



Dora
Department of Regulatory Agencies

Office of Policy, Research and Regulatory Reform

2013 Sunset Review:

**Natural Areas Council
Nurse-Physician Advisory Task Force for
Colorado Health Care
Volunteer Firefighter Advisory Committee**

October 15, 2013





Dora
Department of Regulatory Agencies

Executive Director's Office

Barbara J. Kelley
Executive Director

John W. Hickenlooper
Governor

October 15, 2013

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunset reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed its evaluations of the Natural Areas Council, the Nurse-Physician Advisory Task Force for Colorado Health Care and the Volunteer Firefighter Advisory Committee. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2014 legislative committees of reference. The report is submitted pursuant to section 2-3-1203(2)(b)(III), Colorado Revised Statutes, which states in part:

The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section. The department of regulatory agencies shall submit a report to the office of legislative legal services by October 15 of the year preceding the date established for termination.

The report discusses the effectiveness of the committees in carrying out the intention of the statutes and makes recommendations as to whether the advisory committees should be continued.

Sincerely,

Barbara J. Kelley
Executive Director





John W. Hickenlooper
Governor

Barbara J. Kelley
Executive Director

**2013 Sunset Review:
Natural Areas Council
Nurse-Physician Advisory Task Force for Colorado Health Care
Volunteer Firefighter Advisory Committee**

Key Recommendations

Natural Areas Council

The Natural Areas Council (Council) was created in 1977, and its charge, among other things, is to review and make recommendations on the selection of areas to be designated as natural areas in Colorado. Natural areas are lands and waters representing diverse ecosystems, ecological communities and other natural features or phenomena which are increasingly threatened with irreversible change and are in need of special identification and protection. The Council has been in existence for more than 35 years and it serves an important role in preserving natural areas in Colorado. As such, the General Assembly should continue the Council.

Nurse-Physician Advisory Task Force for Colorado Health Care

Created in 2009, the Nurse-Physician Advisory Task Force for Colorado Health Care (NPATCH) was charged with, among other things, facilitating the transition to the articulated plan model for advanced practice nurses with prescriptive authority and addressing issues of mutual concern at the interface of the practices of nursing and medicine. While most of its task-oriented mandates have been completed, given the rapid evolution of health care delivery, it is reasonable to conclude that issues will arise from time to time that the NPATCH is well suited to address. Consequently, the General Assembly should continue the NPATCH.

Volunteer Firefighter Advisory Committee

The Volunteer Firefighter Advisory Committee (VFAC) was formed with two charges: to help develop a procedure by which municipalities and districts could apply to the Department of Local Affairs (DOLA) to receive state financial assistance in funding their volunteer firefighter pension plans; and to consult with DOLA in connection with establishing a statewide accidental death and disability insurance policy for volunteer firefighters. Both of those responsibilities were completed. Because no work remains for the VFAC to accomplish, the General Assembly should sunset the VFAC.

Major Contacts Made During These Reviews

Colorado Department of Regulatory Agencies, Division of Professions and Occupations
Colorado Division of Parks and Wildlife
Colorado Medical Society
Colorado Nurses Association
Natural Areas Council Members
NPATCH members
Colorado Department of Local Affairs
VFAC members

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether or not they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are Prepared by:
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Table of Contents

Background	1
<i>Introduction</i>	1
<i>Sunset Process</i>	1
Natural Areas Council	2
<i>Creation, Mission and Make-Up</i>	2
<i>Responsibilities of the Council</i>	2
<i>Revenues and Expenditures</i>	3
<i>Meetings of the Council</i>	3
<i>Proposals and Their Status</i>	3
<i>Reasons to Continue the Council</i>	4
<i>Analysis and Recommendation</i>	5
Nurse-Physician Advisory Task Force for Colorado Health Care	6
<i>Creation, Mission and Make-Up</i>	6
<i>Responsibilities of the NPATCH</i>	7
<i>Revenues and Expenditures</i>	7
<i>Meetings of the NPATCH</i>	8
<i>Proposals and Their Status</i>	8
<i>Reasons for Continuation of the NPATCH</i>	9
<i>Analysis and Recommendation</i>	10
Volunteer Firefighter Advisory Committee	11
<i>Creation, Mission and Make-Up</i>	11
<i>Responsibilities of the VFAC</i>	11
<i>Revenues and Expenditures</i>	11
<i>Meetings of the VFAC</i>	12
<i>VFAC Accomplishments</i>	12
<i>Reasons to Sunset the VFAC</i>	12
<i>Analysis and Recommendation</i>	12

Background

Introduction

As part of the sunset review of an advisory committee, the advisory committee that is scheduled to repeal must submit to the Department of Regulatory Agencies (DORA), on or before July 1 of the year preceding the year in which the advisory committee is scheduled to repeal:¹

- The names of current members of the advisory committee;
- All revenues and all expenditures, including advisory committee expenses, *per diem* paid to members, and any travel expenses;
- The dates all advisory committee meetings were held and the number of members attending the meetings;
- A listing of all advisory proposals made by the advisory committee, together with an indication as to whether each proposal was acted upon, implemented or enacted into statute; and
- The reasons why the advisory committee should be continued.

Importantly, sunset reviews of advisory committees do not, generally, analyze the underlying program to which the committee is expected to render advice or recommendations. If an advisory committee is sunset, the underlying program will continue.

Sunset Process

As with sunset reviews of programs, agency officials and other stakeholders can submit input regarding an advisory committee through a variety of means, including at www.dora.colorado.gov/opr.

The Natural Areas Council, the Nurse-Physician Advisory Task Force for Colorado Health Care and the Volunteer Firefighter Advisory Committee shall terminate on July 1, 2014, unless continued by the General Assembly. It is the duty of DORA to conduct an analysis and evaluation of these advisory committees pursuant to section 2-3-1203, Colorado Revised Statutes.

The purpose of this review is to determine whether these committees should be continued for the protection of the public and to evaluate their performance. DORA's findings and recommendations are submitted via this report to the legislative committees of reference of the Colorado General Assembly.

¹ §§ 2-3-1203(2)(b)(I) and (II), C.R.S.

Natural Areas Council

Creation, Mission and Make-Up

The Natural Areas Council (Council) was created by the General Assembly in 1977 as part of the Natural Areas Act.² The Council is housed in the Department of Natural Resources (Department).

In Colorado, there are certain areas (lands and waters) representing diverse ecosystems, ecological communities and other natural features or phenomena which are increasingly threatened with irreversible change and are in need of special identification and protection.³ These areas are known as natural areas.

There are three steps to achieve a natural area designation, which are as follows:

- Being included on the inventory, which is an informal list of potential areas for designation as a natural area;
- Being included on the registry, which is a list of natural areas identified by the Council as areas eligible for designation; and
- Being designated by the Parks and Wildlife Commission (Commission) as a natural area.

In order to fulfill its mission, the Council is statutorily required to consist of seven members, which include:⁴

- One member from the Commission;
- One member from the State Land Board; and
- Five members, appointed by the Governor, with a substantial interest in preservation of natural areas.

Responsibilities of the Council

The responsibilities of the Council include but are not limited to the following:⁵

- Establish procedures for the conduct of Council business;
- Review the inventory of potential natural areas and to approve the registry;
- Review and make recommendations on the Commission's criteria for and selection of natural areas to be included in the registry and for designation as a natural area (no area will be included in the registry without permission of the owner of the land);

² § 33-33-101, *et seq.*, C.R.S.

³ § 33-33-102, C.R.S.

⁴ § 33-33-106(2), C.R.S.

⁵ § 33-33-107(1)(a),(b),(c),(d),(f), and (h), C.R.S.

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- Advise the Commission on the promulgation of rules for the registry and for the designation, management, protection and use of designated natural areas;
 - Review and make recommendations regarding scientific research, educational use, interpretive programs and public information pertaining to designated natural areas; and
 - Advise the Commission on the disbursement of funds for purposes of the Natural Areas Act.

Revenues and Expenditures

The Council does not have a budget specifically allocated for its expenditures. Instead, the expenditures are absorbed by the Department's general operating budget.

In fiscal years 11-12 and 12-13, the Council had total expenses of \$2,280 and \$1,464, respectively. The expenditures were for general costs of meetings, including travel expenses for Council members.

Meetings of the Council

In fiscal years 11-12 and 12-13, the Council met a total of eight times (four times in each fiscal year). The meetings were held in various locations, including remote locations to view prospective areas to determine whether the areas should be considered to be included on the natural areas registry.

Proposals and Their Status

During fiscal years 11-12 and 12-13, the Council worked on a variety of issues, including, but not limited to, recommending that certain areas be included on the natural areas registry and the disbursement of oil and gas severance tax funds, which are used for a variety of natural area conservation projects.

Some of the Council's salient accomplishments in fiscal years 11-12 and 12-13 are as follows:

December 15, 2011

Proposal: The Council recommended that the Commission designate Hoosier Ridge and East Lost Park as natural areas.

Status: This recommendation was acted upon by the Commission at its March 2012 meeting, at which time the designation of these two areas as natural areas were unanimously supported by the Commission.

Proposal: The Council made recommendations to Division of Parks and Wildlife staff regarding the negotiation and enforcement for the articles of designation for the Mount Callahan and Mount Callahan Saddle Natural Areas Program. In particular, the Council addressed the Natural Areas Program cooperation with an oil and gas company in the conservation of a federally listed species.

Status: Colorado Division of Parks and Wildlife staff implemented the recommendations, and conservation efforts continue to be successful.

December 12, 2012

Proposal: The Council recommended that the Commission revise the designations of the Mount Callahan and Mount Callahan Saddle Natural Areas and to designate the Logan Wash Mine Natural Area.

Status: The program is in the process of finalizing the articles of designation for these sites. They are expected to go before the Commission in the fall of 2013.

April 26, 2013

Proposal: The Council reviewed the disbursement of oil and gas severance tax funds to the Natural Areas Program through the Species Conservation Trust Fund.

Status: Colorado Division Parks and Wildlife staff continues to disburse Species Conservation Trust Fund dollars in accordance with Council recommendations.

Reasons to Continue the Council

The Colorado Natural Areas Program, which includes the Council, is unique in that it functions through collaborative partnerships that provide a voluntary, low-cost method to protect the most significant areas of the state. All of the natural areas are of statewide significance; most are also of national and global significance. To effectively work to identify, designate, monitor and protect such special places, Division of Parks and Wildlife staff relies greatly on Council expertise and contributions.

The Council provides an invaluable service by evaluating potential natural areas, approving the natural areas registry and making sound recommendations on the designation, management, research and educational use of natural areas in Colorado.

Analysis and Recommendation

The Council has been in existence for more than 35 years, and it serves an important role in, among other things, recommending certain areas to be included on the state's registry for natural areas. This is important to ensure that certain areas (lands and waters) representing diverse ecosystems, ecological communities and other natural features or phenomena are preserved.

Consequently, the General Assembly should continue the Council.

Nurse-Physician Advisory Task Force for Colorado Health Care

Creation, Mission and Make-Up

The Nurse-Physician Advisory Task Force for Colorado Health Care (NPATCH) was created in Senate Bill 09-239 (SB 239), the State Board of Nursing (Board of Nursing) sunset bill. One of the major recommendations in the 2008 Sunset Review of the Board of Nursing was to change the model under which certain advanced practice nurses (APNs) prescribe medication. Prior to the sunset review, an APN with prescriptive authority was required to enter into a collaborative agreement with a physician. This was problematic for a variety of reasons.

The sunset report recommended, and SB 239 implemented, a revised process whereby an APN seeking prescriptive authority must enter into a mentorship with a physician or other licensed health care provider. At the conclusion of the mentorship, the APN is required to develop an articulated plan for safe prescribing that documents how the APN intends to maintain ongoing collaboration with physicians and other health care professionals in connection with the APN's practice of prescribing medication.

In light of this new system, the NPATCH was charged with:⁶

- Promoting patient safety and quality care;
- Addressing issues of mutual concern at the interface of the practices of nursing and medicine;
- Informing public policy-making; and
- Making consensus recommendations to policy and rule-making entities, including the Colorado Medical Board (Medical Board), the Board of Nursing, and the Executive Director of the Department of Regulatory Agencies (Executive Director and DORA, respectively).

Twelve members comprise the NPATCH, one each from the Medical Board and the Board of Nursing, appointed by the presidents of those two bodies, and 10 appointed by the Governor:⁷

- Three members recommended by and representing a statewide professional nursing organization;
- Three members recommended by and representing a statewide physicians' organization;
- One member representing the nursing community who may or may not be a member of a statewide professional nursing organization;
- One member representing the physician community who may or may not be a member of a statewide physicians' organization; and
- Two members representing consumers.

⁶ § 24-34-109(1), C.R.S.

⁷ § 24-34-109(2)(a), C.R.S.

Members serve three-year terms without compensation.⁸

Responsibilities of the NPATCH

The NPATCH is required to make recommendations regarding:⁹

- Facilitating a smooth transition to the articulated plan model;
- The framework for articulated plans, including creation of sample plans;
- Quality assurance mechanisms for all medication prescribers;
- Evidence-based guidelines;
- Decision support tools;
- Safe prescribing metrics for all medication prescribers;
- Methods to foster effective communication between health professions;
- Health care delivery system integration and related improvements;
- Physician standards, process and metrics to ensure appropriate consultation, collaboration and referral regarding APN prescriptive authority; and
- Prescribing issues regarding providers other than physicians and APNs.

Additionally, the NPATCH is required to make recommendations to the Medical Board and the Board of Nursing to assist them in developing rules regarding prescriptive authority for APNs, articulated plans and the consultation and collaboration between APNs and physicians.¹⁰

Revenues and Expenditures

The NPATCH is staffed by DORA's Division of Professions and Occupations (DPO), and is funded 50 percent by the Medical Board and 50 percent by the Board of Nursing, which, in effect, means that the licensees of those two boards fund the NPATCH. Total NPATCH-related expenditures amounted to \$44,173 in fiscal year 11-12 and \$45,327 in fiscal year 12-13. These expenditures can be broken down into three general categories: operating, personal services and legal services.

Items such as office supplies, lunches at meetings and travel reimbursements are generally considered operating expenses. These amounted to \$6,887 in fiscal year 11-12, and \$5,928 in fiscal year 12-13. These types of expenses are fairly typical for an advisory committee such as the NPATCH.

⁸ § 24-34-109(2)(b), C.R.S.

⁹ § 24-34-109(5), C.R.S.

¹⁰ § 24-34-109(6), C.R.S.

DPO has dedicated approximately three-quarters of a full-time equivalent (FTE) employee to the NPATCH:

- 0.3 FTE General Professional VI (Program Director), who provides advice and technical training to NPATCH members regarding regulatory processes; facilitates meetings and guides policy discussions; conducts research to assist the NPATCH in complying with its statutory mandates; drafts, researches and implements policies of the NPATCH; and coordinates, manages and leads the formation and communication of the NPATCH's agenda; and
- 0.4 FTE Administrative Assistant III, who provides logistical organization and facilitation of the NPATCH's meetings; prepares minutes; maintains files and processes travel reimbursements.

As a result of this staffing, personal services expenditures for fiscal year 11-12 and fiscal year 12-13 amounted to \$35,653 each year.

Finally, legal services expenditures amounted to \$1,633 in fiscal year 11-12, and increased to \$3,746 in fiscal year 12-13.

Meetings of the NPATCH

The NPATCH met 18 times in fiscal years 11-12 and 12-13, typically once per month. On average, eight members attend each meeting and all meetings are held at DPO offices in downtown Denver.

Proposals and Their Status

The NPATCH was given several explicit statutory mandates, which it has fulfilled:

- In order to facilitate a smooth transition to the articulated plan model, the NPATCH developed sample templates of Preceptorship and Mentorship Agreements.
- In order to fulfill the mandate to create sample articulated plans, the NPATCH developed a sample template of an articulated plan.
- In order to address quality assurance mechanisms for all medication prescribers, and to provide decision support tools, the NPATCH provided resources relevant to each in the sample template of an articulated plan.
- In order to provide safe prescribing metrics for all medication prescribers, the NPATCH developed a webpage containing safe prescribing resources.

The NPATCH was also given some policy-oriented and advisory tasks:

- In order to assist the Medical Board and Board of Nursing in developing rules regarding prescriptive authority for APNs, the NPATCH provided analysis and feedback regarding rules to both boards in late 2009 and early 2010.
- In order to address issues at the interface of the practices of nursing and medicine, the NPATCH:
 - Endorsed to DORA's Executive Director, the Governor's decision to "opt out" of the Centers for Medicare and Medicaid Services rules requiring physician supervision of Certified Registered Nurse Anesthetists.
 - Responded to a request by the Medical Board to provide input regarding telephone triage issues.
 - Developed seven criteria it would use in determining whether particular issues fall within this particular statutory mandate.

Additionally, and in keeping with its statutory mandate to address prescribing issues regarding providers other than physicians and APNs, the NPATCH sponsored the Quad Regulators Conference in September 2013. In addition to members of the NPATCH, the Medical Board and the Board of Nursing, attendees included members of the State Board of Dental Examiners and the State Board of Pharmacy. Attendees discussed policies that could assist with the Governor's Strategic Plan to Reduce Prescription Drug Abuse, and the more global issues of the roles of regulatory boards in a team-based health care environment.

Finally, and in keeping with its statutory mandate to address health care system integration and related improvements, the NPATCH is exploring the feasibility of holding a conference where hospital nursing and medical managers, community health organizations and other key policy makers can come together to share their successful inter-professional health care team models and discuss best practices.

Reasons for Continuation of the NPATCH

The NPATCH was given several tangible statutory mandates and on-going policy-oriented directives of addressing issues of mutual concern at the interface of the practices of nursing and medicine. Most of the task-oriented mandates surrounded implementation of the articulated plan model that facilitates prescriptive authority for APNs. While most of the specific tasks assigned to the NPATCH in this regard have been completed, it is reasonable to conclude that, given the rapid evolution of health care delivery in the state, issues will arise from time to time that the NPATCH is well suited to address.

With respect to the broadly defined mandate of bringing physicians and nurses together to work on areas of mutual concern, work is likely to remain for the foreseeable future. Team-based health care appears to be the trend of the future, and the NPATCH is in a unique position to help define and facilitate that evolution.

Analysis and Recommendation

Team-based health care appears to be the direction in which health care delivery is heading. As a formalized committee of physicians, nurses and members of the public, the NPATCH is uniquely positioned to address those areas where the practices of medicine and nursing interface.

Consequently, the General Assembly should continue the NPATCH.

Volunteer Firefighter Advisory Committee

Creation, Mission and Make-Up

In 2004, the General Assembly wanted to ensure that volunteer firefighter pension plans would be continually funded.¹¹ To assist in realizing that goal, the General Assembly created the Volunteer Firefighter Advisory Committee (VFAC).¹²

The VFAC was formed to help develop a procedure by which municipalities and districts could apply to the Department of Local Affairs (DOLA) to receive state financial assistance in funding their pension plans. The VFAC was also charged with consulting with DOLA in connection with establishing a statewide accidental death and disability insurance policy for volunteer firefighters.

Statute directs the Executive Director of DOLA to appoint a five-member committee comprised of three members from volunteer firefighter pension fund boards of trustees, one member who is an active volunteer firefighter, and one member who represents a municipality or district that has volunteer firefighters.¹³

Responsibilities of the VFAC

The VFAC is specifically tasked with advising DOLA in two regards:

- Consult in conjunction with municipalities, fire districts, and DOLA concerning the distribution of state matching money to municipal and district volunteer firefighter pension funds.¹⁴
- Consult with DOLA concerning procurement of a statewide accidental death and disability insurance policy for volunteer firefighters. DOLA is directed to determine the cost of a policy, then provide coverage for all volunteer firefighters serving in either volunteer or paid and volunteer fire departments.¹⁵

Revenues and Expenditures

The authorizing statute reads, in part:

The members of the advisory committee shall not receive compensation or reimbursement from the state or the department for expenses incurred in the performance of their duties.¹⁶

¹¹ § 31-30-1112(2)(j), C.R.S.

¹² § 31-30-1112(6), C.R.S.

¹³ § 31-30-1112(6)(a), C.R.S.

¹⁴ *ibid.*

¹⁵ § 31-30-1134(1), C.R.S.

¹⁶ § 31-30-1112(6), C.R.S.

Consequently, there were no expenses, per diem paid to members, or any travel expenses associated with the VFAC.

Meetings of the VFAC

The VFAC met four times:

- September 1, 2004;
- August 11, 2005;
- September 20, 2006; and
- January 27, 2011.

VFAC Accomplishments

As a result of a VFAC recommendation, House Bill 06-1304 was introduced and passed during the 2006 legislative session. It directed that DOLA match local government sales tax, Specific Ownership Tax, and property tax contributions to the pension funds.

The VFAC developed a procedure whereby a municipality or fire district applies for state assistance money distributed for the pension funds. The procedure ensures that DOLA can verify the amount to which each municipality and fire district is entitled each year.¹⁷

Reasons to Sunset the VFAC

The VFAC has accomplished its original mission and no work remains for it to do. This is evidenced, in part, by the fact that it has not met since January 2011.

Analysis and Recommendation

The VFAC accomplished its mission of consulting with DOLA to develop a procedure for determining state contributions to volunteer firefighter pensions and establishing an accidental death and disability insurance policy. Because no work remains for the VFAC to accomplish, the General Assembly should sunset the VFAC.

¹⁷ § 31-30-1112(3)(a), C.R.S.