

A Recap of the 2020 Legislative Session

JULY 17, 2020

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Today's Presenters

Joshua Ewing
VP, Legislative Affairs



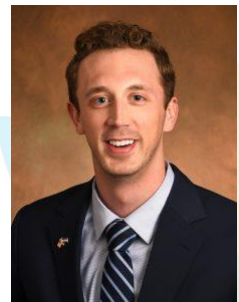
Amber Burkhardt
Director, Public Policy



Lila Cummings
Manager, Public Policy



Kevin Caudill
Policy Analyst



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Today's Agenda

- **2020 Legislative Session (January – March)**
 - Affordability and Transparency
 - Increased Access and Coverage
 - Protecting and Enhancing Public Health
- **COVID-19 and Temporary Adjournment**
 - Responding to COVID-19
 - COVID-19 Financial Impact to Hospitals
- **The Legislature's Return**
 - COVID-19 Impacts on State Budget
 - Legislative Response to COVID-19
- **Questions/Discussion**

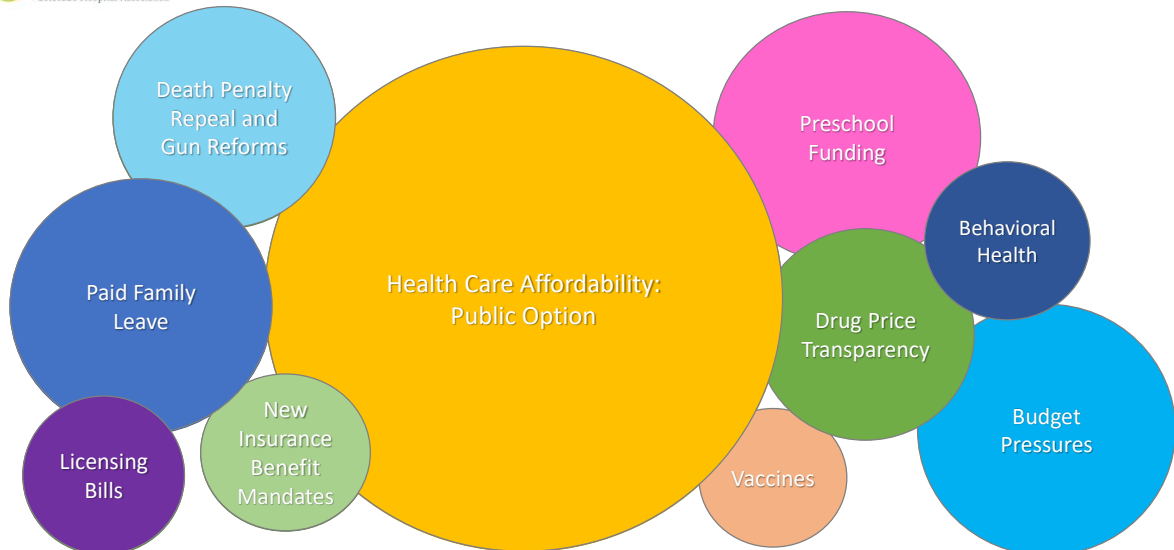


CHA Webinar
*Health Care Under the Gold Dome:
 A Recap of the 2020 Legislative Session*


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Governor and Democratic Priorities



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Likely Health Care Issues

Public Option HB 20-1349 Failed	Nonprofit Hospital and Community Benefit Regulation Not Introduced	Hospital Contracting HB 20-1264 - Died Antitrust Regulation SB 20-064 - Passed	Reduce Hospital Carbon Footprint Not Introduced
Total Cost of Care Bill Drafted	Billing Efficiency SB 20-005 Failed	Paid Family Leave 2020 Ballot Initiative	Certificate of Need Not Introduced
Expanded Facility Malpractice Liability Not Introduced	Fixes to 2019 Legislation SB 20-215 Passed	Nurse Staffing Ratios Not Introduced	710 total bills CHA worked 118 (17%)

HB = House Bill SB= Senate Bill

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2020 Legislative Session (January – March)



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Affordability and Transparency

The high cost of health care was a major focus for lawmakers, with legislation introduced to lower premiums in the individual insurance marketplace and make patient billing-related activities more transparent for consumers.

- ☒ Public Option
- ☒ Total Cost of Care
- ☒ SB 20-005, Simplified Billing

- ☒ Reinsurance Extension and Expansion

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Spotlight: HB 20-1349, Public Option



- HB19-1004 created study and interim stakeholder process (June-November 2019)
- Wrong Option Campaign
 - Website
 - Digital Ads
 - Messaging/Newsletter
 - Coalition building
- HB 20-1349 introduced March 5, first committee hearing March 11
- Bill died post-COVID-19 adjournment

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Spotlight: Total Cost of Care

- Consultations with national experts, member tactical team, broad stakeholder group
- Joint Budget Committee (JBC) bill draft, scheduled for introduction mid-late March
- Numerous media interviews
- Wrong Option Campaign
 - Website
 - Digital Ads
 - Messaging/Newsletter
 - Coalition building



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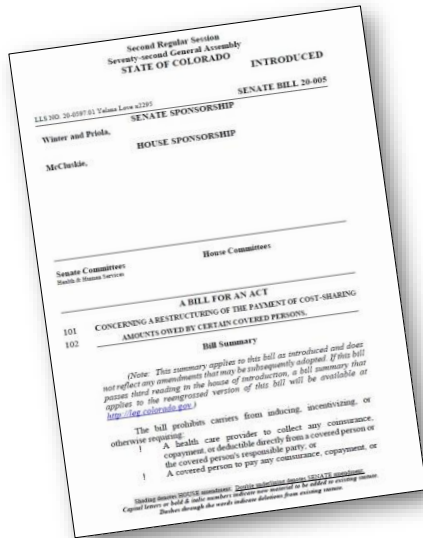
The Debate That Almost Was...

Public Option	Total Cost of Care
<input checked="" type="checkbox"/> One-size-fits-all cuts to hospitals	<input checked="" type="checkbox"/> Targeted cost-savings based on evidence, unique community factors
<input checked="" type="checkbox"/> Furthers fee-for-service system	<input checked="" type="checkbox"/> Emphasizes value-based insurance design and care delivery
<input checked="" type="checkbox"/> Shifts costs to other parts of the health care system	<input checked="" type="checkbox"/> Slows or reduces costs to entire system and eliminates ability to cost shift
<input checked="" type="checkbox"/> Only addresses cost	<input checked="" type="checkbox"/> Builds on the Triple Aim of cost, quality and improved health outcomes
<input checked="" type="checkbox"/> Potential to save \$1.7 billion over five years – if it works as planned	<input checked="" type="checkbox"/> Commitment to save at least \$4.9 billion over five years

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Spotlight: SB 20-005, Simplified Billing



- Introduced as “first ten bill” indicating health care priority for Senate Dems
- Bipartisan sponsors
- Multiple local and national media interviews
- Generated great consternation from payers
- Negotiated to study before COVID-19

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Spotlight: SB 20-215, Reinsurance Update and Extension



- Reduce hospital assessment from \$80M → \$40M and push to fiscal years 2022 and 2023
- Capture health insurance tax from federal repeal
 - 1.15% for non-profit health plans
 - 2.25% on for-profit health plans
- Create wrap programs to offset loss in consumer subsidies

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Increased Health Care Access and Coverage

Early in the 2020 legislative session, a number of proposals surfaced expanding coverage of new health benefits in both private insurance plans and Medicaid. Governor Polis caught a lot of people by surprise when, in his signing statement for a bill expanding coverage for infertility treatments, he stated that he would not sign any additional benefit mandates into law in 2020. He followed through on this threat when he vetoed HB 20-1085.

BENEFITS AND ENHANCED ACCESS TO MEDICAID COVERAGE

- ✓ HB 20-1061 – HIV Infection Prevention Medications
- ✓ HB 20-1158 – Insurance Cover Infertility Diagnosis Treatment Preserve
- ✓ SB 20-033 – Allow Medicaid Buy-in Program After Age 65
- ✓ HB 20-1232 – Equity In Access To Clinical Trials In Medicaid
- ✓ HB 20-1236 – Health Care Coverage Easy Enrollment Program

BEHAVIORAL HEALTH SERVICES

- ✓ HB 20-1017 – Substance Use Disorder Treatment in Criminal Justice System
- ✓ HB 20-1065 – Harm Reduction Substance Use Disorders
- ✗ HB 20-1085 – Prevention Of Substance Use Disorders
- ✓ SB 20-007 – Treatment Opioid And Other Substance Use Disorders
- ✓ SB 20-028 – Substance Use Disorder Recovery

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Protecting and Enhancing Public Health

Even before COVID hit Colorado, the General Assembly was tackling major public health issues, such as tobacco use prevention, access to immunizations and regulation of health professionals.

PUBLIC HEALTH

- ✓ HB 20-1001 – Nicotine Product Regulation
- ✓ SB 20-163 – School Entry Immunization
- ✗ HB 20-1319 – Prohibit Sale Of Flavored Nicotine Products
- ✗ HB 20-1239 – Consumer Protections Concerning Vaccinations
- ✗ SB 20-084 – Prohibit Requiring Employee Immunization

REGULATION OF HEALTH CARE PROFESSIONALS

- ✓ HB 20-1183 – Sunset Continue Certification of Nurse Aides
- ✓ HB 20-1206 – Sunset Mental Health Professionals
- ✓ HB 20-1212 – Sunset Naturopathic Doctors
- ✓ HB 20-1216 – Sunset Continue Nurse Practice Act
- ✓ HB 20-1219 – Sunset Continue Licensing Audiologists
- ✓ HB 20-1230 – Sunset Occupational Therapy Practice Act

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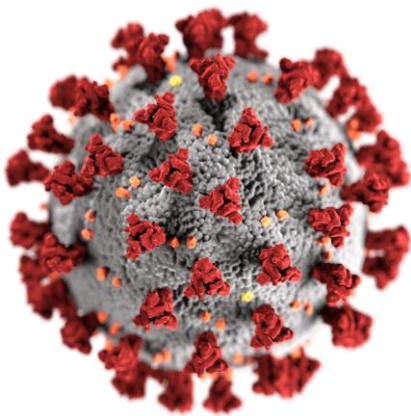
COVID-19 and Temporary Adjournment



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COVID-19 and Temporary Adjournment



By early March, the first known positive cases of COVID-19 in Colorado had been detected, and mountain communities were quickly experiencing community transmission of the virus. The General Assembly temporarily adjourned on March 14 following the Governor's declaration of a public health emergency due to COVID-19.

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Legislative Hiatus and Return

March	April	May	June
12 Gov. declared State of Emergency	1 CO Supreme Court rules legislature may use "working days" to extend session (4-3)	4 Joint Budget Committee begins meeting again	11 Last of 86 new bills introduced since reconvening
14 Legislature temporarily adjourned after passing ballot access bill in three days (52 days and 350+ bills remain)	House Speaker KC Becker indicates May return will focus on "Fast, friendly and free"	12 Revised budget forecast indicates \$3 billion budget shortfall	15 Legislature adjourns sine die, passing 50% of all bills introduced, 97% of bills introduced in May/June
16 Budget forecast suggests \$500 million budget shortfall		26 Legislature returns, plans for three-week session	
		28 George Floyd protests begin in Denver	

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CHA Incident Command

- Developed hospital-focused solutions
- Partnered with state and federal officials
- Optimized capacity through increased efficiency, increased patient throughput and improved communication/coordination



Spaces



Supplies



Staffing

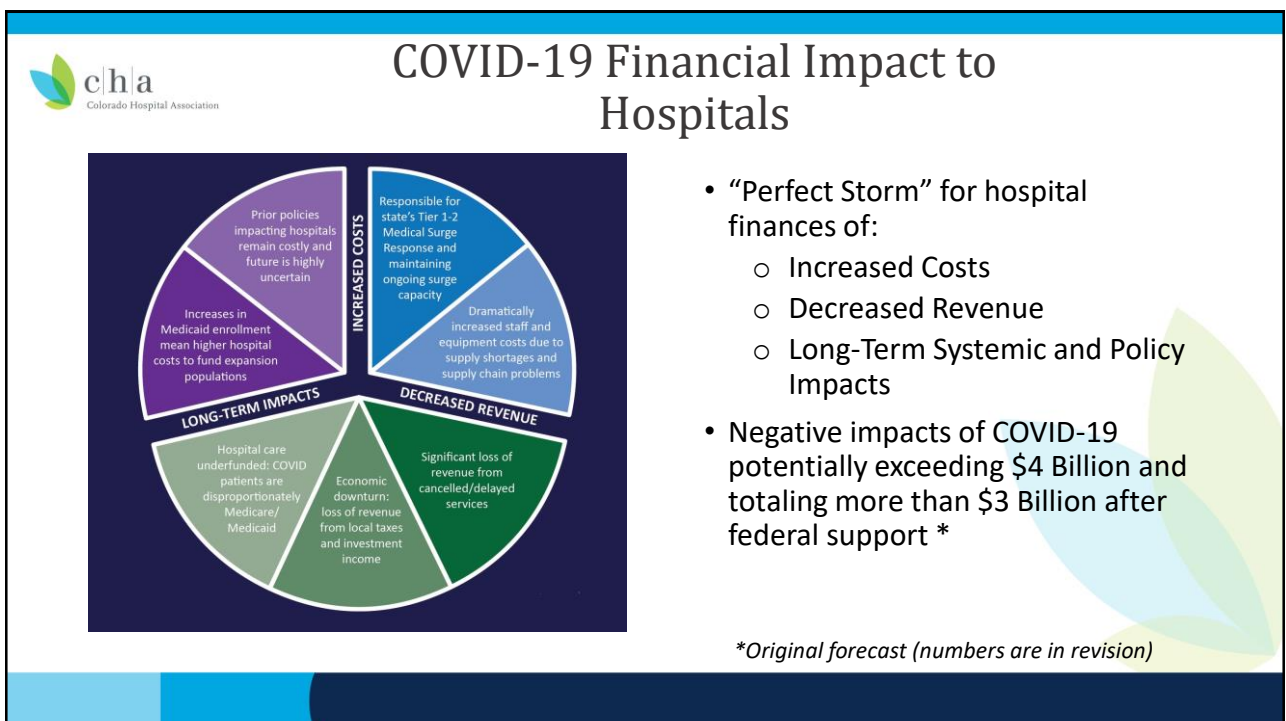


Spending

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The Legislature's Return



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The Legislature's Return

The Legislature returned May 26 with a plan to meet for three weeks. Heading into the reconvened session, legislative leaders promised a limited set of bills would be considered that would be "fast, friendly and free." In just three weeks, the fates of 350 already-introduced bills were decided and 87 brand new bills were introduced. Among the newly introduced bills, 97% passed before lawmakers adjourned for the year on June 15.



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COVID-19 Impacts on the State Budget

Fiscal Year	Leg Council	OSPB
Current	(\$892.8M)	(\$1.1B)
FY20-21	(\$2.42B)	(\$2.4B)
FY21-22	(\$1.99B)	(\$2.0B)
Three-Year Revenue Projection	(\$5.3B)	(\$5.5B)

The General Assembly imposed over \$225 million in cuts to hospitals to provide relief to the state's General Fund (GF):

- \$42M pass-through from CHASE to GF from enhanced federal match (FMAP)
- \$114M transfer to GF from CHASE Fee 2019-20
- \$47M transfer to GF from CHASE Fee 2020-21
- A 1% reduction in Medicaid base rates (\$12.6m estimated impact)
- \$10M in cuts to special hospital-specific programs (e.g., teaching hospitals, pediatric specialty programs)
- Hospital assessment for reinsurance reduced from \$80M to \$40M via SB 20-215

OSP: Office of State Planning and Budgeting

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Spotlight: SB 20-205, Paid Sick Leave



- On Jan. 1, 2021, employers must provide **one hour** of sick leave for every **30 hours** worked, up to a **max of 48 hours per year**.
- Employees accrue sick leave when employment begins
- Employees are permitted to carry accrued sick leave forward, but employers are not required to allow employees to accrue more than 48 hours in a 12-month period.
- An employee may use paid sick leave in hourly increments.
- Employees must make a good faith effort to provide notice of any paid sick leave. Employers may request documentation for absences longer than four consecutive days.

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Spotlight: SB 20-212, Telehealth

- Services may be provided via interactive audio, video or data communication (HIPAA-compliant). HCPF is required to electronically post monthly telehealth utilization data.
- The bill prohibits Division of Insurance-regulated health plans from:
 - Imposing requirements on the technology a provider can use;
 - Requiring an individual to have a previously established relationship with a provider; or
 - Imposing additional certification, location or training requirements on providers as a condition of reimbursement.



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Spotlight: SB 20-216, Workers' Compensation



COVID-19 Presumption:

- If an essential worker who works outside of the home contracts COVID-19, the contraction is presumed to have arisen in the course of employment and is compensable.
- This presumption was projected to increase workers' compensation premiums between 30-50% in Colorado.
- The bill ultimately failed.

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Legislative Response to COVID-19

- ✓ SB 20-207 – Unemployment Insurance
- ✓ HB 20-1415 – Whistleblower Protection Public Health Emergencies
- ✓ HB 20-1425 – Hospital Patient Visitation Rights During COVID-19
- ✓ SB 20-217 – Law Enforcement Accountability




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Wrap-Up




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 **Member Education: Issue Briefs**


Employer-Related

Behavioral Health



Health Care Professions

Access to Health Care



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 **Sign Up for CHA Regulatory Updates and Briefing Calls**

- Monthly updates and briefing calls cover information on regulatory issues, specifically those associated with state agencies involved in health care:
 - The Colorado Department of Human Services, the Colorado Department of Public Health and Environment, the Division of Regulatory Agencies and HCPF.
- To sign up, please contact Sarah Zielinski, CHA administrative assistant, at Sarah.Zielinski@cha.com

Regulatory UPDATE

July 6, 2020



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Questions/Discussion

