



Regulatory Changes

Background

The 2020 legislative session brought significant new regulatory requirements for the industry, particularly impacting hospitals as employers. Specifically, several bills aimed at bolstering worker protections passed when legislators returned in May, affecting hospitals and employers more broadly. Many of these have significant fiscal impacts to employers across the state, and the business community expressed deep concerns that collectively, these new laws would hinder Colorado's economic recovery from the COVID-19 pandemic.

SB 20-026: Workers' Compensation for Audible Psychological Trauma

The bill expands eligibility for workers' compensation to include those workers who hear psychologically traumatic events.

What You Need to Know

Under certain circumstances, current law allows workers who visually witness psychologically traumatic events to qualify for workers' compensation benefits. SB 20-026 expands the definition to include audible exposure to a death or serious bodily injury. Such an event must be within a worker's usual experience. Qualified claimants must be diagnosed with Post-Traumatic Stress Disorder (PTSD) by a licensed psychiatrist or psychologist.

SB 20-102: Provider Disclose Discipline Convict Sex Offense

The bill requires health care providers regulated by the Department of Regulatory Agencies (DORA) to disclose to patients convictions for a sex offense and any final disciplinary actions resulting in probation or a limitation on practice based on the provider's sexual misconduct.

What You Need to Know

Beginning Jan. 1, 2021, providers subject to the Medical Transparency Act of 2010 must disclose the following to patients that they have a direct treatment relationship with:

- Final conviction or plea for a sex offense; and,
- Final disciplinary action due to a conviction or plea of a sex offense or a finding of unprofessional conduct related to sexual misconduct.

Additional Resources

SB 20-026: [Final Bill](#) and [Fiscal Note](#)
Effective Date: Sept. 12, 2020

SB 20-102: [Final Bill](#) and [Fiscal Note](#)
Effective Date: Sept. 12, 2020

For questions or more information, contact Kevin Caudill,
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What You Need to Know – cont. (SB 20-102)

The patient disclosure must be made in writing and patient acknowledgment obtained before treating the patient. The requirements do not apply when a patient is unconscious, the visit occurs in an emergency room or the provider is not known to the patient prior to the start of the visit. Failure to comply with the requirements constitutes unprofessional conduct. If a provider was placed on probation as part of a conviction or plea or was on probationary status due to a final disciplinary action, the requirement to disclose ends when then the provider has satisfied the requirements of the probation or other limitation.

SB 20-170: Update Colorado Employment Security Act

The bill makes changes to the state unemployment insurance program.

What You Need to Know

This bill amends the Colorado Employment Security Act to:

- Eliminate the documentation requirement for workers separating from employment because of domestic violence in determining eligibility for unemployment insurance benefits;
- Relocate and expand the definition of immediate family to include a sibling under 18 years of age for whom the individual is legally responsible, or a sibling who is incapable of self-care; and,
- Substitute the term "severance allowance" for "remuneration."

SB 20-205: Sick Leave For Employees

The bill requires Colorado employers to provide paid sick leave to employees.

What You Need to Know

On Jan. 1, 2021, all employers must provide one hour of paid sick leave for every 30 hours worked, up to a maximum of 48 hours per year.

- Provide employees with additional paid leave during a public health emergency.
- Notify employees of the amount of paid sick leave to which they are entitled and the terms of its use. The Colorado Department of Labor and Employment (CDLE) is required to create and make available posters and notices outlining the paid sick leave policy for use by employers. An employer who willfully violates these requirements is subject to a civil fine not to exceed \$100 per separate violation.
- Retain records documenting hours worked, paid sick leave accrued and paid sick leave used for each employee for a three-year period. Employers are to provide reasonable access to records for monitoring by the CDLE.
- For more details on SB 20-205, please review the Association's Issue Brief titled "SB 20-205: Sick Leave For Employees" [available here](#).

Additional Resources

SB 20-102: [Final Bill](#) and [Fiscal Note](#)
Effective Date: Sept. 12, 2020

SB 20-170: [Final Bill](#) and [Fiscal Note](#)
Effective Date: Jan. 1, 2020

SB 20-205: [Final Bill](#) and [Fiscal Note](#)
Effective Date: July 14, 2020

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SB 20-207: Unemployment Insurance

This bill codifies current practices, addresses public health emergencies and increases the amount a person can earn while receiving unemployment insurance. SB 20-207 also requires a study of unemployment assistance.

What You Need to Know

SB 20-207 amends the Colorado Employment Security Act to:

- Increase the amount of wages someone can earn before their weekly unemployment insurance benefit is reduced until Sept. 1, 2022;
- Exclude payments made to an election judge from the definition of wages;
- Direct the Division of Unemployment Insurance to consider whether the individual has separated from employment or refused to accept new employment due to factors related to a public health emergency;
- Modify the terms of work share plans to match federal rules;
- Reduce the time for interested parties to respond to a notice of claim from 12 to seven calendar days; and,
- Remove the cap on funds deposited into and retained in the Employment Support Fund.

Additionally, the Office of Future of Work in the CDLE is required to study unemployment assistance as part of its study on the modernization of worker benefits and protections. The office will submit an initial report to the governor and the General Assembly by Jan. 15, 2021.

SB 20-217: Enhance Law Enforcement Integrity

This bill makes several policy changes related to law enforcement practices and peace officers.

What You Need to Know

The reconvening of session coincided with the public response to the recent killings of unarmed black Americans. These tragedies and responsive public protests have spilled into the streets in Colorado and across the nation, calling for policies and actions to address racism and unequal treatment across society. The legislature responded by passing this groundbreaking law enforcement accountability bill.

SB 20-217 will, among other policies, dramatically expand the use of body cameras. CHA worked with the bill's proponents to address patient privacy concerns on behalf of the health care community; however, language sufficient to protect privacy rights was not adopted in the bill.

CHA is currently developing a member advisory on SB 20-217. At this time, the Association encourages hospitals and health systems to seek guidance from their legal counsel.

Additional Resources

SB 20-207: [Final Bill](#) and [Fiscal Note](#)
Effective Date: July 14, 2020

SB 20-217: [Final Bill](#) and [Fiscal Note](#)
Effective Date: June 19, 2020

HB 20-1302: CAPS Check Program Changes

HB 20-1302 modifies Colorado's Adult Protective Services (CAPS) Check Program created in 2017. Specifically, this bill makes changes to reporting requirements for the mistreatment of at-risk adults, requires employers to provide access to documents to counties conducting investigations of allegations of mistreatment and updates who must receive a background check through CAPS data system.

What You Need to Know

Investigations: HB 20-1302 requires employers to allow access to persons, documents and other evidence to a county adult protective service unit when there is an investigation into an allegation of mistreatment. This requirement does not apply to attorneys who are providing legal assistance to individuals who have a contract with an Area Agency on Aging. More specifically, access must include the ability to request interviews with relevant persons and to obtain documents and other evidence and have access to:

- Patients who are the subject of the investigation into mistreatment of an at-risk adult and patients who are relevant to an investigation into an allegation of mistreatment of an at-risk adult;
- Personnel, including paid employees, contractors, volunteers and interns, who are relevant to the investigation;
- Clients or residents who are the subject of the investigation into mistreatment of an at-risk adult and clients or residents who are relevant to an investigation into an allegation of mistreatment of an at-risk adult; and,
- Individual patient, resident, client or consumer records, including disclosure of health records or incident and investigative reports; care and behavioral plans; staff schedules and time sheets; and photos and other technological evidence.

The county department and its employees must comply with applicable federal laws related to the privacy of information when requesting or obtaining documents.

Background Checks: HB 20-1302 also requires that background checks of data in CAPS be conducted for an employer who is also an employee. If an employee is determined to have a substantiated finding of mistreatment, the employer and the employer's parent company or oversight agency will receive the results. Employers may also request CAPS checks on any volunteer who will provide direct care to an at-risk adult and requires the Office of Public Guardianship to conduct CAPS checks on anyone hired as a guardian. Finally, the bill creates two class 1 misdemeanors for anyone who requests a CAPS check on someone who is not an employee or not being considered for employment and when an individual knowingly provides inaccurate information for a CAPS background check.

Additional Resources

HB 20-1302: [Final Bill](#) and [Fiscal Note](#)

Effective Date: Sept. 12, 2020

HB 20-1415: Whistleblower Protection Public Health Emergencies

HB 20-1415 prohibits employers from taking adverse action against a worker who raises concerns about workplace health and safety practices related to a public health emergency. The bill includes multiple avenues through which a worker may seek relief for a violation.

What You Need to Know

The bill prohibits a principal, defined as an employer, certain labor contractors, public employers and entities that rely on independent contractors for a specified percentage of their workforce, from discriminating, retaliating or taking adverse action against workers who:

- Raise concerns about workplace health and safety practices or hazards related to a public health emergency to the principal, the principal's agent, other workers, a government agency or the public if the workplace health and safety practices fail to meet guidelines established by a federal, state or local public health agency with jurisdiction over the workplace; or,
- Voluntarily wear personal protective equipment, such as a mask, faceguard or gloves, in their workplace.

A worker may seek relief for a violation of HB 20-1415 by:

- Filing a complaint with the Division of Labor Standards and Statistics in the Department of Labor and Employment;
- Bringing an action in district court, after exhausting administrative remedies; or,
- Bringing a whistleblower action in the name of the state in district court, after exhausting administrative remedies.

Additional Resources

HB 20-1415: [Final Bill](#) and [Fiscal Note](#)

Effective Date: July 11, 2020