



August 5, 2020

Patty Salazar
Executive Director
Department of Regulatory Agencies
1560 Broadway, Suite 110
Denver, CO 80202

By Email: patty.salazar@state.co.us

RE: Physician Peer Assistance Confidentiality

Dear Executive Director Salazar:

On behalf of the Colorado Medical Society, I am writing to express our extreme disappointment that the Department of Regulatory Agencies (DORA) did not reconsider its request for proposal (RFP) conditions and basis for awarding the peer assistance contract for physicians to Peer Assistance Services (PAS). This decision is even more troubling in face of the significant concerns and issues for patients and physicians we raised in our July 1st letter. DORA's decision removes critical confidentiality protections for physicians who voluntarily self-refer and hampers physicians' willingness to seek care. We strongly believe this will have harmful consequences for patient safety, maintaining an adequate physician workforce for Colorado, and the mental health/well-being of physicians.

We find it unacceptable that the terms of the contract with PAS will not only require mandated participants but also voluntary participants to sign a release of information to the Colorado Medical Board (CMB). This eliminates an essential assurance of confidentiality for those voluntarily seeking support, which is contradictory to all good principles of mental health care and adversely affects health care workforce and patient safety. There is substantial evidence that lack of access to confidential care increases physician stress, burnout, and depression, and is a leading cause of physicians leaving practice before retirement age. Research also shows that without assurances of confidentiality, many physicians will not voluntarily seek services. Indeed, a study done for the Mayo Clinic found that “[n]early 40 percent of physicians reported that they would be reluctant to seek formal medical care for treatment of a mental health condition because of concerns about repercussions to their medical licensure.”¹

Stressed and burned-out physicians without access to appropriate resources are not able to provide their patients with the care they need, and at extreme levels this level of distress can be a patient safety issue. Prevention and early treatment of physician mental/behavioral health issues are essential. This contract with PAS, in its current form, will have a chilling effect resulting in physicians ignoring or minimizing their response to difficult and traumatic events. In other words, physicians won't get the care they need. Healthy physicians who can seek confidential care themselves provide safe care and treatment to their patients.



There are clearly circumstances in which a physician peer assistance program must disclose a participant's identity and involvement with the program to the CMB, which we support. However, an appropriate balance with confidentiality can be and has been struck, enabling the state's physician peer assistance program to provide appropriate evaluation and monitoring to all physicians – whether referred by the CMB or seeking treatment voluntarily and confidentially. DORA must continue to ensure access to appropriate and needed support by assuring the confidentiality of physicians who are safe to practice while complying with the physician peer assistance program's monitoring and treatment plans.

Assuring the health, wellness, and ability of physicians to seek confidential support and treatment has been repeatedly proven to improve the quality of patient care. **The Colorado Medical Society intends to continue to fight for support for our physicians so that their ability to voluntarily seek confidential, effective support and treatment is maintained and patient care, patient safety, and an adequate physician workforce in Colorado are not compromised.** As Colorado stakeholders have *repeatedly* emphasized, we feel very strongly that there must continue to be an effective process in place that allows and encourages physicians to voluntarily get the care they need.

Sincerely,

David Markenson, MD, MBA
President, Colorado Medical Society

¹Dyrbye LN, West CP, Sinsky CA, et al. Medical licensure questions and physician reluctance to seek care for mental health conditions. Mayo Clin Proc. 2017;92(10):1486–93.