

Report of Expert Panel on Professional Review-Medical Practices Act Sunset Approved by the CMS BOD: 1-18-19

The question before BOD: To discuss and act on recommendations from the Expert Panel on Professional Review/Medical Practices Act Sunset (COL reviewed this report on December 12, 2018 and made no additional recommendations)

Background:

In preparation for the 2018-2019 sunset review process for the Medical Practice Act and the Professional Review Statute, the board of directors convened an expert panel to advise the board of directors and the Council on Legislation (COL). The expert panel met in August and November 2018. Outcomes from the first meeting, previously approved by the board of directors, directly informed CMS's formal comments and recommendations to the Colorado Department of Regulatory Affairs (DORA) on professional review sunset. DORA released its sunset reports on October 15, 2018 and the expert panel met in November to discuss these reports and to make the following recommendations to the CMS board and COL.

Recommendations

a) Professional review:

- DORA Recommendation 1 – Continue the Colorado Professional Review Act for 11 years, until 2030
 - Work group recommendation: *Strongly support*
- DORA Recommendation 2 – Clarify that the governing board and the data reported by the governing boards to the Colorado Medical Board and the Colorado Board of Nursing and to the staff of the Division of Professions and Occupations may be known to the Division staff.
 - Work group recommendation: *Support*
- DORA Recommendation 3 – Require governing boards to update their information on the registry annually, including reporting whether they are currently, or will in the future, engage in peer review activities.
 - Work group recommendation: *Support*
- DORA Recommendation 4 – Require the Division to establish, by rule, a process to remove governing boards from the registry.
 - Work group recommendation: *Monitor this rule making process carefully and seek changes as necessary to ensure that there are no unintended, adverse consequences for professional review entities that may have accidentally neglected to update their registry entry annually.*
- DORA Recommendation 5 – Make technical amendments to the Act
 - Work group recommendation: *No comments*
- Work group recommendation – *Seek options to enable the protected sharing of peer review processes.* The continual improvement of these systems is a goal worthy of future work and should not be linked to existing patient safety organization requirements.
 - Work group rationale – While the two DORA reports are favorable, it is critical to be prepared for the coming legislative session by having a number of ideas and tools available for use to help ensure that professional review protections are maintained.

- Work group recommendation – *Seek options to increase the publicly available data elements that are reported by professional review entities to DORA for evaluation purposes.* Every effort must be made to ensure that potential new data reporting processes are not burdensome and that the expansion of aggregate data fields support systems learning.
 - Work group rationale – While the current data elements do provide insights into how professional review is working in Colorado, there is an interest in exploring what other data elements could be reported to help system learning and transparency, especially in the “no action taken” category.

b) Medical Practice Act:

- DORA Recommendation 1 – Continue the Colorado Medical Board for seven years, until 2026.
 - Work group recommendation: *Support*
- DORA Recommendation 2 – Authorize the Colorado Medical Board to discipline a licensee based on criminal conduct.
 - Work group recommendation: *Seek clarity from the Colorado Medical Board about how this is currently inhibited given existing summary suspension powers. The objective is to ensure appropriate accountability without jeopardizing due process. Empower lobbyists to seek changes accordingly.*
- DORA Recommendation 3 – Eliminate the 60-day limit on the pro-bono license type.
 - Work group recommendation: *Support*
- DORA Recommendation 4 – Repeal the requirement that letters of admonition be sent by certified mail.
 - Work group recommendation: *Support*
- DORA Recommendation 5 – Make technical amendments to the Act
 - Work group recommendation: *No comments*

Major surfaced issues:

- The expert work group unanimously approved a goal and strategy that focuses on preserving professional review protections and appropriate licensure by concentrating on going beyond historical arguments and demonstrating that the current system makes care safer.
- Members fervently agreed that advocacy efforts on professional review must be anchored in the firm belief that the covenant between the Colorado General Assembly and medical profession since 1975 must be preserved and strengthened.
- Stories about how peer review is working are critical to help illuminate the importance of the process, why protections should be maintained, why peer review is not just about finding bad people but rather is about system improvement, and that peer review instills a culture of communication and safety that empowers anyone on the care team to act, help learn and improve.
- Being prepared on all fronts will be essential to ensure the continuation of the professional review act with existing protections. Having policy options available for use should the need arise is necessary. Potential solutions should seek to limit administrative burden and complexity, while also demonstrating a culture of inquiry and improvement.