

COST-BENEFIT ANALYSIS

In performing a cost-benefit analysis, each rulemaking entity must provide the information requested for the cost-benefit analysis to be considered a good faith effort. The cost-benefit analysis must be submitted to the Office of Policy, Research and Regulatory Reform at least ten (10) days before the administrative hearing on the proposed rule and posted on your agency's web site. For all questions, please attach all underlying data that supports the statements or figures stated in this cost-benefit analysis.

DEPARTMENT: Department of Regulatory Agencies (DORA) **AGENCY:** Colorado Medical Board

CCR: 3 CCR 713-7 **DATE:** 01/09/2018

RULE TITLE OR SUBJECT:

RULE 400 – RULES REGULATIONS REGARDING THE LICENSURE OF AND PRACTICE BY PHYSICIAN ASSISTANTS (PAs)

Per the provisions of 24-1-103(2.5)(a), Colorado Revised Statutes, the cost-benefit analysis must include the following:

1. The reason for the rule or amendment:

The Colorado Medical Board (CMB) and stakeholders assembled to analyze and propose improvements for Rule 400 while safeguarding supervision requirements by retaining structure and guidance to ensure patient safety and quality of care. The goal was to engage stakeholders with an open and transparent approach in an effort to clarify and enable physician-led collaborative teams, to provide access to care and flexibility to use new technologies and the expertise of clinicians to provide safe oversight, to provide flexibility in training and deploying PAs in cross-coverage situations that often arise in a multispecialty practice, to mitigate barriers to employment in rural Colorado, to provide access to care in rural areas where they are medically underserved, to help PAs be more competitive in the job market, and to increase access to care.

Section 2(B): Amended Types of Physician Supervisors and Scope and Authority to Delegate

- Title change: Requirements for and Types of Physician Supervisors and Their Scope and Authority to Delegate
- Provided a definition of actively practicing medicine in Colorado and that the physician supervisor must perform personal and responsible direction and supervision, which may not be rendered through intermediaries.

Section 2(C): Responsibilities of and Supervision by the Primary Physician Supervisor

- Amended that the primary physician supervisor is responsible if a supervised physician assistant commits unprofessional conduct as defined in Section 12-36-117(1)(p), C.R.S.; the Board may take into consideration mitigating circumstance in determining whether sanctions involving the primary physician supervisor are necessary to protect the public on a case-by-case basis.
- Establishment of documentation when the PA is consulting with a secondary physician supervisor, and that the secondary physician is otherwise responsible for the conduct of the PA.
- Amended that the requirements are minimum requirements for supervision. Supervising physicians may impose additional requirements on the PA they supervise.
- Amended new physician assistant graduates by provided a definition of a new physician assistant graduates.

- Amended the minimum on-site supervision hours and encounters for a new physician assistant graduate, and defined secondary supervisor with a requirement for a robust initial performance assessment and development of an initial supervisory plan.
- Amended experienced PA in new practice specialty requirements to deploy PA in cross-coverage situations that often arise in a multispecialty practice.
- Amended all other experienced PAs in order to lessen the administrative burden, to provide access to care, and to provide employment opportunities for PAs.
- Amended requirements in Section 2(C)(7) and (8): performance assessment and supervisory plan to ensure the safe and effective training, employment, and care delivery.

Section 2(D)(C) Responsibilities of the Secondary Physician Supervisor. Amended requirements to clarify the secondary physician supervisor's responsibility for actions of a PA. This will allow the Board to take into consideration any mitigating circumstances in determining whether sanctions involving the secondary physician are a necessity to protect the public.

2. The anticipated economic benefits of the rule or amendment, which shall include economic growth, the creation of new jobs, and increased economic competitiveness;

The economic benefit of the amended rule is less onerous thus reducing cost. The general consensus from rural members is that current PA supervisory requirements can often be overly burdensome on employers, especially in comparison to Nurse Practitioners (NPs). Larger rural facilities providing more complex service lines are more likely to hire PAs, as they have the capability to ensure proper supervision due to the higher volume of patients and physicians in those facilities. In contrast, smaller lower volume hospitals are moving toward hiring NPs, instead of PAs, because of NPs independence. In remote Colorado communities, small rural hospitals and their clinics provide not only access to acute care services, but are often the sole source of primary care and long-term care. These facilities frequently experience staffing and provider recruiting challenges for physicians and mid-levels. As such, hospitals often only have one physician on staff who oversees everything. It can be very difficult for the physician to also supervise a PA. The on-site requirement can unintentionally create patient access issue because it can incur significant costs when double coverage is required. These facilities often have a more difficult time absorbing these additional costs, especially when nearly one quarter of Colorado's rural hospitals were operating below a 4 percent total margin in 2014, which is considered the industry minimum for sustainability. In addition, the proposed amendments will reduce the administrative and regulatory burden placed on the PA and supervising physician thus contributing to the creation of new jobs and the economic growth of Colorado.

3. The anticipated costs of the rule or amendment, which shall include the direct costs to the government to administer the rule or amendment and the direct and indirect costs to business and other entities required to comply with the rule or amendment;

There are no anticipated costs to businesses, other entities, or the government associated with the clarification of current rule. The current, complex PA supervision oversight is cumbersome and limits both PAs and employers the inability to hire experienced PAs. The proposed amendments will reduce the administrative and regulatory burden placed on the PA and their supervising physicians. This may contribute to the creation of new jobs and the economic growth in Colorado.

4. Any adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness; and

Adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness are not anticipated as a result of this section of the proposed amended rule.

5. At least two alternatives to the proposed rule or amendment that can be identified by the submitting agency or a member of the public, including the costs and benefits of pursuing each of the alternatives identified.

Alternative One: Do not amend the rule. This alternative will result in the continued challenges the health industry faces:

- Overly burdensome rule resulting in confusion causing a barrier to implement safe, consistent and meaningful supervision of PAs.
- Overall access thereby affecting quality of care.
- Administrative burden in the development of subspecialty rotation for post-graduate and residency-style training program.
- Employment opportunities in rural areas and for experienced PAs thus affecting the economic growth in Colorado.

Alternate Two: Reconsider the amendments while focusing on care, not limiting access to care, and providing flexibility of a partnership to use expertise and safe oversight especially in today's environment where telehealth can be effectively deployed.