




Health Care Under the Gold Dome: A Recap of the 2022 Legislative Session



June 2022



1




Today's Presentation





JOSHUA EWING
Vice President of Legislative Affairs


Quick Tip!
Slides with this logo indicate CHA has an in-depth issue brief available



Questions?
Please type your questions into the chat at anytime throughout the presentation



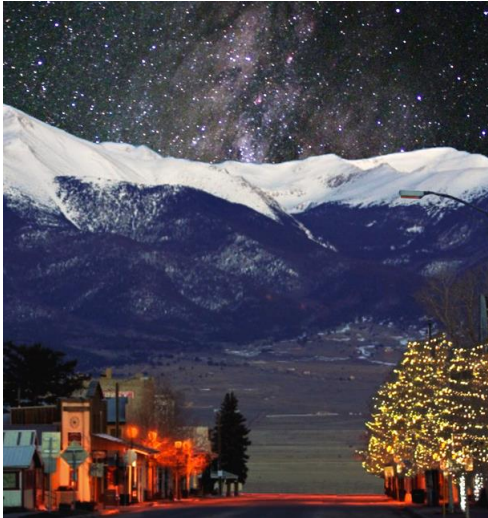
Visit www.cha.com
Today's slides, as well as in-depth issue briefs, our annual legislative report, and other helpful resources are all available



2



The Big Picture



Many contentious and high-priority outstanding issues:



Collective Bargaining



Substance Use



Public Safety



Affordable Housing



Budget & ARPA Funds

...and more...

3



Legislative Session by the Numbers



Session Overall

657 Bills Introduced



389 Bills Signed*



154 Bills Failed or Vetoed



Of the bills introduced, 78% passed

*As of June 7

CHA

129 Bills Tracked



96 Bills Passed



33 Bills Failed



4



2022 Legislative Session: Priority Issues



Support the Health Care Workforce



Seek Regulatory Relief



Invest in What Works



5

Supporting the Health Care Workforce

- Ensured mandated **nurse staffing ratios** were NOT included in a hospital staffing bill and largely aligned legislative requirements with existing regulatory nursing requirements
- Secured and supported a **\$61 million** state investment in the health care workforce
- Backed 12 additional bills providing state support for health care workforce **education and licensing** pathways
- Created new **anti-doxing protections** for health care workers



SUPPORTING



6



SB 22-226 – Programs To Support Health-care Workforce



Summary: Senate Bill 226 makes a record \$61 million investment to provide fundamental, sustainable changes to support and grow the health care workforce of the future.

- Resulted from months of collaboration by a CHA-led coalition and in partnership with the governor's office.
- Supplements the more than \$1.2 billion invested by major Colorado hospitals and health systems in the existing workforce and to build the health care workforce of the future.

HOW DOES SB 226 SUPPORT OUR WORKFORCE?

- ✓ Creates a **worker retention and resilience program** (\$2 million)
- ✓ Expands the number of **clinical training slots** to clear the backlog of students awaiting placement (\$20 million)
- ✓ Provides **tuition assistance** to make entering allied health care professions cost free (\$26 million)
- ✓ Allocates funding to **recruit workers who have recently left the field** back into health care professions (\$10 million)
- ✓ Adds additional resources to a program that **recruits and hires school nurses** in Colorado public schools (\$3 million)
- ✓ Creates a **statewide data sharing system** to better allocate resources and inform decision makers of health care workforce planning initiatives

7



Support for the Health Care Workforce



Increased Protections

- **Privacy Protections For Protected Persons (HB 22-1041)**
 - Expanding existing protections against online harassment (also known as doxing) to cover workers in health care, child protection, code enforcement, and other public workers

Expanded Education Opportunities

- Allowing community colleges to offer BSN degrees (**SB 22-003**)
- Creating a new osteopathic medical school at the University of Northern Colorado (**SB 22-056**)
- Developing work-based experiential learning opportunities through partnerships between schools and businesses (**SB 22-140**)
- Funding rural-focused health care professional tracks in higher education (**SB 22-172**)
- Funding economic development initiatives to address identified regional workforce needs resulting from or exacerbated by COVID-19 (**HB 22-1350**)

8



Support for the Health Care Workforce



Enhanced State Data Collection

- **Sunset Health-care Work Force Data Advisory Group (HB 22-1227)**
 - Enabling analysis of information obtained through health professional licensing to inform state-level decision making



New Licensing and Practice Pathways

- Including Colorado in an interstate licensure compact for professional counselors (**SB 22-077**)
- Investing \$72 million to support and stabilize the state's behavioral health workforce (**SB 22-181**)
- Enabling individuals with prior work experience to use "stackable" credential pathways for high-need industries (**SB 22-192**)
- Extending and expanding tax credits for health care preceptors in rural and frontier areas (**HB 22-1005**)
- Funding programs to improve cultural responsiveness among health care professionals (**HB 22-1267**)

9



HB 22-1401 – Hospital Nurse Staffing Standards



Summary: Codifies and builds on work from the past two years to update the nursing section of the Chapter 4 regulations and addresses "hospital readiness" for pandemic response and future emergency preparedness.

- CHA removed mandated nurse staffing ratios from the bill prior to introduction
- CHA was able to address 22 of 25 significant issues identified by members through amendments

SUCCESSFUL AMENDMENTS

- ✓ Eliminated mandated nurse staffing ratios and committee or CDPHE authority over staffing decisions from consideration
- ✓ Clarified key terms and definitions needed for effective implementation that align with current statute and regulation
- ✓ Aligned the bill with existing language in Chapter 4, other pieces of statute, and the Medicare Conditions of Participation
- ✓ Eliminated some reporting requirements and decreased reporting frequency from quarterly to annually
- ✓ Deferred some elements of emergency preparedness to CDPHE rulemaking, rather than solidifying in statute
- ✓ Eliminated emergency preparedness obligations outside of hospitals' direct control
- ✓ Removed public reporting on hospital website



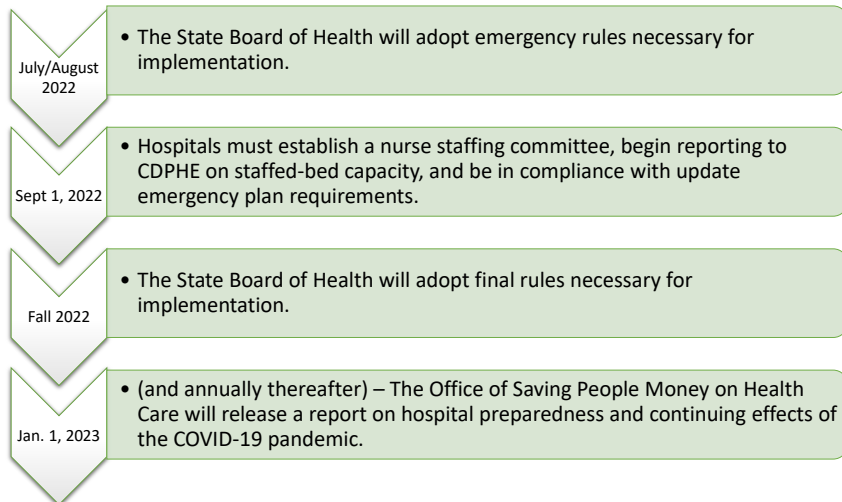
10



HB 22-1401 – Hospital Nurse Staffing Standards



Implementation Timeline:



Protecting Against Detrimental Regulation

- **Defeated** a funding request for **mandatory alternative payment models** in Medicaid
- **Aligned** hospital requirements for state and federal **“surprise billing” laws**
- **Delayed** implementation of 2021 **charity care law** to provide additional time to come into compliance
- Significantly **scaled back penalties** for noncompliance with the federal hospital pricing transparency law
- Supported a new law limiting **property owner liability**
- **Exempted hospitals** from collective bargaining legislation
- **Amended** governor’s proposal on post-COVID hospital **readiness and surge standards**
- **Defeated** bills restricting use of lifesaving **antibacterial and plastics** products
- **Eliminated reporting burden** on drug overdoses, mandatory reporting, and provider credentialing



PROTECTING



HB 22-1284 – Health Insurance Surprise Billing Protections



Summary: Aligns duplicative and conflicting state and federal out-of-network billing laws.

- In 2019, Colorado passed HB 19-1174 to institute out-of-network billing protections, and on Jan. 1, 2022, separate federal requirements from the No Surprises Act went into effect.
- HB 22-1284 aligns several technical differences that created significant confusion and operational challenges for both providers and patients.

HB 22-1284 ALIGNS FEDERAL AND STATE LAW IN THE CATEGORIES OF:

- ✓ **Disclosure vs. Informed Consent:** Eliminates current disclosure requirement and applies the informed consent requirement to state-regulated plans
- ✓ **Ancillary Services:** Aligns definition with federal law and prohibits balance billing for certain services
- ✓ **Post-Stabilization:** Aligns definition with federal law
- ✓ **Good Faith Estimates:** Once CMS promulgates good-faith estimates for insured patients, those requirements will apply to all plans
- ✓ **Continuous Coverage:** Strengthens the state's protections for patients to continue receiving care once the insurer terminates a contract



HB 22-1403 – Delayed Implementation of 2021 Hospital Charity Care Legislation (HB 21-1198)



Summary: Delays the implementation of 2021 legislation regarding hospital charity care requirements, originally slated for full implementation on June 1, 2022, to Sept. 1, 2022.

- CHA secured a three-month delay to the implementation of HB 21-1198 that gives hospitals additional time to come into compliance
- During the rulemaking process, CHA made considerable progress to reduce the regulatory burden of implementation of HB 21-1198 and will continue to work with members and HCPF to provide members information concerning implementation

Parameters	Enforcement
<ul style="list-style-type: none"> ✓ Qualified patients: <250% FPL, insured patients upon request ✓ Discounted rate not to be lower than the greater of 100% of Medicare or Medicaid rate ✓ Must limit payments to monthly installments to 4% of patient monthly income and consider bill paid in full after 36 months ✓ Limitations on selling debt or pursuing "extraordinary" collection actions 	<ul style="list-style-type: none"> ✓ Starting in 2023, hospitals will need to submit compliance information to HCPF ✓ Demographic metrics including race, ethnicity, age, primary language spoken ✓ HCPF has authority over corrective action plans and max \$5k fines for certain compliance failures ✓ Specified penalties for civil claims



HB 22-1285 – Compliance with Hospital Transparency Laws



Summary: Prohibits hospitals from pursuing “collection actions” if out of compliance with federal price transparency rules.

- “Collection actions” includes sending to debt collector, filing suit against a patient, reporting to collections agency
- Allows individual patients to file lawsuits and provides for significant penalties if a claim against a hospital is successful (e.g., reimbursement, financial penalty, attorney’s fees)

Current Federal Requirements

Hospitals must provide clear, accessible pricing information in two ways:

- Comprehensive machine-readable file with all items and services; and
- Display of shoppable services in a consumer-friendly format

SUCCESSFUL AMENDMENTS

- Limited liability to “material” noncompliance
- Tied court review in determining liability to CMS guidelines
- Clarified what “collection actions” are prohibited while suits are pending
- Restricted legitimate claimants to hospital patients (vs. general public)
- Eliminated licensure and Fair Debt Collection penalties



HB 22-1256 – Modifications to Civil Involuntary Commitment



Summary: HB 22-1256 modifies Colorado's civil involuntary commitment statutes for individuals with mental health disorders. Specifically, it updates the procedures to transport and detain individuals for either the short or long term if they have a mental health disorder and is consequently a danger to themselves or others or is gravely disabled. The bill formalizes the procedures for the timing of an M-1 hold and relevant patient rights/ discharge planning procedures.

CHA also secured more than 30 amendments in order to reduce the regulatory burden on hospitals, including:

Removing a private right of action against hospitals

Eliminating a requirement that all emergency departments become designated facilities

Aligning certain patient rights with federal standards

Providing hospitals first-of-its-kind support from the BHA for discharge planning

Clarifying procedures to align with clinical practice



Hospital Visitation Requirements



CHA engaged in lengthy debates this session around the ability of hospitals to take necessary actions to limit visitors in order to protect the health and safety of patients, visitors and staff.

- CHA successfully defeated HB 22-1199 and amended SB 22-053 to guarantee patients or residents of health care facilities at least one visitor of their choosing while maintaining important facility-level discretion to protect patients, visitors and staff.
- Health care facilities must have written policies and procedures concerning visitation including any necessary restrictions or limitations consistent with federal guidance.
- During periods when the risk of transmission of a communicable disease is heightened, a facility may:
 - Require visitors to enter the facility through a single, designated entrance
 - Restrict the movement of visitors within the facility
 - Require all visitors to be screened for symptoms or tested for a communicable disease
 - Deny entrance to a visitor who has known symptoms of a communicable disease or who tests positive for a communicable disease
 - Require visitors to use medical masks, face coverings, or other personal protective equipment (PPE) while on the premises or in specific areas of the facility



Investing in What Works

- Advocated for a **\$10 million** investment in rural hospitals
- Supported bills expanding **health coverage** consumer outreach and actuarial analyses for benefit mandates
- Supported five bills investing **\$243 million** in needed community-based, residential, and acute behavioral health services
- Worked with stakeholders to improve bill to **strengthen behavioral health** care and establish the state's Behavioral Health Administration
- Secured **support for facilities** to discharge behavioral health patients from emergency departments
- Advocated for providers and patients by streamlining commercial insurer and Medicaid **prior authorization** requirements
- Backed efforts to enable greater provider access to Colorado's **All Payer Claims Database**
- Defeated vaccine misinformation bills and applied pressure to invest \$15 million in **COVID-19 vaccine** outreach and administration

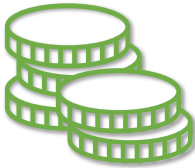


INVESTING





State Budget



2022-23 State Budget: Colorado must maintain a balanced budget each year, meaning that spending may not exceed the amount of tax and fee revenue that the state collects or saves.

- General Fund up over 12% from prior year, reaching \$13.72 billion
- Unusual budgeting cycle, high inflation rates gave the JBC pause
- JBC elected to maintain current obligations and focus on one-time spending of the \$3.8 billion in federal ARPA funds

CHA'S BUDGETARY SUCCESSSES:

- ✓ Achieving a **2% provider rate increase for Medicaid providers**, totaling \$153 million in additional spending
- ✓ **Eliminating mandatory obligations** of a HCPF request establishing new multi-payer alternative payment models (APMs)
- ✓ Collaborating with vaccine advocates to achieve a **\$15 million investment in statewide COVID-19 vaccine outreach and administration**

19



Public Health



Defeated Vaccine Misinformation Bills

CHA and its member hospitals and health systems, along with other health care and community partners, were instrumental in successfully defeating legislation that would have provided weakened vaccine mandates by state or local governments or employers.



- **HB 22-1144: Naturally Acquired Immunity COVID-19**, would have required an employer or a state agency that imposes a COVID-19 vaccine or testing requirement to instead allow a person to provide documentation demonstrating a naturally acquired immunity to the virus.
- **HB 22-1200: Employee Exemption COVID-19 Vaccine Requirement**, would have required employers to grant COVID-19 vaccine exemptions. Employees terminated due to non-compliance would still be eligible to receive unemployment benefits.
- **HB 22-1201: Standards for Immunization Requirements**, would have granted an exemption from an immunization requirement if the vaccine has not been approved by or has only received emergency use authorization from the Food and Drug Administration.

20



Improved Health Coverage and Access to Care



Expanding Coverage

- **HB 22-1289** – Expands Medicaid coverage to low-income pregnant people and children, regardless of immigration status
- **SB 22-081** – Funds a consumer outreach campaign to reach the 265,000 Coloradans that are eligible-but-not-enrolled in public coverage programs
- **SB 22-040** – Requires an actuarial review of proposed legislation creating new insurance mandates to better understand the cost-benefit of such proposals

Enabling Access

- **SB 22-068** – Requires the All-Payer Claims Database administrator to implement a tool to facilitate the review of certain health claims reimbursement data
- **SB 22-078** – Requires that qualified health-care providers be offered at least one alternative to prior authorization by insurance carriers or private utilization review organizations
- **SB 22-156** – Prohibits prepared inpatient health plans from requiring prior authorizations for certain services and from certain payment recoveries

21

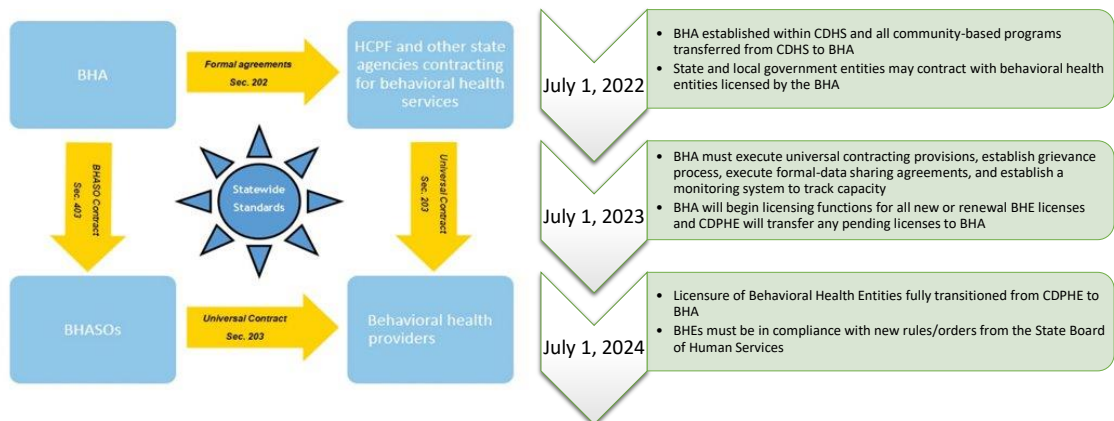


HB 22-1278 – Behavioral Health Administration



Summary: Creates the Behavioral Health Administration (BHA) to reduce bureaucracy by:

- Consolidating fragmented behavioral health networks (mental health, substance use disorder treatment, and crisis services) into one behavioral health administrative services organization (BHASO) per region; and
- Aligning BHASO regions with Medicaid regions (regional accountable entities or "RAEs")



22



Behavioral Health



The General Assembly made significant financial investments to strengthen community-based behavioral health services, to improve patient care, and to tackle the state's own infrastructure charged with managing behavioral health care – the new Behavioral Health Administration (BHA).

Legislators made \$450 million in investments based on the 2021 Behavioral Health Transformational Task Force Report and passed a package of 20 bills.

Strengthening Behavioral Health

- CHA supported five additional pieces of legislation investing more than \$243 million in strengthening the behavioral health system:
 - **HB 22-1281:** Behavioral Health-care Continuum Gap Grant Program
 - **HB 22-1283:** Youth And Family Behavioral Health Care
 - **HB 22-1302:** Health-care Practice Transformation
 - **HB 22-1303:** Increase Residential Behavioral Health Beds
 - **SB 22-147:** Behavioral Health-care Services For Children
- Collectively, these bills make significant investments in community services, residential treatment options, and primary care and behavioral health integration

23



Behavioral Health



Promote Crisis Services

- **HB 22-1052:** Requires student IDs issued by public schools to contain contact information for Colorado Crisis Services
- **HB 22-1214:** Requires crisis system facilities and programs to meet minimum regulatory standards that include mental health and substance use disorder standards

Address Conflicts of Interest

- **SB 22-106:** HCPF and DSH must require managed care entities, administrative organizations, and managed care organizations that have 25% or more ownership by providers of behavioral health services to comply with specified conflict of interest policies

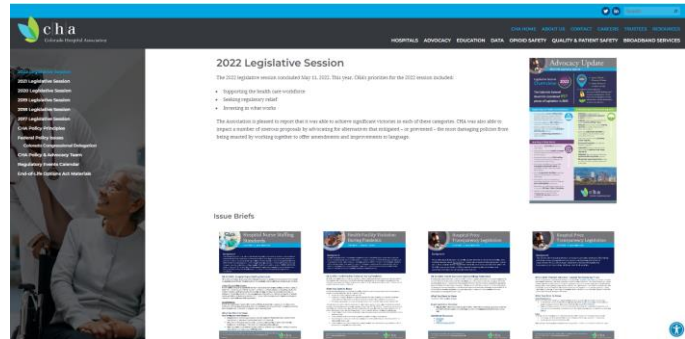


24

ADDITIONAL RESOURCES

**2022 Legislative Report and
CHA Issue Briefs are available
at www.cha.com.**

**Please let us know if you'd like
to be added to the monthly
Regulatory Update newsletter
and call.**



Contact Info:

Katherine Mulready, SVP & chief strategy officer, Katherine.Mulready@cha.com

Joshua Ewing, VP, legislative affairs, Joshua.Ewing@cha.com

Bridget Garcia, manager, public policy, Bridget.Garcia@cha.com

Megan Axelrod, manager, regulatory, Megan.Axelrod@cha.com

Adeline Ewing, policy analyst, Adeline.Ewing@cha.com

Michelle Comerford, administrative assistant, Michelle.Comerford@cha.com

25



26



The Road Ahead



Only 214 days until the start of the 2023 Legislative Session

- Primary Election – June 28
- Governor's Budget Request – Nov. 1
- General Election – Nov. 8
- Leadership Elections – Mid-November
- Pre-file bill requests – Nov. 29 for returning legislators and Dec. 13 for newly elected legislators
- General Assembly convenes – Jan. 9, 2023

27

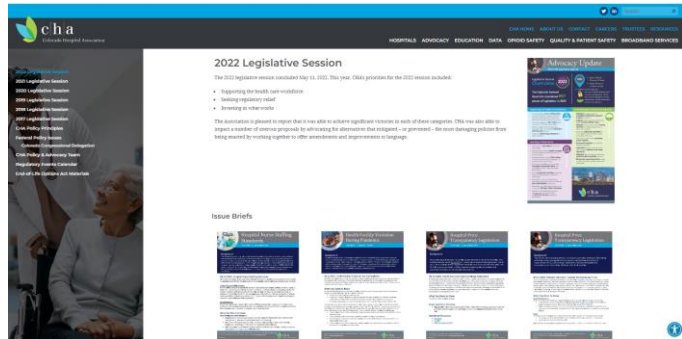


28

ADDITIONAL RESOURCES

**2022 Legislative Report and
CHA Issue Briefs are available
at www.cha.com.**

**Please let us know if you'd like
to be added to the monthly
Regulatory Update newsletter
and call.**



Contact Info:

Katherine Mulready, SVP & chief strategy officer, Katherine.Mulready@cha.com

Joshua Ewing, VP, legislative affairs, Joshua.Ewing@cha.com

Bridget Garcia, manager, public policy, Bridget.Garcia@cha.com

Megan Axelrod, manager, regulatory, Megan.Axelrod@cha.com

Adeline Ewing, policy analyst, Adeline.Ewing@cha.com

Michelle Comerford, administrative assistant, Michelle.Comerford@cha.com