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Researching Colorado Health Law

BY KERRI ROWE

Health law has become a major topic of conversation, not only among lawyers and policymakers, but also among those who administer, access, or work within the health system. Rapid and often divisive changes in U.S. health systems have caused confusion and insecurity. Colorado lawyers, regardless of practice area, may find themselves fielding questions from concerned clients or might themselves be concerned about recent changes to the health law in Colorado specifically.

This article presents strategies and tools for conducting Colorado health law research. It begins with a discussion of secondary materials, which will be most appropriate for those seeking a general understanding of health law, and then covers primary sources, including statutes, regulations, and local ordinances. Next, it discusses how to stay current on health care related legislation and the roles of various committees of the Colorado General Assembly. Finally, it explores subscription-based services as a tool for health law research.

Secondary Materials

Colorado-focused secondary materials can be a great place to start when researching an unfamiliar field of law. These materials often serve as an approachable entry point into a new topic. The Colorado Health Institute (CHI)¹, for example, routinely provides articles addressing key topics on Colorado health law through its website.

CLE presentations and materials are another good source for learning about a specific field of law, often presenting a condensed introduction by experts in the field. Although some may address a narrow health law issue, others will provide a holistic review of Colorado health law, such as the 2014 Colorado Health Law Symposium, which discussed changes to Colorado health law as well as national developments. Many CLE programs and materials are available through Colorado Bar Association CLE. Print materials can also be found in law library collections, including the University of Colorado Boulder Wise Law Library or University of Denver Westminster Law Library.

For information that goes beyond Colorado law, researchers can turn to the multitude of books and treatises that have been written on various aspects of health law. Recommended resources include:

- *Health Law Hornbook*;²
- *Fundamentals of Health Law*;³
- “Health Law Nutshells” series (e.g., *Health Care Law and Ethics in a Nutshell*,⁴ *Mental Health Law in a Nutshell*,⁵ and *Public Health Law in a Nutshell*⁶); and
- *The Oxford Handbook of U.S. Healthcare Law*.⁷

For developing issues, researchers should consult journal articles. Health law-centric journals include *The Journal of Law, Medicine & Ethics* and the *American Journal of Law & Medicine*, both published by the American Society of Law, Medicine & Ethics, and *The Health Lawyer*, published by the American Bar Association. Many law schools, including Yale University⁸ and St. Louis University,⁹ also publish health law journals or law reviews focused on recent issues facing health law. These materials are often available online.

Researchers can also search Social Science Research Network (SSRN) for articles written by law faculty.¹⁰

Researchers with access to library catalogs can perform a generic “health law” search to locate introductory titles on health law. Once a relevant text has been found, researchers can simply “stand and scan” the shelves to find more books on the topic.

Law libraries also often draft research guides on specific fields of law. A Google search for “Health Law Research Guide” will provide a sample of research guides that researchers can use to begin their exploration. Both Cornell University Law School and Georgetown Law Library, for example, have created in-depth guides to federal health law research.

Primary Materials

This article focuses on providing guidance for

performing Colorado health law research, but researchers should keep in mind that health law is also governed by federal law. Primary sources for Colorado health law include both state and federal statutes (although this article focuses on state-specific research materials), the regulations promulgated by the agencies tasked with administering these statutes, and local municipal ordinances.

Statutes

Colorado statutes governing health law are located in:

- Title 12: Professions and Occupations (Articles 29 to 43.9 relate to health care);
- Title 25: Public Health and Environment;
- Title 25.5: Health Care Policy and Financing;
- Title 26: Human Services Code; and
- Title 27: Behavioral Health.

The CRS is available online at no charge through LexisNexis.¹¹ Browsing the CRS Table of Contents from this free resource is a quick and easy way to see which health law topics are covered.

The statutes can also be used to find out which regulatory bodies are tasked with carrying out the directives given by the legislature. Researchers can then use materials from the appropriate agency to inform their search.

Regulations

Colorado agencies provide online access to their current and proposed regulations. These agencies also provide opportunities for interested parties to ask questions or obtain more information directly from the agency. Often, they provide reports on current policies and guidance on how regulations should be applied. With a field as rapidly changing as health law, staying current on how the laws are applied and the rationale behind this application is paramount.

Researchers are advised to visit the website of the Colorado agency relevant to their health law question. The major health-related agencies in Colorado are:

Colorado Department of Human Services (CDHS).¹² CDHS (2 CCR 500, 6 CCR 1008, 9 CCR 2500) oversees the county departments of social/human services, the public health system, Colorado’s system of services for people with developmental disabilities, the juvenile corrections system, and state and veterans’ nursing homes. Its mission is “to design and deliver high-quality human and health services that improve the safety, independence, and well-being of the people of Colorado.”¹³

Colorado Department of Public Health and Environment (CDPHE).¹⁴ CDPHE (5 CCR 1000) is tasked with protecting and maintaining the health and environment of Colorado. It works to improve public health and the environment across multiple platforms, including mental health and substance abuse, health care access and coverage, infectious disease outbreak response infrastructure, injury prevention, and air and water quality.

Colorado Department of Health Care Policy and Financing (HCPF).¹⁵ HCPF (10 CCR

2505) regulates Colorado public health care programs, including Health First Colorado and Child Health Plan Plus. HCPF generates reports, infographics and overviews, and provides in-depth information on departmental initiatives.

Colorado Division of Insurance (DOI).¹⁶

This division of the Department of Regulatory Agencies (3 CCR 702) regulates the Colorado insurance industry. DOI is charged with regulating health insurance and senior health care/Medicare. It provides regulations dealing with insurance companies, agents, and the manner in which consumers interact with the insurance industry.

Colorado Division of Professions and Occupations.¹⁷ This division of the Department of Regulatory Agencies (3 CCR 705-1 to 4 CCR 751-1) licenses professions, occupations, and businesses in Colorado, including the health care and medical professions. The website provides information about the individual programs and licensure procedures.

Local Ordinances

Lastly, local governments often address local public health issues through local ordinances. They may also adapt required state health regulations to local needs. Local ordinances related to Colorado health law may be found through Municode¹⁸ and Sterling Codifiers,¹⁹ or by searching through the municipality’s own website.²⁰

General Assembly Materials

An abundance of health care-related legislation has passed in recent years, and health care is still on the agendas of many legislators. Reviewing the legislative history of proposed and enacted legislation can be an important part of researching health-related issues and how they might change in the future.

Researchers who want to stay on top of current Colorado legislation may wish to sign up for updates and action alerts from the Colorado Consumer Health Initiative (CCHI).²¹ CCHI also provides updates on its website throughout the general legislative session for state bills upon which the organization has taken a stance. The Center for Health Progress²² provides a bill tracker for those interested in knowing the status

of current legislation. In addition, the Colorado Bar Association’s Health Law Section provides a forum for health law-related conversation. The General Assembly²³ also provides Status Sheets, which outline the status of legislation for the current session.

For a bill to be considered or to become law, it must be referred to and returned from a committee.²⁴ Committees consider current and proposed legislation and provide legislative oversight for specific executive branch agencies. These committees often provide a wealth of background information that can help researchers understand the purpose of health-related legislation. Committees also generate reports and discuss the intricacies of proposed health laws. Audio from recent committee meetings, as well as a schedule of upcoming committee meetings, are available

on the Colorado General Assembly website.²⁵

The General Assembly website also discloses what a committee has previously worked on, what its members are currently researching, and what reports its members are in the process of generating. To learn which committee may be most relevant to a particular research project, refer to the accompanying tables. The tables list committees that deal with health law issues, highlighting the health-related matters each committee considers and the health-related agencies it oversees.

Subscription-Based Legal Databases

Access to online legal research platforms can greatly simplify the research process. The major platforms all provide access to health law materials that have been specially selected to provide thorough discussion of relevant

SENATE COMMITTEES OF REFERENCE

<p>Senate Health and Human Services Committee</p>	<p>Considers matters concerning:</p> <ul style="list-style-type: none"> ▪ state health and welfare programs ▪ health insurance ▪ social services ▪ environmental health <p>Legislative oversight responsibility for:</p> <ul style="list-style-type: none"> ▪ Department of Health Care Policy and Financing ▪ Department of Human Services ▪ Department of Public Health and Environment
<p>Senate Business, Labor, and Technology Committee</p>	<p>Considers matters concerning:</p> <ul style="list-style-type: none"> ▪ the regulation of professions and occupations ▪ property and casualty insurance ▪ health insurance <p>Legislative oversight responsibility for:</p> <ul style="list-style-type: none"> ▪ Department of Labor ▪ Department of Personnel and Administration ▪ Department of Regulatory Agencies ▪ Office of Information Technology

HOUSE COMMITTEES OF REFERENCE

<p>House Committee on Business Affairs and Labor</p>	<p>Considers matters concerning:</p> <ul style="list-style-type: none"> ■ the regulation of professions and occupations ■ health insurance and more <p>Legislative oversight responsibility for:</p> <ul style="list-style-type: none"> ■ Department of Labor and Employment ■ Department of Personnel and Administration ■ Department of Regulatory Agencies ■ Office of Economic Development and International Trade
<p>House Public Health Care and Human Services Committee</p>	<p>Considers matters concerning:</p> <ul style="list-style-type: none"> ■ state health care programs and social services <p>Legislative oversight responsibility for:</p> <ul style="list-style-type: none"> ■ Department of Health Care Policy and Financing ■ Department of Human Services
<p>House Health, Insurance, and Environment Committee</p>	<p>Considers matters concerning:</p> <ul style="list-style-type: none"> ■ state health programs ■ health insurance ■ environmental health <p>Legislative oversight responsibility for:</p> <ul style="list-style-type: none"> ■ Department of Public Health and Environment ■ Health Benefit Exchange ■ Division of Insurance ■ Division of Professions and Occupations relating to health care providers

YEAR-ROUND COMMITTEES

<p>Colorado Health Insurance Exchange Oversight Committee</p>	<ul style="list-style-type: none"> ■ Studies the implementation of Colorado’s health exchange. ■ Reviews and approves grants applied for by the exchange’s board of directors to implement the exchange. ■ Recommends legislation on the operation of the exchange.
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health-related topics. They are also some of the most user-friendly platforms for searching health law cases, regulations, and statutes.

Bloomberg Law

From the “Browse All Content” tab, subscribers may select “Practice Centers” and then “Health” to access the Health Care Practice Center. The Practice Center provides links to legal analysis (through BNA Portfolios, Manuals, and select books, treatises, and various law reviews and journals); Practical Guidance; and Reform Tracking tools. The Practice Center also contains dedicated state-law-specific tools.

Lexis Advance

From the “Explore Content” tab on the Lexis homepage, subscribers may select “Practice Area or Industry” and then “Healthcare Law” to access Healthcare Law materials, including cases, statutes, and regulations. The page also provides access to the Healthcare Practice Center, which provides access to key topics, recent news, and a national review of recent legislation. In addition, from the “Browse” menu on the top left corner of the page, subscribers may select “Topics,” then “Healthcare Law,” and then continue to select topics as desired until obtaining all the documents on a particular health-related topic. Subscribers may also access the *Treatise on Health Care Law*, which addresses legal issues faced by health care law practices and provides state-by-state comparison tools.

Westlaw

Westlaw subscribers have access to the Health Law Practitioner Insights page, which includes a compilation of current events and health-related legal developments assembled by Westlaw attorney–editors. From the start page, subscribers may select “Health Law” under the “Practice Areas” tab to access this page. Subscribers can also search for health law cases, statutes, and other materials from this page, and then narrow these results to Colorado-specific results. Westlaw subscribers also have access to the *Health Law Practice Guide*, which addresses relevant legal topics to the practice of law and summarizes major health law cases from the prior year.

Conclusion

Health law touches on a variety of legal fields but is fast becoming its own distinct entity. As questions continue to grow concerning this rapidly changing area, attorneys may find themselves fielding inquiries from clients who are genuinely concerned about what the future of their health care may be. Thus, a general understanding of health law research can benefit practitioners regardless of legal specialty. ^{CL}



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NOTES

1. Colorado Health Institute, www.coloradohealthinstitute.org. Articles may be found through the "Analysis," "Data," or "Services" tabs near the top of the page.
2. Furrow et al., *Health Law* (Hornbook Series)

(West Academic Pub. 3d ed. 2014).

3. Alexander, *Fundamentals of Health Law* (American Health Lawyers Association 5th ed. 2011).
4. Hall et al., *Health Care Law and Ethics in a Nutshell* (West Academic Pub. 3d ed. 2011).
5. Myers, *Mental Health Law in a Nutshell* (West Academic Pub. 2015).
6. Hodge, Jr., *Public Health Law in a Nutshell* (3d ed. 2017).
7. Cohen et al., eds., *The Oxford Handbook of U.S. Health Law* (Oxford University Press 2016).
8. The *Yale Journal of Health Policy, Law, and Ethics* addresses topics in health policy, health law, and biomedical ethics. It is available online at digitalcommons.law.yale.edu/yjhple.
9. The *Saint Louis University Journal of Health Law & Policy*, published by the Center for Health Law Studies, covers topical and developing issues in health law and policy. The *Journal* is available online at law.slu.edu/healthlawjournal.
10. SSRN is "devoted to the rapid worldwide dissemination of research" and provides access to numerous drafts and final papers across the social sciences and humanities. Professors often post papers on SSRN before they are officially published, giving readers the opportunity to see works at an early stage. SSRN, "Home," www.ssrn.com/en.
11. The CRS is available at www.lexisnexis.com/hottopics/colorado. The Colorado Court Rules, Colorado Constitution, and U.S. Constitution can also be accessed here at no charge.
12. Colorado Department of Human Services, www.colorado.gov/cdhs.
13. Colorado Department of Human Services, "Mission, Vision and Values," www.colorado.gov/pacific/cdhs/mission-vision-and-values-0.

14. Colorado Department of Public Health and Environment, www.colorado.gov/pacific/cdphe.
15. Colorado Department of Health Care Policy and Financing, www.colorado.gov/hcpf.
16. Colorado Division of Insurance, www.colorado.gov/pacific/dora/division-insurance.
17. Colorado Division of Professions and Occupations, www.colorado.gov/pacific/dora/dpo.
18. Municode Library, "Colorado," <https://library.municode.com/co>.
19. Sterling Codifiers, www.sterlingcodifiers.com. Select "Get Codes" from the top right corner. Sterling Codifiers also allows researchers to search legislation from municipalities and counties by topic or phrase.
20. For help with conducting more thorough local government research, see Linz, "Researching Colorado Local Government Law," 38 *Colorado Lawyer* 101 (Aug. 2009).
21. Colorado Consumer Health Initiative, "Current Legislation," www.cohealthinitiative.org/current-legislation.
22. Center for Health Progress, "Bill Tracker," <https://centerforhealthprogress.org/the-work/policy-advocacy/bill-tracker>.
23. Colorado General Assembly, <https://leg.colorado.gov>.
24. Colo. Const. art. V, § 20.
25. Colorado General Assembly, *supra* note 23.