

**Title 12 Recodification Study**  
**Working Group Meetings - Non-DORA Agencies**  
**Thursday, August 18, 2016**  
**9:00 a.m.**  
**HCR 0107**

Dept./Office/Entity	Article & Topic	Staff
DORA - Division of Professions & Occupations	2 Accountants	Thomas Morris
	10 Boxing	thomas.morris@state.co.us
	23 Electricians	303.866.4218
	25 Engineers, Surveyors, and Architects	Jery Payne
	45 Landscape Architects	jery.payne@state.co.us
	58 Plumbers	303.866.2157
		Jennifer Berman
		jennifer.berman@state.co.us
		303.866.3286
	32 Podiatrists	Christy Chase
	33 Chiropractors	christy.chase@state.co.us
	35 Dentists and Dental Hygienists	303.981.4008
	36 Medical Practice	Jane Ritter
	36.5 Health Care Provider Professional Review Committees	jane.ritter@state.co.us
	38 Nurses	303.866.4342
	38.1 Nurse Aides	
	39 Nursing Home Administrators	
	40 Optometrists	
	41 Physical Therapists	
	42 Psychiatric Technicians	
	42.5 Pharmacy	
	43 Mental Health	
	64 Veterinarians	
	5.5 Hearing Aid Providers	Christy Chase
	29.5 Acupuncturists	christy.chase@state.co.us
	29.7 Athletic Trainers	303.981.4008
	29.9 Audiologists	
	35.5 Massage Therapists	
	37 Direct-entry Midwives	
	37.3 Naturopathic Doctors	
	40.5 Occupational Therapy	
	41.5 Respiratory Therapy	
	43.2 Surgical Assistants and Technologists	
	43.7 Speech-language Pathologists	
	8 Barbers and Cosmetologists	Thomas Morris
	15.5 Fantasy Contests	thomas.morris@state.co.us

	54 Mortuaries	303.866.4218
	55.5 Outfitters and Guides	Jery Payne
	58.5 Private Investigators	jery.payne@state.co.us
		303.866.2157
		Esther Van Mourik
		esther.vanmourik@state.co.us
		303.866.4215

**Persons present:** Eric Maxfield, 1<sup>st</sup> asst AG; Jacki Arcelin, DORA - DPO; Marilen Reimer, ACEC - CO; Catherine Sparkman, AST/ASA (surgical technologists and assistants); Renee Rivera, National Association of Social Workers (NASW); Ronne Hines, Director of DPO; Jennifer Anderson, AGO; Adrienne Abatamarco, Colorado Medical Society (CMS)

**9:00 a.m.**

OLLS staff explained the background of the Title 12 Recodification Study and the focus of the meeting on programs and articles administered by the Division of Professions & Occupations. OLLS is looking for guidance on how best to group those articles and professions for purposes of breaking into stakeholder groups to determine common provisions throughout practice acts that can be relocated into a single location in Title 12 that applies to all the professions, as appropriate.

**Article 2 - Accountants; article 10 - Boxing; article 23 - Electricians; article 25 - Engineers, Surveyors, and Architects; article 45 - Landscape Architects; article 58 - Plumbers**

Jacki Arcelin from DPO - indicated that we should move Veterinarians - Article 64 - to the health care category; DPO categorizes veterinarians in the health care group. Jacki also asked about sunset reviews and their impact on the recodification efforts. wondering if the new common provisions will be folded into the sunset review of a practice act.

OLLS staff explained that if, through sunset review, there is a recommendation to add something specific to a practice act, which would likely be added to the specific practice act. Additionally, adding exceptions to common provisions could also happen in through the sunset process. OLLS staff also posed the question of whether the common provisions article should have its own sunset review process, noting that is something to explore, as well. OLLS staff will ensure bills on the recodification can be harmonized with any sunset bills brought forward in the 2018 session.

OLLS staff also noted that article 43 in title 12, which regulates 7 different types of mental health professional, is a good model to illustrate the concept of creating common provisions that apply to all professions. Part 2 of article 43 has common provisions that apply to all mental health professionals regulated under the article (with exceptions as needed). That is the model for the recodification--this could be something we could put on our website, potentially? A link to their common provisions? DORA has suggested that general rule-making authority would be good to consolidate into one common provision.

Jacki: The grouping of the non-health care professions that are regulated by a board or commission, as listed on the meeting agenda under 1.a., with the exception of moving vets to healthcare, makes sense.

OLLS staff mentioned they will be providing an update of the recodification study to the Committee on Legal Services (COLS) at its meeting on September 29 and will make sure to send an email to the Title 12 Recodification email subscribers about the COLS meeting and what staff will be presenting to the committee.

OLLS staff asked whether there should be a delineation between common provisions that apply to healthcare and nonhealthcare professions.

Jacki: Might be easier for the professionals and makes sense and doesn't expect to be opposed to it because record-keeping requirements for accountants are very different from medical records. Confidentiality is different between non-healthcare professions as well.

Marilen Reimer: What appears to be common today could potentially become an issue in the future. Engineers, etc., may want to change some of what we expect to be commonalities.

OLLS staff indicated that the intent is not to create a hardship. If consolidating could be an issue for a profession, we need to hear from the profession and other interested parties.

**10:30 a.m.**

OLLS Staff again provided a brief overview of the Title 12 Recodification Study and asked for feedback about the grouping of the professions listed on the agenda under 1.b., health care professions regulated by a board or commission. OLLS staff also mentioned that Jean Martin from COPIC was unable to attend the meeting but had shared with staff a copy of Nebraska legislation from 2007 under which a single Uniform Credentialing Act was established for health care professions. The uniform act is similar to the concept OLLS staff has referred to as "common provisions" that would apply to all professions, while maintaining practice acts that pertain to the specific requirements applicable to a given profession. *OLLS staff will post the NE legislation on the Title 12 Recodification website for reference.*

OLLS staff also explained a proposal that came out of the Title 12 Recodification Study meetings in July related to allowing agencies to update citations in rules without having to go through the normal rulemaking process under the Administrative Procedures Act (APA). Essentially, the proposal is to amend the APA to allow agencies to correct citations that change after the recodification of title 12 using the "scrivener's error" method outlined in the APA. OLLS staff will present this proposal to the COLS at the September meeting and will seek permission to draft a committee bill to amend the APA accordingly. OLLS staff will provide an update on the Title 12 Recodification Study website and send an email to the subscribers after the COLS meeting.

Renee Rivera: How Article 43 is set-up works well. It may take some explaining, there's the main part and then we go to "our" section. The structure and organization of article 43 is rational -- what's in the general portion makes sense and what are in the specific profession parts makes sense. Her organization is happy to play a role in educating folks on the change in article numbers. She noted that having the common provisions part helps in working with DORA and the GA--if they're pursuing a change that affects everyone. In other cases, if some professions didn't want to make a change to common provisions, the changes were just made to the individual sections that were affected.

Jacki mentioned that Utah has a similar version to Nebraska. OLLS staff will locate the UT law and also link that on the website.

OLLS staff: Do we need common provisions for business and healthcare, separately?

Ronne Hines: Agrees -- she thinks separating it out by business vs. health care would be useful.

OLLS staff: Asks if the separation makes sense, even though healthcare is split between director and board models -- should the common provisions apply to all of them, regardless of whether administered by a board or the director? Should we have different common provisions between director and board models? (licensure, registration, certification)

Ronne: The rule-making authority might be all that's different. Some of the director models have fewer discipline tools--for instance, not everyone has fining authority.

OLLS staff: As we dive in, we may find that we need multiple common provisions.

Ronne: Mentioned DPO has a chart that details the authorities of the boards and the director that she can share with OLLS staff.

OLLS staff: Notes that the Vets haven't asked to be put under health care and wonders if they been at a meeting and whether they want, like the pharmacists did, to be moved in the statutes to be grouped with the health care professions?

OLLS staff asked for feedback from the audience on the grouping of the health care professions and the idea of creating common provisions applicable to those professions. OLLS staff also indicated there may be provisions in title 24, e.g., the Michael Skolnik Medical Transparency Act, etc., that may be more appropriately located in title 12. Thoughts?

Adrienne Abatemarco: She will report the concept to CMS and email their thoughts.

Ronne: Has feedback from all the program directors--she'll send Christy an email--re: moving things from Title 24 to Title 12. It makes sense to move HPPP (Medical Transparency Act).

Olls staff indicated a plan to get the recodification bills done early in the 2018 session, so that sunset bills and other bills could amend the newly amended law.

**1:30 p.m.**

Jacki: One stakeholder group, from the DPO side, would be easier to participate in for the director-model programs. Maybe separating business and healthcare, but that might not be needed.

Olls staff referred the DPO table Ronne mentioned earlier as a tool to look for commonality and where things need to remain specific to a practice act.

Catherine Sparkman: Noted that for Surgical Technicians and Assistants, the director has a narrower scope of authority. Authority is to register and obtain background checks, employers can track registrant from hospital to hospital, and hospitals have to report when someone is terminated. Certifications are from national association. There's lots of movement among employees. Isn't it a natural fit with some of the regulatory powers of other healthcare professions?

Olls staff asks if there is a disciplinary section for surgical techs & assistants

Catherine: DORA regulates things external to the practice, so that doesn't necessarily mean that it's going to fit into a common provisions section.

Jennifer Anderson: Asked why we'd be writing a bill about updating the APA re: internal citations if the bills aren't going to be introduced until 2018?

Olls staff explained that we're looking into starting to draft bills earlier, not waiting until 2018, for very simple relocations that stakeholders support. Will talk with COLS during September meeting about going forward with these simpler bills earlier than 2018. Either way, if the relocations and restructuring of title 12 occurs in 2018, it would help on the fiscal impact if the agencies already know they can update statutory references without having to proceed with normal rule-making, which would have a cost to the agencies.

Olls staff also reiterated that they will not be bringing draft legislation to COLS in September.

Jacki: thinks that the grouping of the health care professions regulated by the DPO director, as listed on the agenda under 2.a., makes sense. She offered to do outreach to the groups involved in these articles, on behalf of the DPO.

OLLS staff asks whether the groups should be organized more like how the DPO organizes it: healthcare/business & director/board.

Jacki: It would be helpful having health care workgroup meetings all in one day, because there's lots of crossover between the director and the boards. And lobbyists cross over between the professions within health care—an opportunity to reach more stakeholders and reach more professions.

Jennifer Anderson: Suggested that OLLS staff bring examples of common provisions in advance to the next meetings as a starting place. Have a list of the sections that are repetitive. Also suggested keeping the meeting to an hour.

OLLS staff will have more concrete details for the next meeting and will send these out before the next meetings.

Jennifer Anderson: You could request written comments before the hearing and then we have a place to start from during the next meetings.

**3:00 p.m.**

OLLS staff again explained recodification study and asked for feedback on the grouping of professions as listed on the agenda under 2.b. OLLS staff also noted the potential to move mortuaries under health care.

Jacki: Mortuaries have both health care and business aspects, and the DPO is considering where it might be included in the future.

OLLS staff mentioned that a big thing with mortuaries is title protection and wondered how that might be included in a common provisions article.