WRITTEN COMPLAINT TO THE DIVISION ON FORM DESIGNATED BY THE DIVISION. THE COMPLAINT MUST COMPLETELY DETAIL THE CONDUCT AND THE SPECIFIC FANTASY CONTEST STATUTE OR REGULATION OR OTHER LEGAL REQUIREMENT ALLEGED TO HAVE BEEN VIOLATED. THE DIVISION WILL NOTIFY THE FANTASY CONTEST PROVIDER AND ANY OTHER AFFECTED PARTIES OF THE COMPLAINT. ONCE NOTIFIED, THE FANTASY CONTEST PROVIDER HAS TEN (10) BUSINESS DAYS TO PROVIDE THE DIVISION A WRITTEN RESPONSE TO THE COMPLAINT.

### **6.3 DISMISSAL OF CITIZEN COMPLAINT.**

THE DIRECTOR MUST EXAMINE THE COMPLAINT, ANY ANSWER PROVIDED BY THE FANTASY CONTEST PROVIDER, AND OTHER SUPPORTING DOCUMENTS TO DETERMINE WHETHER THE COMPLAINT HAS MERIT, IS FRIVOLOUS, OR WHETHER IT CHARGES CONDUCT CONSTITUTING GROUNDS FOR DISCIPLINARY ACTION. THE DIRECTOR MAY CONDUCT ANY INVESTIGATION DEEMED APPROPRIATE TO MAKE THIS DECISION.

- (1) THE DIRECTOR MAY REJECT A COMPLAINT IF IT DOES NOT MEET THE REQUIREMENTS OF THIS SECTION.
- (2) IF THE DIRECTOR DETERMINES THAT THE COMPLAINT IS WITHOUT MERIT, IS FRIVOLOUS, OR DOES NOT CHARGE CONDUCT CONSTITUTING GROUNDS FOR DISCIPLINARY ACTION, THE DIRECTOR MAY DISMISS THE COMPLAINT AND NOTIFY THE INVOLVED PARTIES STATING THE REASONS FOR DISMISSAL.



(3) IF THE DIRECTOR DETERMINES THE COMPLAINT HAS MERIT, THE DIRECTOR MAY DECIDE TO INITIATE FORMAL DISCIPLINARY PROCEEDINGS WHERE GROUNDS EXIST TO SUSTAIN THEIR INITIATION.

## **BASIS AND PURPOSE FOR RULE 7**

THE PURPOSE OF RULE 7 IS TO ESTABLISH PROCEDURES FOR DISCIPLINARY ACTIONS AND THE INFORMAL RESOLUTION OF ALLEGATIONS OF VIOLATIONS OF THE PROVISIONS OF ARTICLE 30 OF TITLE 44 C.R.S., OR ANY RULES AND REGULATIONS PROMULGATED THEREUNDER, TO PROVIDE PROCEDURES TO IMPOSE SANCTIONS FOR VIOLATIONS, AND TO PROVIDE FOR CERTAIN CONDITIONS TO BE MET FOR REISSUANCE OF LICENSES TO PERSONS WHO FORMERLY HELD A LICENSE. THE STATUTORY BASIS FOR RULE 7 IS FOUND IN SECTIONS 24-4-104, C.R.S., 24-4-105, C.R.S., 44-30-203, C.R.S., 44-30-204, C.R.S., 44-30-1604, C.R.S., 44-30-1605, C.R.S., 44-30-1606, C.R.S., 44-30-1610, C.R.S., 44-30-1613, C.R.S., AND PART 16 OF ARTICLE 30 OF TITLE 44.

## **RULE 7 DISCIPLINARY ACTION**

### **7.1 GROUNDS FOR DISCIPLINARY ACTION.**

FOR THE PURPOSES OF THIS RULE 7, THE TERM "LICENSE" SHALL MEAN BOTH A FANTASY CONTEST OPERATOR LICENSE AND SMALL FANTASY CONTEST OPERATOR REGISTRATION.

THE DIRECTOR MAY FINE, SUSPEND, REVOKE, OR OTHERWISE MODIFY ANY FANTASY CONTEST PROVIDER LICENSE ISSUED OR REISSUED BY THE DIVISION FOR ANY VIOLATIONS BY THE FANTASY CONTEST PROVIDER, OR THE PROVIDER'S EMPLOYEES OR AGENTS, OF ANY OF THE PROVISIONS OF PART 16, ARTICLE 30, OF TITLE 44, C.R.S., OR ANY OF THE RULES AND REGULATIONS PROMULGATED THEREUNDER EXCEPT AS LIMITED IN SECTION 44-30-1605(2)(B)(II), C.R.S. ACCEPTANCE OF A FANTASY CONTEST PROVIDER LICENSE OR RENEWAL THEREOF CONSTITUTES AN AGREEMENT ON THE PART OF THE FANTASY CONTEST PROVIDER TO BE BOUND BY ALL THE RULES AND REGULATIONS AS THE SAME NOW ARE OR MAY HEREAFTER BE AMENDED OR PROMULGATED. IT IS THE RESPONSIBILITY OF THE FANTASY CONTEST PROVIDER TO KEEP SELF-INFORMED OF ALL SUCH RULE AND REGULATIONS, AND IGNORANCE THEREOF WILL NOT EXCUSE VIOLATIONS.

### **7.2 INITIATION OF DISCIPLINARY PROCEEDINGS.**

AFTER AN INVESTIGATION BY THE DIRECTOR, THE DIRECTOR DETERMINES THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT A FANTASY CONTEST PROVIDER VIOLATED ANY OF THE PROVISIONS OF PART 16, ARTICLE 30, OF TITLE 44, C.R.S., OR THE RULES AND REGULATIONS THEREUNDER, OR THAT VIOLATIONS BY THE FANTASY CONTEST PROVIDER OF LAWS OTHER THAN THE FANTASY CONTEST LAWS MAKE THE PROVIDER NO LONGER SUITABLE FOR A LICENSE, THE DIRECTOR MAY ORDER THAT AN ADMINISTRATIVE HEARING BEFORE THE HEARINGS DIVISION BE HELD.

### **7.3 INFORMAL CONSULTATION.**

IF THE DIRECTOR CONSIDERS A CITIZEN COMPLAINT, OR ANY OTHER ALLEGATIONS, TO BE GROUNDS FOR DISCIPLINARY ACTION, THE DIRECTOR MAY CONSULT WITH THE FANTASY CONTEST PROVIDER AND THE PARTIES AFFECTED IN AN EFFORT TO RESOLVE THE MATTER SATISFACTORILY WITHOUT A FORMAL HEARING. THE DIRECTOR MUST NOTIFY THE COMPLAINANT, THE FANTASY CONTEST PROVIDER, AND AFFECTED PARTIES OF THE RESULTS OF THE INFORMAL CONSULTATION. THE INFORMAL CONSULTATION DOES NOT PREVENT THE DIRECTOR FROM CONDUCTING A FORMAL HEARING OR ADMINISTERING DISCIPLINARY ACTION AGAINST THE PROVIDER.

### **7.4 ASSURANCE OF VOLUNTARY COMPLIANCE.**

THE DIRECTOR MAY ACCEPT AN ASSURANCE OF VOLUNTARY COMPLIANCE REGARDING ANY ACT OR PRACTICE ALLEGED TO VIOLATE PART 16, ARTICLE 30, OF TITLE 44, C.R.S., OR THE RULES AND REGULATIONS

THEREUNDER, FROM A PERSON WHO HAS ENGAGED IN, IS ENGAGING IN, OR IS ABOUT TO ENGAGE IN SUCH ACTS OR PRACTICES. THE ASSURANCE MUST BE IN WRITING AND MAY INCLUDE A STIPULATION FOR THE VOLUNTARY PAYMENT OF THE COSTS OF THE INVESTIGATION AND AN AMOUNT NECESSARY TO RESTORE TO A PERSON MONEY OR PROPERTY WHICH MAY HAVE BEEN ACQUIRED BY THE ALLEGED VIOLATOR BECAUSE OF THE ACTS OR PRACTICES. AN ASSURANCE OF VOLUNTARY COMPLIANCE MAY NOT BE CONSIDERED AN ADMISSION OF A VIOLATION FOR ANY PURPOSE; HOWEVER, PROOF OF FAILURE TO COMPLY WITH THE ASSURANCE OF VOLUNTARY COMPLIANCE IS PRIMA FACIE EVIDENCE OF A VIOLATION OF ARTICLE 30 OF TITLE 44, C.R.S., OR THE RULES AND REGULATION THEREUNDER.

#### **7.5 CRIMINAL CONVICTIONS AS GROUNDS FOR REVOCATION OR SUSPENSION.**

THE DIRECTOR MAY REVOKE OR SUSPEND THE FANTASY CONTEST PROVIDER LICENSE OF ANY PERSON WHO IS CONVICTED OF A CRIME, EVEN THOUGH THE CONVICTED PERSON'S POST-CONVICTION RIGHTS AND REMEDIES HAVE NOT BEEN EXHAUSTED, IF THE CRIME OR CONVICTION INVOLVES A FELONY.

#### **7.6 FACTS OF CRIMINAL CHARGE.**

THE CHARGE IN ANY JURISDICTION OF A FANTASY CONTEST PROVIDER WITH A FELONY IS GROUNDS FOR DISCIPLINARY ACTION. THE DIRECTOR MAY FIND THE PROVIDER GUILTY OF A VIOLATION OF THIS ARTICLE BASED ON THE FACTS OF THE CRIMINAL CHARGE EVEN THOUGH THE FANTASY CONTEST PROVIDER, OR THE PROVIDER'S EMPLOYEE OR AGENT, HAS BEEN ACQUITTED ON THE CRIMINAL CHARGE.

#### **7.7 SUMMARY SUSPENSION.**

(1) WHERE THE DIRECTOR HAS OBJECTIVE AND REASONABLE GROUNDS TO BELIEVE AND FINDS THAT A FANTASY CONTEST PROVIDER HAS BEEN GUILTY OF A DELIBERATE AND WILLFUL VIOLATION OF ANY OF THE PROVISIONS OF ARTICLE 30 OF TITLE 44, C.R.S., OR THE RULES AND REGULATIONS THEREUNDER, OR THAT DUE TO OTHER VIOLATIONS OF LAW BY THE FANTASY CONTEST PROVIDER OR ITS PATRONS, THE PUBLIC HEALTH, SAFETY, OR WELFARE IMPERATIVELY REQUIRES EMERGENCY ACTION, AND WHERE THE DIRECTOR INCORPORATES SUCH FINDINGS IN ITS ORDER, THE DIRECTOR MAY SUMMARILY SUSPEND THE FANTASY CONTEST PROVIDER'S LICENSE PENDING DISCIPLINARY PROCEEDINGS FOR SUSPENSION OR REVOCATION. ANY SUCH DISCIPLINARY PROCEEDINGS SHALL BE PROMPTLY INSTITUTED AND DETERMINED.

(2) THE SUMMARY SUSPENSION OF A LICENSE WITHOUT NOTICE PENDING A HEARING SHALL BE FOR A PERIOD NOT TO EXCEED THIRTY (30) DAYS EXCEPT THAT A FANTASY CONTEST PROVIDER MAY WAIVE THE THIRTY (30) DAY HEARING REQUIREMENT BY REQUESTING A CONTINUANCE IN WRITING NO LATER THAN FIVE (5) BUSINESS DAYS PRIOR TO THE SCHEDULED HEARING. IN NO EVENT, HOWEVER, SHALL THE REQUESTED CONTINUANCE BE GRANTED UNLESS THE FANTASY CONTEST PROVIDER REQUESTING THE CONTINUANCE HAS COMPLIED WITH THE ORDER OF SUMMARY SUSPENSION BY SURRENDERING SUCH PROVIDER'S LICENSE TO THE DIVISION.

#### **7.8 CONDITIONS IMPOSED FOR REISSUANCE OF LICENSE.**

THE DIRECTOR MAY REQUIRE A FANTASY CONTEST PROVIDER WHO FORMERLY HELD A LICENSE TO MEET CERTAIN CONDITIONS BEFORE REISSUING A LICENSE TO THAT PROVIDER, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

- (1) RESTITUTION OF MONEY;
- (2) RESTITUTION OF PROPERTY; AND
- (3) MAKING PERIODIC REPORTS TO THE DIRECTOR AS REQUIRED.

#### **7.9 COSTS.**

- (1) IN ADDITION TO THE SANCTION OR DENIAL OF ANY LICENSE BY THE DIRECTOR , THE DIRECTOR MAY DIRECT THE PAYMENT BY THE APPLICANT OR FANTASY CONTEST PROVIDER OF ANY REASONABLE COSTS INCURRED BY THE DIVISION, PARTY, OR WITNESS.
  - (A) THE DIRECTOR MAY ENTER ANY SUCH ORDER OF ITS OWN INITIATIVE, OR UPON TIMELY APPLICATION AND SHOWING BY THE DIVISION OR ANY OTHER PARTY OR WITNESS IN THE ACTION PRIOR TO THE EXPIRATION OF ANY TIME FOR APPEALING THE UNDERLYING ORDER.
  - (B) THE FILING OF SUCH AN APPLICATION DOES NOT STAY THE EFFECTIVENESS OF THE UNDERLYING ORDER.
- (2) REIMBURSABLE COSTS SHALL INCLUDE, BUT ARE NOT LIMITED TO: WITNESS FEES AND PER DIEM; EXPERT WITNESS FEES; DUPLICATION COSTS; COURT REPORTER, TRANSCRIPTION, AND OTHER COSTS INCURRED IN ADMINISTERING OR PRESERVING ANY RECORD; EXTRAORDINARY STAFFING COSTS OF THE DIVISION; LEGAL FEES; EXPENSES INCURRED IN COMMENCING, ACCOMMODATING, OR CONDUCTING THE HEARING; INVESTIGATIVE COSTS; EXHIBIT COSTS; AND ANY OTHER JUDICIALLY OR STATUTORILY RECOGNIZED COST, WHETHER INCURRED PRIOR OR SUBSEQUENT TO THE CONCLUSION OF THE INVESTIGATION OF THE MATTER.
- (3) THE DIRECTOR RESERVES THE DISCRETION TO DENY, IN WHOLE OR IN PART, ANY REQUEST FOR REIMBURSEMENT OF COSTS.
- (4) UNLESS OTHERWISE ORDERED, COSTS MUST BE PAID TO THE ORDERED RECIPIENT ON OR BEFORE THE THIRTIETH DAY FROM THE DATE OF THE ORDER AWARDING THE COSTS, UNLESS STAYED BY THE DIRECTOR OR OTHER COURT OF COMPETENT JURISDICTION. FAILURE TO PAY AND TENDER COSTS AS ORDERED SHALL CONSTITUTE GROUNDS FOR SANCTION, INCLUDING FINE AND REVOCATION OF ANY LICENSE OR OTHER AFFIRMATIVE APPROVAL.