



Colorado's Professional Review Act

What Does Colorado's Professional Review Act Mean for Physician Practices?

In 2019, Copic worked with our partners in the medical community to maintain the critical protections of professional review (peer review) with DORA's sunset bill, SB 19-234. We supported DORA's recommendations to maintain the professional review process and protections under the Colorado Professional Review Act (CPRA) in their current form with some minor changes until 2030.

Frequently Asked Questions

Why is professional review important?

Professional review is ultimately a way to protect patients and improve the quality of patient care. CPRA allows a professional review committee established by an "authorized entity" to review/evaluate the (1) competence, (2) professional conduct of, or (3) the quality and appropriateness of care provided by a physician, physician assistant (PA), advanced practice registered nurse (APRN), or certified midwife.¹ The use of professional review committees is considered a way to assist the medical and nursing boards in meeting their responsibilities under the medical and nurse practice acts.²

While most of us are familiar with peer review in the hospital setting, a professional services entity, including a physician practice, may establish a professional review

committee under the law.³ When practices are asked if they discuss cases regularly, have morbidity and mortality reviews, receive patient complaints, or have experience with a physician who may be impaired, often the answer is yes. But when asked whether a practice has a formal professional review process with policies in place to address these activities, often the answer is no.

Without the legal protections afforded by having these policies and procedures in place, conversations, emails, and text messages about a patient's care, a patient complaint, or a provider's professional conduct are not protected under the professional review privilege. They may need to be disclosed in a subsequent lawsuit involving a patient's care.

What does professional review involve?

To claim the professional review privilege for discussions about providers and their care, a practice must have formal professional review policies and procedures in place that comply with CPRA. Copic has developed template professional review policies for practices to use, however, they should be reviewed by an attorney who can add information specific to the practice.

While it is very unlikely that a provider's care will rise to the level of reporting to the medical or nursing board, a practice's policy needs to address the due process requirements under CPRA. This allows for a fair hearing for the provider if a professional review committee recommends that the practice's governing board take an adverse professional review action. When the policies and procedures required by CPRA are in place, there are legal protections for all those who participate in the professional review activities.

The practice will need to identify what professional review activities fall within the policy. Some examples include the review of:

- Patient safety incidents, including near-misses
- Unscheduled patient returns
- Patient complaints
- Cases identified through screening by quality indicators
- Reported unprofessional conduct
- Concerns regarding a possible impaired provider

Additionally, the practice's governing board must register as a professional review entity with DORA. Register at www.dora.state.co.us/pls/prcweb/PRC.Logon.

¹ C.R.S. § 12-30-202(7).

² C.R.S. § 12-30-203(1)(b).

³ C.R.S. § 12-30-204(5)(m).



SB 19-234 gave authority to DORA's Division of Professions and Occupations to determine the information a governing board is required to report regarding de-identified information about professional

review outcomes and investigations. Once a governing board registers, this limited summary of de-identified professional review information is requested as part of a governing board's annual report to DORA.

Implementing Professional Review at Your Medical Practice

Practices that have successfully utilized CPRA share common themes. Foremost, they have developed a culture of understanding that the purpose of professional review is not to hinder or punish practitioners. Instead, they believe it allows them to continually improve the quality of care, treatment, and services provided as well as protect the safety of the patients they treat to ensure the best possible outcomes.

When implementing professional review, it is important to dispel a common misunderstanding among physicians that all reviews of a physician under CPRA will be reported to the medical board under that individual's name. The reality is that they are reported only if:

- The findings of an investigation indicate that a physician lacks competence, or has exhibited improper professional conduct, **AND**
- The professional review committee recommends an action to adversely affect the person's clinical privileges with the practice, **AND**
- After a fair hearing process, the governing board takes a final professional review action that adversely affects the clinical privileges of the physician for more than 30 days or accepts the surrender of clinical privileges while the physician is under investigation or in return for not conducting such an investigation or proceeding.⁴

Recommendations for additional education or treatment for behavioral health issues where there is no final adverse action would not need to be reported. Knowing this enhances the participation of clinicians. The following case study demonstrates how professional review and CPRA can facilitate the improvement of patient safety protocols within a practice.

⁴ 42 U.S.C. § 11133(a).

Case Study

A middle-aged patient complaining of persistent hacking cough a week after recovering from influenza was worked into a busy clinician's schedule during the afternoon. The patient was evaluated and treated with a codeine cough suppressant and told to return if symptoms worsened. Just five hours later, the patient felt much worse and went to the emergency department. The patient was diagnosed with bi-lobar pneumonia and admitted to the ICU due to hypoxia, hypotension, and presumed sepsis.

The professional review committee at the clinic reviewed the medical care and noted that vital signs had not been performed at the time of the clinic visit. Although there is no way to know definitively whether the vital signs would have been abnormal, they presumably would have been and could have provided a clue that the patient was more severely ill than he appeared. The committee investigated further and learned that vital signs had not been performed on nearly half of acute visits not just for this doctor, but clinic wide. They discovered a workflow challenge for acute visits that made it difficult for medical assistants to check vital signs, and this system failure was subsequently corrected. Now, nearly 100% of acute visits to the clinic have vital signs checked, which almost certainly has improved patient safety and outcomes.

In this case, and in many other examples, professional review protections have helped practices and clinics identify and fix problems to prevent adverse outcomes. The medical literature is rich with examples where proactive professional review, and a culture of patient safety has resulted in a reduction in medical liability claims. Many practices have found the protections under CPRA promote a culture of patient safety and continuous improvement, and when the practices work to educate their practitioners about how and why the professional review process works, they can help facilitate use of this valuable tool.



Professional Review Resources

Copic promotes professional/peer review as a way to improve medicine in our communities. This process can be used as a tool for improving patient safety as case reviews can provide learning opportunities regarding preventable harm for patients going forward.

In order for physician practices and clinics to use peer review, Copic's Legal Department has developed state-specific peer review toolkits that contain:

- A state-specific article explaining the legal protections for peer review and its practical application for physician practices and clinics.
- A Peer Review Checklist of what's required (consistent with state and federal peer review laws).
- A sample Confidentiality Agreement for peer review participants.
- Peer Review Policy templates that a practice can tailor to meet its needs.



Access Copic's peer review resources on our website at www.copic.com/peer-review-toolkits

Please note: Copic advises practices to have their own attorney review these materials.