



## Colorado Medical Board

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### TIPS FOR RESPONDING TO COMPLAINTS

You received a letter from the board asking for a response to a filed or initiated complaint. For most licensed professionals, this is a huge deal. Your first reaction may be a mixture of fear and anger. You may be tempted to either respond right away in the midst of emotional stress or you may set the letter aside and forget it arrived. Yet, responding in an unprofessional way or failing to timely respond will portray you in a negative light to the body charged with the responsibility to address complaints.

Keep in mind that obtaining your response is the first step in the complaint process. Many complaints filed with the board are fully resolved during the early stages of the process. The manner in which you respond to that first letter requesting your side of the story can make a significant difference. No matter what you think about the complaint itself, always keep your audience in mind when drafting a response. The following tips may seem obvious. However, professionals do not always keep them in mind when responding to the complaint.

**1. Be courteous, responsive, and professional**

When responding to a complaint—especially one alleging unprofessional behavior—craft your response in a professional manner. This is your opportunity to make a good first impression.

You may be surprised how often the board receives a response from a licensee that fails to address the issues raised in the complaint. Ranting and raving is unlikely to convey the impression you want to make. If anything, such behavior may lend credence to the complaint.

**2. Be honest**

Everyone makes mistakes, including licensed professionals. At times, the

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**Consumer protection is our mission**

### DORA'S NEW AND IMPROVED WEBSITE

DORA launched our new website this quarter! You will see many changes to the Division of Professions and Occupations web pages. Bookmark these new url's:

- Division's Homepage: [www.dora.colorado.gov/professions](http://www.dora.colorado.gov/professions)
- Renewals: [www.dora.colorado.gov/professions/renewal](http://www.dora.colorado.gov/professions/renewal)
- Online Services: [www.dora.colorado.gov/professions/onlineservices](http://www.dora.colorado.gov/professions/onlineservices)
- Colorado Medical Board:  
[www.dora.colorado.gov/professions/physicians](http://www.dora.colorado.gov/professions/physicians)

## TIPS FOR RESPONDING TO COMPLAINTS

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strength of a true professional emerges when acknowledging an error and reporting steps taken to assure future compliance. There is a difference, of course, between a complaint alleging stolen funds and one complaining about unreturned phone calls or rude behavior. If there is a bit of truth in a routine complaint, however, don't shy away from acknowledging that you should have handled a situation in a different manner and will in the future. Remember, physicians are held to high standards of professional conduct.

#### **3. Take responsibility**

It is common to hear licensees blame secretaries, relatives, co-workers, etc. when responding to complaints that are administrative in nature. While you may report the missteps of another if they contributed to an issue, don't attempt to place blame on someone else for a matter you are legally responsible for. Remember, the license is issued to you.

#### **4. Provide facts**

Be factual in your response. Please remember, the board needs to clearly understand the situation and the facts surrounding the matter in the complaint. If necessary, provide copies of any supporting documents that you think are relevant to your response.

#### **5. Legal counsel**

You are not required to seek the assistance of legal counsel when responding to a complaint letter. If you choose to retain an attorney, please have the attorney enter their appearance with the board when responding to the complaint or in a separate letter. Division staff cannot discuss any complaint with anyone other than the respondent unless notification of representation is received in writing. Should you elect to seek the assistance of legal counsel, you should do so in a timely manner. A delay in your response based on a delay in retaining counsel is not sufficient grounds for requesting an extension of time to reply. Please remember that division staff cannot provide legal advice on how you should respond and what information you should or shouldn't provide.

#### **6. Respond even if you disagree with the nature of the complaint**

The board does not have control over who files complaints or the content of the complaint. Unless a complaint is blatantly frivolous or outside the program's jurisdiction, you will likely be asked to respond. Complaints alleging rude behavior may seem "frivolous" to you, but from the public's perspective, how people are treated is important. Patterns of unprofessional or neglectful behavior may, in fact, warrant further investigation. Don't add credence to the complaint by responding in an unprofessional manner. Also, don't assume that any conclusions have been reached solely because you've been asked to respond.

#### **7. Be timely**

If you are unable to respond within the time provided, contact the division staff before the date identified for response in the letter. Please note that delays in retaining counsel will not result in additional time to respond.

#### **8. Don't cause grounds for additional violations**

If you fail to respond to the initial letter, you may face discipline for failure to respond to communication from the board. This holds true whether you are the target of the investigation or someone with knowledge of the matter. Holding a license to practice medicine imposes certain duties and expectations as a licensed professional, including the duty to assist the board when requested.

#### **9. Do not retaliate**

If a licensee is found to have retaliated against someone for filing a complaint, the licensee may raise new grounds for discipline. As long as the complainant does not act with malice, a complainant is generally immune from liability for filing a complaint and protected from retaliation.

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### 10. Do not take it personally

The board has the authority to initiate complaints against physicians for violating statutes and rules. If the board initiates a complaint for failing to renew, keeping accurate records, violating standards of practice, practicing without a license, etc. do not take it personally. The board is charged with upholding the laws and the rules related to the medical profession and ensuring that the law is applied fairly and consistently to the regulated community.

***This newsletter was created by the Division of Professions and Occupations to improve communications between the Division and its licensees***

## HOW DOES THE BOARD INVESTIGATE AND RESOLVE COMPLAINTS?

Once a written complaint is received or a complaint is initiated by the board, a letter is sent to the physician (respondent) with a request to respond. All complaints are confidential by law until discipline is imposed.

Regardless of whether a response is received, (please note that it is unprofessional conduct to fail to respond to a 30-day letter issued by the board) the matter is reviewed by the board. The board will review the basis of the complaint, any information related to the complaint and the response, if any, from the respondent. The board will decide if there is evidence of a violation of the statute and/or the rules. If there is evidence of a violation, the board will determine if there are grounds for disciplinary action and subsequently determine the specific terms to settle the complaint. Such disciplinary action may consist of a variety of sanctions including but not limited to a Letter of Admonition, a fine, probation, suspension, or revocation.

A complaint may be dismissed if the board determines that there is insufficient evidence to substantiate the allegations in the complaint; if there is no evidence of a violation of the statute or program rules; or if there aren't grounds for disciplinary action. If the board dismisses the complaint, a confidential Letter of Concern may be issued to the respondent, which will remain on the respondent's record for five years. If an additional complaint is received indicating further review is required, the initial complaint may be considered as an aggravating factor.

If additional information is needed, the board may contact the complainant or the respondent. The board may also refer the matter to the Office of Investigations for additional fact finding. The evidence gathering phase of the case will continue until the board has sufficient information to render a decision.

When the board determines that a violation occurred and determines the disciplinary action, the matter is referred to the Office of Expedited Settlement or the Office of the Attorney General where the respondent is offered settlement terms to resolve and close the case. The majority of cases are resolved through Stipulated Orders given that the process allows a respondent the opportunity to have more input into the proposed discipline and it gives the board the ability to resolve complaints by achieving a balanced resolution.

If a settlement cannot be reached at this stage, the matter is referred to the Office of the Attorney General where a hearing is scheduled with the Office of Administrative Courts. At the hearing, any parties involved in the matter may be asked to appear and testify under oath. Based on the testimony and evidence presented during the hearing, an Initial Decision is issued by an Administrative Law Judge (ALJ). That Initial Decision is reviewed by a Hearings Panel in its judiciary capacity. The Hearings Panel considers the ALJ's findings of facts, conclusions of law, and recommended actions. Based on its findings, the Hearings Panel will issue a Final Agency Order.

## INTRODUCING THE DIVISION OF PROFESSIONS AND OCCUPATIONS!

After 44 years, the Division of Registrations got a new name on August 8, 2012, that better reflects its mission. The regulator of 50 professions, occupations, and businesses in the state is now the **Division of Professions and Occupations**. The Division is responsible for the licensure and enforcement of nearly 350,000 people in the state. It preserves the integrity of the marketplace through the consistent and fair pursuit of consumer protection. The work of the Division facilitates a labor force that is a critical driver of the state's economy, and touches all Coloradans in their personal, daily lives.

### ONLINE SERVICES HAS A NEW LOOK

The new Online Services is faster, more user-friendly and more compatible with browsers such as Safari, Mozilla Firefox and Google Chrome. **Go to [www.colorado.gov/professions/online-services](http://www.colorado.gov/professions/online-services) to renew your license or change your address.** *If you have not logged into the system since July 1, 2012, you must register to create a new account.*

### DID YOU KNOW THE LAW REQUIRES YOU TO HAVE A HEALTHCARE PROFESSIONAL PROFILE ?

All physician training licensees are required to disclose specific information for public review through the Healthcare Professions Profiling Program. By law, a physician training licensee CANNOT be renewed in Active or Retired status unless the registered professional complies with the profile requirements. To review the statute, rules, and policies regarding the Healthcare Professions Profiling Program, please visit their web site at [www.dora.colorado.gov/professions/hppp](http://www.dora.colorado.gov/professions/hppp). If you have questions specific to the profiling requirements, please contact their office at [dora\\_dpo\\_hppp@state.co.us](mailto:dora_dpo_hppp@state.co.us) or 303-894-5942.



### THE DIVISION OF PROFESSIONS AND OCCUPATIONS WELCOMES OUR NEW DIVISION DIRECTOR!

Lauren Larson became the Director of the Division of Professions and Occupations in August 2012. Ms. Larson comes to DORA from Washington, DC, where she was a senior executive at the Executive Office of the President, Office of Management and Budget (OMB). As Chief of the Treasury Branch at OMB, she negotiated billions of dollars in spending and numerous industry regulations. Her experience includes budget, legislative and general management oversight for federal regulatory agencies such as the Department of the Treasury, the Department of Housing and Urban Development, and the Securities and Exchange Commission. Ms. Larson also served as a senior advisor at the Internal Revenue Service. Prior to her government service, Ms. Larson was an economic consultant with PricewaterhouseCoopers, and a manager at a nonprofit. She holds a Master of Public Policy from the University of Michigan, and a Bachelor's degree in Political Science from Syracuse University.



## CHANGES TO PRESCRIPTION DRUG MONITORING (PDMP)

The Electronic Prescription Drug Monitoring Program (“PDMP”) was reauthorized by the Colorado Legislature, effective July 1, 2011. Significant changes to the PDMP include the following:

**Pharmacists may now access the PDMP for patients for whom they are providing clinical patient care services—not just those they are dispensing for or considering dispensing for.**

**Pharmacies must disclose to patients who are receiving controlled substances that their prescription information will be loaded into the PDMP and it may be queried by authorized individuals.**

**Resident Physicians with Active Training Licenses may access the PDMP.**

**Law Enforcement, regulatory boards within the Division of Professions and Occupations, as well as the Division Director, may access the prescribing history of practitioners by issuance of a court order or Subpoena.**

**The Prescription Controlled Substance Advisory Committee was eliminated. This Committee had assisted in the implementation of the PDMP.**

**Records in the PDMP are now considered medical records.**

The PDMP is overseen by the Colorado State Board of Pharmacy and provides a database of controlled substance prescriptions that have been dispensed since July 1, 2007, by registered pharmacies in Colorado. The purpose of the database is to provide objective information to assist practitioners and pharmacists in providing appropriate treatment for their patients, as well as to curb non-medical use of controlled substance prescription drugs. The program allows controlled substance prescribers, pharmacists and resident physicians with active training licenses, to access their patient’s history of controlled substance prescriptions 24/7. As was the case prior to July 1, 2011, pharmacist users may not access the database to look up information regarding patients they are not considering dispensing a controlled substance to or providing clinical patient care services for. In addition, pharmacist users may not provide their password information to other persons nor give specific PDMP information directly to patients, law enforcement, or physicians.

To learn more about the program or to obtain log-in credentials, please visit [www.hidinc.com/copdmp](http://www.hidinc.com/copdmp). The program may also be contacted directly at 303-894-5957.



## SIGN UP FOR E-UPDATES!

The Division wants to keep you informed of upcoming renewal, legislation, events and other information that impacts your profession. In order to do this more efficiently we have implemented "DORA eUpdates" and we look forward to providing more of these in the future. These eUpdates are sent to the email address in our licensing system for each active licensee. To update or add your email address, log into [Online Services](#).



### PROOF OF LAWFUL PRESENCE

All persons requesting original licensure, renewal of an active license or reinstatement of an expired license must verify lawful presence in the United States based on the passage of House Bill 06S-1009. This bill applies to all applicants and licensees in the Division of Professions and Occupations, with the exception of apprentices, interns, and businesses.

#### Licenses will not be issued or renewed without completing the Affidavit of Eligibility form.

The good news is that you can complete this affidavit online when you renew using Online Services!

You must possess at least one secure and verifiable document and include information about that document on the Affidavit itself (or provide the information during online renewal).

More information regarding this law is available on our website [here](#).

### RENEW YOUR LICENSE ON TIME

You may renew your license online using Online Services. Renewals are generally made available approximately 6 weeks prior to the license expiration date. After that there is a 60 day grace period. That means you typically have a time frame of about 3 months to renew your license.

Any license not renewed prior to the end of the grace period will be considered expired. Once a license is in expired status, a reinstatement application must be completed and returned to our office with the appropriate fee listed on the form. **YOUR LICENSE EXPIRES APRIL 30, 2013.**

If you do not renew your license prior to the end of the grace period and continue to practice, you will be practicing on an expired license and may be subject to disciplinary action. The Division sees a number of situations every year of individuals who have failed to renew their license on time and practiced without one. The reasons that are offered boil down to some common themes: I forgot; I moved and I forgot to notify the Office so I never got the renewal notice; I thought that my assistant/secretary/spouse/boyfriend, et cetera, handled it; it's the Office's fault because I *did* renew my license...or I *thought* I renewed my license. The result is that depending on how long it takes for the individual to "remember" to renew, the Division often takes disciplinary action against the individual because it is against the law to practice without an active license. So, here's where we need your help.:

1. Note the expiration date in your calendar to remind yourself of when it is time to renew your license the next time.
2. Make sure that the address listed on your record is accurate. If it is not, then update your address with the Division. Remember to update your address any time that you move so that you do not miss out on any important notices from the Division.

Remember, it is each licensee's responsibility to renew his or her license on time. With our online system, you can handle all of this yourself, any time, day or night. *When you complete the renewal process, check your account for a new expiration date in the "Current Information" tab of your Online Services account. If your dates did not update, return to the "Cart" in the upper right hand corner of your account to complete payment.*

### RENEWAL INSTRUCTIONS

For detailed renewal instructions, click on your profession at [www.dora.colorado.gov/professions/renewal](http://www.dora.colorado.gov/professions/renewal).

## HOW ARE RENEWAL FEES SET?

By law, the program must operate strictly with funds collected from the persons it regulates, with no support from the state's General Fund. The Colorado Legislature determines the budget for the program. Once the Legislature sets the budget, the money must be raised through fees. The good news is that these fees are evaluated each year. Therefore, they are modified depending on how much money is anticipated to be received through the licensing and renewal processes and what the anticipated expenditures are expected to be. The primary obligation is to protect consumers and the operations of the program are focused to ensure it can work diligently to do so. The Division of Professions and Occupations works hard to contain program costs and to keep fees for regulated professionals as low as possible.



## VIEW DISCIPLINARY ACTIONS ONLINE

The Division of Professions and Occupations allows anyone to view images of scanned disciplinary documents online. In reviewing an individual's information, it is important to know what is and is not available from the agency about Colorado professionals.

The following information would appear on a record under Board or Program Actions if applicable to the professional:

1. If a professional had been disciplined or formally accused of wrongdoing by the Board or Program.
2. If the Board or Program has taken some other non-disciplinary action against the professional that restricts or limits the individual's practice.

### Board/Program Action Documents available:

- All Stipulations, Final Agency Orders, and Suspensions that were in effect in February 2000 plus any that became effective since that date. Child support suspensions are not available online but may be obtained by contacting the appropriate Board or Program.
- Any document Revoking or agreeing to a Voluntary Relinquishment/Surrender of a license, registration or certificate, Cease and Desist Orders and Letters of Admonition from January 1, 1999 to the present.
- All Injunctions.

**To view disciplinary action documents, please visit  
[www.dora.colorado.gov/professions](http://www.dora.colorado.gov/professions)  
 Click on "Licensing" and then "Disciplinary Actions"  
 or click [here](#)**

## HAVE YOU CHANGED YOUR MAILING ADDRESS ?

It is imperative that you keep your contact information updated with the Division. The Division mails renewal notices and other information to you at the last address furnished to us. Failure to receive a renewal notice does not relieve you of your obligation to timely renew. Once you have logged into Online Services, check your mailing address and update it if it is not correct. If you received your renewal notice due to a forwarding order it is important that you change your address on file with us, since we cannot change the information based on the forwarding order.