



Colorado Professional Review Act and Candor Act

Background

The continuation of the Colorado Professional Review Act (CPRA) was arguably the health care bill with the most significant ramifications considered by the General Assembly in 2019. The protections provided within the Act help foster an environment where physicians, physician assistants and advanced practice nurses can critically review the care of their peers and self-report when there is an adverse health care incident in the interests of improving care for all patients. CHA also helped enact SB 19-201, which allows a health care provider and facility, in the event of an adverse patient outcome, to work with the patient or his/her family to have open discussions to understand what happened and what steps may be taken to prevent similar outcomes in the future.

SB 19-234: Sunset Professional Review Committees

CHA worked with the Colorado Medical Society and COPIC to secure reauthorization of CPRA with all of its protections intact until Sept. 1, 2030. Forty-nine states have professional reviews statutes, and in Colorado there are currently 236 professional review boards that create accountability for 15,000 doctors, 5,000 advance practice nurses and 3,500 physician assistants.

What You Need to Know

An amendment was adopted in the final days of the legislative session to address concerns from the Colorado Trial Lawyers Association. The bill, with the amendment:

- Recognizes that original source documents containing information about a patient and created outside of the professional review process are not protected under the professional review privilege.
- Creates a mechanism where such documents, that are not otherwise privileged or confidential, can be identified and obtained by subpoena or discovery from the professional review entity if those records are not otherwise available from the original source that created them.
- Additionally, it was made clear that the log of all original source documents will describe the nature and source of the original source documents.
- Encourages consumer member participation on professional review committees.
- Allows for rulemaking by the Division of Regulatory Agencies (DORA) to require additional reporting by the governing boards of professional review entities about the outcomes of their professional review investigations.

This guidance does not constitute legal advice to CHA members or others. Each hospital should consult with legal counsel on these matters and have legal counsel review any policies proposed as a result of this guidance.



SB 19-201: Open Discussions About Adverse Health Care Incidents (Colorado Candor Act)

The Colorado Candor Act establishes a voluntary framework for health care providers and facilities to offer compassionate, honest, timely and thorough responses to patients who experience an adverse health care incident. It is designed to benefit patients, their families, clinicians and health care systems by formalizing a non-adversarial process where there can be open communication about what happened, why it happened and what can be done to prevent it in the future.

What You Need to Know

- The process is initiated by the health care provider involved in an “adverse health care incident.” The process may also be initiated by the provider jointly with the health facility involved in the adverse health care incident.
- Discussions about the event are considered privileged and confidential and do not constitute an admission of liability.
- Compensation may be offered, but patients must be advised of their rights to seek legal counsel.
- A provider or health facility participating in open discussions may provide de-identified information about an incident to any patient safety-centered nonprofit organization in patient safety research and education.

Additional Resources

- SB 19-234: [Final Bill](#) and [Fiscal Note](#)
- [DORA 2018 Sunset Review: Colorado Professional Review Act](#)
- SB 19-234 takes effect Aug. 2, 2019; sections 6 and 7 take effect Oct. 1, 2019
- SB 19-201: [Final Bill](#) and [Fiscal Note](#)
- SB 19-201 takes effect July 1, 2019

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