



CO L O R A D O

**Department of
Regulatory Agencies**

**2015 Review:
Proposal for Mandatory
Continuing Education for
Physicians**

*Office of Policy, Research and Regulatory Reform
March 3, 2015*



COLORADO

**Department of
Regulatory Agencies**

Executive Director's Office

March 3, 2015

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:

As a part of the Executive Director's Office within the Department of Regulatory Agencies (DORA), the Office of Policy, Research and Regulatory Reform is charged with a statutorily mandated responsibility to conduct reviews of proposals to require mandatory continuing education with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed its evaluation of the proposal to impose continuing education requirements on physicians and is pleased to submit this written report. The report is submitted pursuant to section 24-34-901, Colorado Revised Statutes, which provides that DORA shall conduct an analysis and evaluation of the proposal to determine whether mandatory continuing education would likely protect the public served by the practitioners.

Sincerely,

A handwritten signature in cursive script that reads "Barbara J. Kelley".

Barbara J. Kelley
Executive Director



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Background

Prior to introduction of legislation designed to impose a mandatory continuing education requirement on a regulated occupation or profession, the proponents of the legislation must submit information concerning the need for such a requirement to the office of the Executive Director of the Department of Regulatory Agencies. The Executive Director is required to review, analyze, and evaluate the proposal and report in writing to the General Assembly whether mandatory continuing education would likely protect the public. Section 24-34-901, Colorado Revised Statutes, states:

Proposed continuing education requirements for regulated occupations and professions - review by office of executive director.

(1) Before any bill is introduced in the general assembly that contains, or any bill is amended to contain, a mandatory continuing education requirement for any occupation or profession, the practice of which requires a state of Colorado license, certificate, or registration, the group or association proposing such mandatory continuing education requirement shall first submit information concerning the need for such a requirement to the office of the executive director of the department of regulatory agencies. The executive director shall impartially review such evidence, analyze and evaluate the proposal, and report in writing to the general assembly whether mandatory continuing education would likely protect the public served by the practitioners. Proposals may include, but need not be limited to: Information that shows that the knowledge base for the profession or occupation is changing; that mandatory continuing education of this profession or occupation is required in other states; if applicable, that any independent studies have shown that mandatory continuing education is effective in assuring the competency of practitioners. The proposal may also include any assessment tool that shows the effectiveness of mandatory continuing education and recommendations about sanctions that should be included for noncompliance with the requirement of mandatory continuing education. The provisions of this section shall not be applicable to:

(a) Any profession or occupation that, as of July 1, 1991, has mandatory continuing education requirements in place;

(b) Any bill that is introduced as a result of a legislative interim committee and that as introduced in the general assembly includes a mandatory continuing education requirement.

Before beginning the review, the Executive Director evaluated the application to determine if the review was necessary under the requirements of the statute. The evaluation revealed that a mandatory continuing education program for physicians did not meet any of the exemptions from the statute and, therefore, was subject to review by the Executive Director.

The Colorado Medical Practice Act (Act) can be found at Article 36 of Title 12, Colorado Revised Statutes (C.R.S.). The Act defines the practice of medicine, creates the Colorado Medical Board (Board) and outlines the regulatory requirements for both physicians and physician assistants.

The Act's definition of the practice of medicine is fairly comprehensive and includes:

Holding out one's self to the public . . . as being able to diagnose, treat, prescribe for, palliate, or prevent any human disease, ailment, pain, injury, deformity, or physical or mental condition, whether by the use of drugs, surgery, manipulation, electricity, telemedicine, the interpretation of tests, including primary diagnosis of pathology specimens, images, or photographs, or any physical, mechanical, or other means whatsoever; . . . Suggesting, recommending, prescribing, or administering any form of treatment, operation, or healing for the intended palliation, relief, or cure of any physical or mental disease, ailment, injury, condition, or defect of any person.¹

Specifically exempted from this definition are, when practiced by a duly registered or licensed practitioner, the practices of midwifery,² dentistry,³ podiatry,⁴ optometry,⁵ chiropractic,⁶ nursing,⁷ acupuncture,⁸ physical therapy,⁹ and other fields of the healing arts.¹⁰

Also exempted are those physicians who are licensed in another state or U.S. territory who limit their practice in Colorado to only the occasional case or consultation,¹¹ as well as commissioned medical officers in the U.S. armed forces.¹²

Finally, those who render services in cases of emergency,¹³ related to religious worship¹⁴ or in the practice of Christian Science,¹⁵ are also exempt from the Act.

¹ §§ 12-36-106(1)(a) and 12-36-106(1)(b), C.R.S.

² § 12-36-106(1)(f), C.R.S.

³ § 12-36-106(3)(c), C.R.S.

⁴ § 12-36-106(3)(d), C.R.S.

⁵ § 12-36-106(3)(e), C.R.S.

⁶ § 12-36-106(3)(f), C.R.S.

⁷ § 12-36-106(3)(j), C.R.S.

⁸ § 12-36-106(3)(p), C.R.S.

⁹ § 12-36-106(3)(r), C.R.S.

¹⁰ § 12-36-106(3)(m), C.R.S.

¹¹ § 12-36-106(3)(b), C.R.S.

¹² § 12-36-106(3)(i), C.R.S.

¹³ § 12-36-106(3)(a), C.R.S.

The Governor-appointed, 16-member Board comprises 11 physician members, one physician assistant and four public members, all of whom are appointed to four-year terms.¹⁶ Of the physician members, eight must hold the degree of doctor of medicine and three must hold the degree of doctor of osteopathy.¹⁷ Additionally, these members must have been licensed and actively practicing medicine in Colorado for the three years immediately preceding their appointments to the Board.¹⁸

The Board is authorized to issue licenses, promulgate rules, receive and investigate complaints, take disciplinary action when appropriate, and assist the state's district attorneys.¹⁹ In addition to its general authority to promulgate rules, the Board is specifically directed to promulgate rules pertaining to physicians who have entered into articulated plans with Advanced Practice Nurses with prescriptive authority.²⁰

To obtain a full medical license, a candidate must have passed an examination approved by the Board, or a national examination; be at least 21 years old; have graduated from an approved medical school (including osteopathic medical schools); and have completed an internship of at least one year or one year of postgraduate training.²¹

Additionally, if a candidate already holds a license issued by another state or U.S. territory, the Board may issue a full medical license so long as the licensing requirements in the other jurisdiction are not substantially lower than those of Colorado.²²

All physicians must maintain professional liability insurance of at least \$1 million per incident and \$3 million annual aggregate per year.²³ If a physician reports two or more medical malpractice payments to the Board in any given year, then the physician is required to carry double the amount of liability insurance, unless the Board, in its discretion, finds it fair and conscionable to reduce the amount.²⁴

¹⁴ § 12-36-106(3)(g), C.R.S.

¹⁵ § 12-36-106(3)(h), C.R.S.

¹⁶ § 12-36-103(1)(a), C.R.S.

¹⁷ § 12-36-103(2), C.R.S.

¹⁸ § 12-36-103(2), C.R.S.

¹⁹ § 12-36-104, C.R.S.

²⁰ § 12-36-106.4(4)(a), C.R.S.

²¹ §§ 12-36-107(1)(c) and 12-36-107(2), C.R.S.

²² § 12-36-107(1)(e), C.R.S.

²³ § 13-64-301(1)(a.5), C.R.S.

²⁴ § 13-64-301(3), C.R.S.

Proposal for Continuing Education

The Colorado Revised Statutes (C.R.S.) section that governs the consideration of mandatory continuing education requirements posits that the group or association proposing such a requirement shall first submit information concerning the need for such a requirement.

The Colorado Department of Regulatory Agencies received a mandatory continuing education application from the Colorado Medical Society. The application proposes that the Colorado General Assembly impose a requirement that physicians licensed by the state obtain 50 hours of continuing education every license renewal cycle. Currently, Colorado physicians must renew every two years.

The applicant proposes that state-approved continuing education be limited to:

- Participation in activities certified by the American Medical Association, Physician Recognition Award Category 1 credit (AMA PRA Category 1 Credit)[™] by the Accreditation Council for Continuing Medical Education (ACCME) or ACCME-recognized state medical society accredited continuing medical education providers;
- Certified activities through the American Academy of Family Physicians or category one credit through the American Osteopathic Association credit systems; or
- Participation in activities certified directly by the American Medical Association for AMA PRA Category 1 Credit.[™]

The applicant proposes that during each two-year license renewal cycle, beginning in 2017, physicians complete no few than 50 credits or hours of continuing medical education (“CME”). Under the proposal, the 50 credits must be relevant to the physician’s current medical practice as determined by the physician. This mandatory CME requirement would not apply to licensees who are currently meeting requirements of maintenance of certification by the American Board of Medical Specialties or who are currently meeting the requirements of osteopathic continuous certification by the American Osteopathic Association’s Bureau of Osteopathic Specialties.

The applicant’s proposal does not require administration by the Colorado Medical Board. Physicians would be responsible for maintaining documentation of continuing education and attest electronically that they have completed the required continuing education.

Analysis

The Colorado Revised Statutes (C.R.S) section that governs the consideration of mandatory continuing education requirements posits that,

The group or association proposing such mandatory continuing education requirement shall first submit information concerning the need for such a requirement.²⁵

The Colorado Medical Society bases the argument for mandatory continuing education on the existence of continuing education in other states, studies that show that continuing education is valuable, and the changing knowledge base of medicine.

Continuing education requirements in other states

Colorado is one of four states that have no mandatory continuing education requirements of physicians. Montana, South Dakota, and Indiana do not require state-mandated continuing education of physicians.

Information provided by the applicant reveals that the range of required hours across states with a continuing education requirement is 20-150 hours. The actual requirement upon the licensee, however, depends upon the renewal cycle. Alabama, as an example, requires 25 hours every year. Therefore, the requirement is the same as that proposed for Colorado. Similarly, Illinois requires 150 hours every three years.

Colorado's neighboring states impose continuing education requirements illustrated in Table 1.

Table 1
Comparison of Continuing Education Requirements of States Bordering Colorado

State	Continuing Education Hours Required	Interval
Kansas	50	18 Months
Nebraska	50	2 Years
New Mexico	75	3 Years
Oklahoma	60	3 Years
Arizona	40	2 Years
Utah	40	2 Years
Wyoming	60	3 Years

Source: Colorado Medical Society

²⁵ § 24-34-901, C.R.S.

Studies demonstrating the value of continuing education

The applicant provided research findings supportive of mandatory continuing education for physicians.

Studies submitted by the applicant:

Maintenance of Certification and Its Association with the Clinical Knowledge of Family Physicians²⁶

The American Board of Family Medicine (ABFM) sought to examine whether recent residing graduates outperform experienced family physicians on the same certification examination. One expectation might be that recent graduates from residency training programs would demonstrate a better group of contemporary medical knowledge within their specialties than would physicians who were many years removed from formal training.

The ABFM study examined performance of 10,801 examinees (8,361 examinees seeking maintenance of certification and 2,440 examinees for initial certification). The study concludes:

results strongly suggest that conscientious participation in the rigorous and structured processes required to maintain certification results in continuous improvement in clinical knowledge over time.²⁷

Effectiveness of Continuing Medical Education²⁸

The American College of Chest Physicians (ACCP) set out to examine the effectiveness of continuing medical education (CME) and the effectiveness of differing instructional designs in terms of impact on knowledge, attitudes, skills, practice behavior and clinical practice outcomes.

²⁶ "Maintenance of Certification and Its Association with the Clinical Knowledge of Family Physicians," T. R. O'Neill, PhD, and J. C. Puffer, *Academic Medicine*, Vol. 88, No 6, June 2015 p.780

²⁷ "Maintenance of Certification and Its Association with the Clinical Knowledge of Family Physicians," T. R. O'Neill, PhD, and J. C. Puffer, *Academic Medicine*, Vol. 88, No 6, June 2015 p.23

²⁸ Marinopoulos SS, Dorman T, Ratanawongsa N, Wilson LM, Ashar BH, Magaziner JL, Miller RG, Thomas PA, Prokopowicz GP, Qayyum R, Bass EB. Effectiveness of Continuing Medical Education. Evidence Report/Technology Assessment No. 149 (Prepared by the Johns Hopkins Evidence-based Practice Center, under Contract No. 290-02-0018.) AHRQ Publication No. 07-E006. Rockville, MD: Agency for Healthcare Research and Quality. January 2007.

The approach of the ACCP was to address six questions:

1. Is there evidence that particular methods of delivering CME are more effective in: a) imparting knowledge to physicians, b) changing physician attitudes, c) acquiring skills, d) changing physician practice behavior, or e) changing clinical practice outcomes?
2. Do changes in knowledge, attitudes, skills, practice behavior, or clinical practice outcomes produced by CME persist over time (greater than or equal to 30 days)?
3. What is the evidence from systematic reviews about the effectiveness of simulation methods in medical education outside of CME?
4. Which characteristics of the audience by themselves or in combination with other characteristics influence the effectiveness of certain educational techniques?
5. Which external factors by themselves or in combination with other factors reinforce the effects of CME in changing behavior?
6. What is the reported validity and reliability of the methods that have been used for measuring the effects of CME in terms of: a) imparting knowledge, b) changing attitudes, c) acquiring skills, d) changing practice behavior, or e) changing clinical practice outcomes?

This study concluded that:

despite the generally low quality of the evidence, most of the studies reviewed suggested that CME is effective, at least to some degree, in not only achieving, but also in maintaining the objectives studied.²⁹

²⁹ Marinopoulos SS, Dorman T, Ratanawongsa N, Wilson LM, Ashar BH, Magaziner JL, Miller RG, Thomas PA, Prokopowicz GP, Qayyum R, Bass EB. Effectiveness of Continuing Medical Education. Evidence Report/Technology Assessment No. 149 (Prepared by the Johns Hopkins Evidence-based Practice Center, under Contract No. 290-02-0018.) AHRQ Publication No. 07-E006. Rockville, MD: Agency for Healthcare Research and Quality. January 2007, p.31.

The Evidence and Rationale for Maintenance of Licensure³⁰

While this article concluded that there does not appear to be strong evidence that mandatory continuing education results in improved patient outcomes, the general consensus is that continuing education is an important part of a physician's practice. In fact, physicians commonly spend about 50 hours per year in continuing education activities.

The Federation of State Medical Boards (FSMB) supports evidence of participation in continuing professional development. The FSMB contends that continuing professional development should contain reflective self-assessment, assessment of knowledge and skills, and performance in practice.

In conclusion, the studies provided by the applicant lend impressive support to the applicant's proposal to implement state mandated continuing education requirements in Colorado. To be sure, continuing education alone does not appear to improve patient outcomes nor does completion of continuing education determine that a physician is competent to practice. However, these studies substantiate that completion of continuing education is an important part of a physician's practice and career.

DORA Survey of Physicians Licensed To Practice in Colorado

As part of this review, DORA's Office of Policy, Research, and Regulatory Reform (OPRRR) conducted a survey of Colorado's licensed physicians. The results of the survey are attached to this review as Appendix A. The survey was sent by e-mail to over 19,000 licensees and 17,025 surveys were successfully received by licensees. OPRRR received 5,050 responses for a near 30 percent response rate. The last survey question requested general comments and Colorado licensed physicians submitted almost 100 pages of written responses.

The survey reveals that only a very small percentage of responding physicians do not obtain continuing education. Only 4.5 percent of survey respondents reported not obtaining continuing education.

When asked if Colorado should require 50 credit or hours of education as a condition of license renewal, 34.5 percent of those responding either strongly agreed or agreed with the requirement. However, 45.8 percent of survey respondents either disagreed or strongly disagreed with the requirement. Finally, 19.7 percent answered "neutral" on the question.

³⁰ Humayun J. Chaudhry, Frances E. Cain, Mark L. Staz, Lance A. Talmage, Janelle A. Rhyne, and Jon V. Thomas, (2013), "The Evidence and Rationale for Maintenance of Licensure", *Journal of Medical Regulation*, Vol.99 (1), p.19.

Even though most physicians presently obtain continuing education, there is disagreement about the appropriate number of hours that Colorado should require as revealed by these comments regarding the proposed 50 hour requirement:

“I recommend significantly more than that amount. Typically, I try for over 100 hours every year. This is not a burden and we can afford it. I would vote strongly for over 100 hours annually for all physicians.”

“While I obtain quite a bit of CME, other physicians don't have the same access to CME opportunities and 50 credits is too high as a base number as a condition for license renewal.”

Other survey respondents commented upon increasing regulatory burdens and increasing costs in opposition to continuing education.

Thus, survey respondents are divided on the proposed requirement. The survey results reveal that a clear majority of respondents, 45.8 percent, are opposed to a mandatory continuing education requirement but approximately 95 percent obtain continuing education.

Conclusion

The Executive Director of the Department of Regulatory Agencies (DORA) is statutorily charged with determining whether mandatory continuing education would likely protect the public served by licensed physicians. With respect to the application submitted by the Colorado Medical Society, DORA agrees that physicians licensed in Colorado should complete, per two year renewal cycle, no fewer than 50 credits or hours of continuing medical education as a condition of continued licensure.

The research submitted by the applicant concludes that continuing education is a valuable tool when appropriately employed by physicians to maintain licensure and professional competence. This contention is supported by the survey finding that an overwhelming majority of Colorado physicians presently obtain continuing education, absent a state requirement.

According to the survey response, less than five percent of Colorado's licensed physicians will be impacted by a state-mandated continuing education requirement if implemented by the General Assembly. This finding reveals the inherent value of continuing education to physicians while concomitantly establishing that the imposition of state mandated continuing will not be burdensome to the majority of physicians licensed in Colorado.



Therefore, DORA determines that the proposed requirement that physicians obtain at least 50 hours of continuing education per renewal cycle would likely protect the public served by the practitioners.

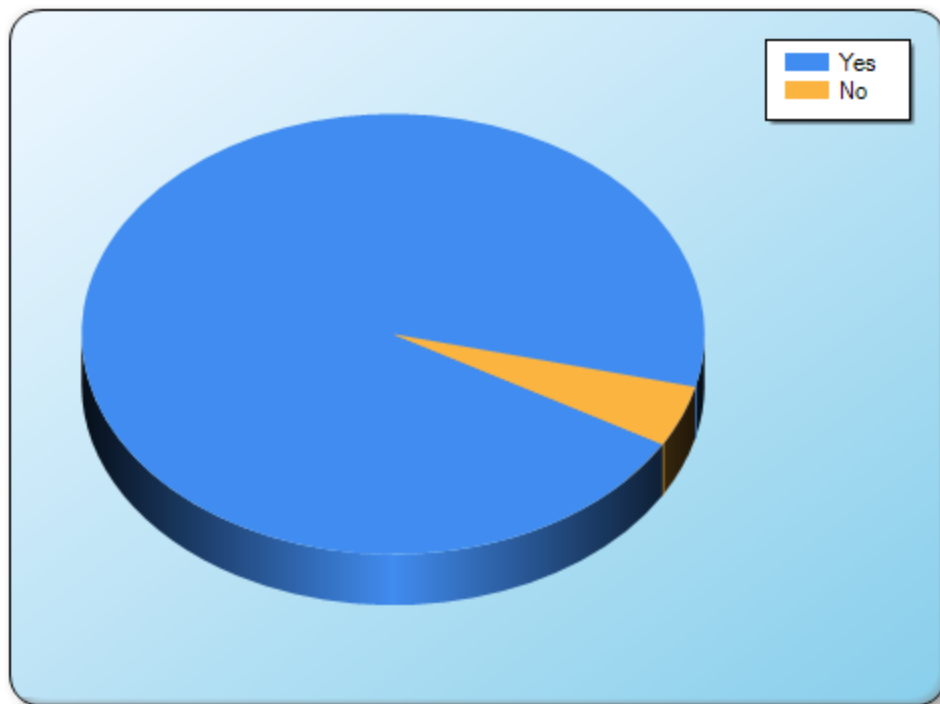
Appendix A – Survey Results

Survey of Colorado Physicians





Total number of responses collected: 5050

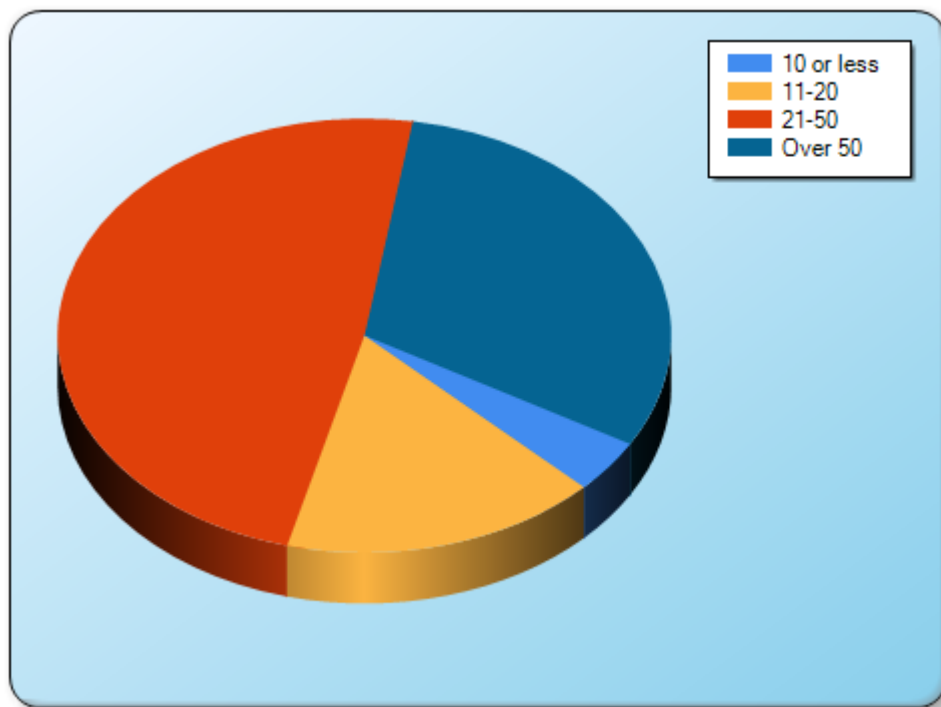
1. Do you currently obtain continuing education?

Response	Chart	Frequency	Count
Yes		95.5%	4796
No		4.5%	225
Not Answered			29
		Valid Responses	5021
		Total Responses	5050

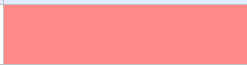
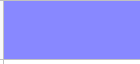


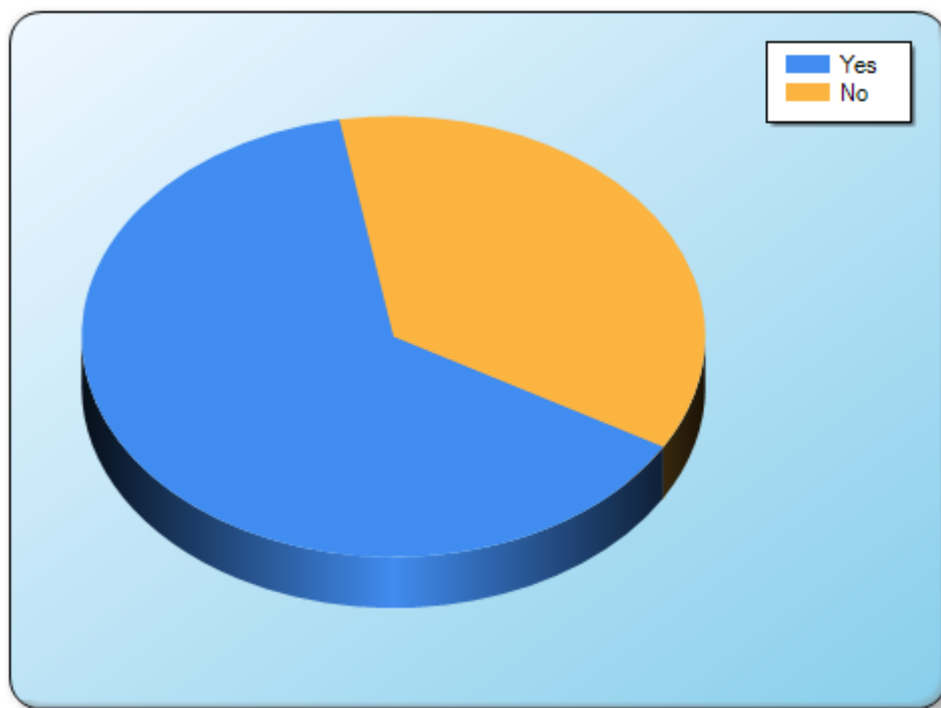
2. If you do obtain continuing education, how many hours of continuing education do you obtain per year?

Response	Chart	Frequency	Count
10 or less		4.0%	189
11-20		16.7%	796
21-50		48.5%	2305
Over 50		30.8%	1465
Not Answered			295
		Valid Responses	4755
		Total Responses	5050





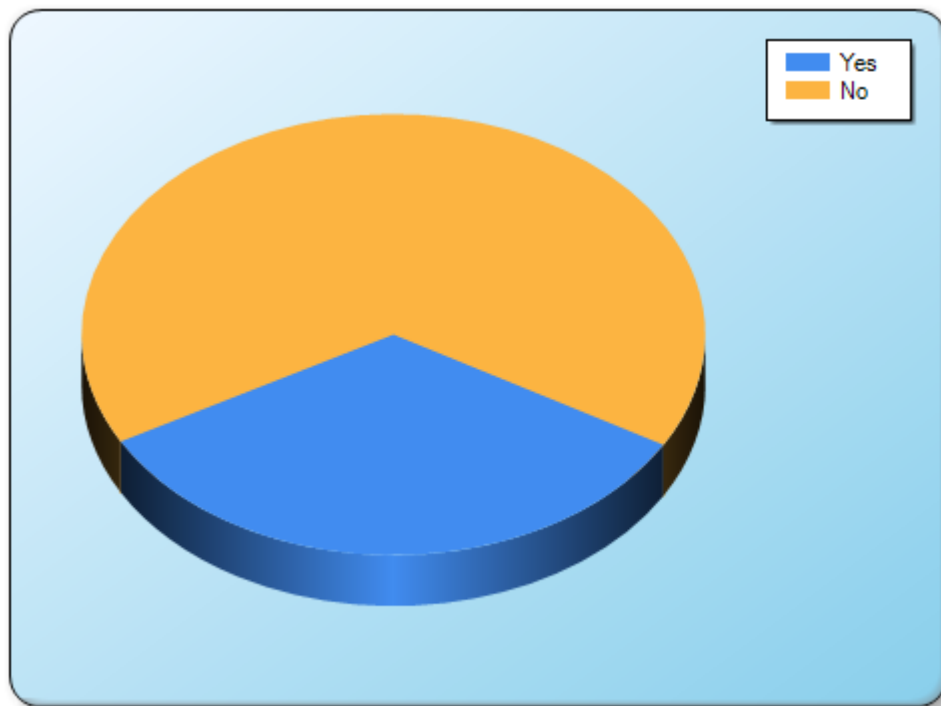
3. Are you required to take continuing education by an organization (including insurance requirements) or employer?

Response	Chart	Frequency	Count
Yes		63.9%	3043
No		36.1%	1720
Not Answered			287
		Valid Responses	4763
		Total Responses	5050








4. Are you required to take continuing education by another state that licenses you?

Response	Chart	Frequency	Count
Yes		33.6%	1584
No		66.4%	3129
Not Answered			337
		Valid Responses	4713
		Total Responses	5050



5: Should the state of Colorado require 50 credits or hours of continuing education every two years as a condition of license renewal?

Response	Chart	Frequency	Count
Strongly Agree		15.8%	797
Agree		18.7%	942
Neutral		19.7%	989
Disagree		19.3%	970
Strongly Disagree		26.5%	1335
Not Answered			17
		Mean	3.219
		Standard Deviation	1.424
		Valid Responses	5033
		Total Responses	5050

