



Behavioral Health

ISSUE BRIEF | House Bills 23-1236, 23-1269, Senate Bill 23-064, and House Bills 23-1071 and 23-1130

Background

As behavioral health needs continue to intensify across Colorado and the nation, addressing the state's behavioral health system continues to be a perennial issue at the capitol. This year, the General Assembly took several steps to address technical considerations related to implementation of the new Behavioral Health Administration as well as to address ongoing concerns about access to care.

HB 23-1236: Implementation Updates to Behavioral Health Administration

Last year, the General Assembly approved [House Bill \(HB\) 22-1278](#), to establish the Behavioral Health Administration (BHA), and [HB 22-1256](#), making changes to the process for involuntary mental health holds. This year, policymakers made several implementation updates for the BHA in [HB 23-1236](#).

Mobile Crisis Funding:

Many rural hospitals currently contract with their local safety net providers for mobile crisis support in emergency departments. Support for those partnerships was schedule to expire July 1, 2023. CHA secured a bridge funding solution to support these partnerships from July 1, 2023 until July 1, 2024, with commitments to work with the BHA, HCPF, and others on a long-term solution.

Delayed Timelines:

The bill included changes to certain BHA implementation timelines:

- *Behavioral Health Entity (BHE) Licensure:* BHE licensure changes are delayed until Oct. 1, 2023 – hospitals are not BHEs and will not be held to those standards.
- *Involuntary Commitment Changes:* CHA successfully advocated to delay operational changes to involuntary commitment processes from the original date of July 1, 2023 until Jan. 1, 2024, with reporting due July 1, 2024.
 - HB 22-1256 made some structural changes to the 72-hour hold process (i.e., M-1 holds). These changes were originally scheduled to occur on July 1, 2023; however, due to the tight timeline, the BHA was not able to provide guidance or updated rules before the effective date. Learn more about the structural changes included in HB 22-1256 that hospitals will now comply with by Jan. 1, 2024 [here](#).
- *Managed Care Entity Timelines:* Contracting timelines for Colorado's managed care administrative entities overseeing behavioral health are now aligned to July 1, 2025. HB 22-1278 created new managed care entities responsible for network adequacy known as the behavioral health administrative service organizations (BHASOs). The BHASOs do not manage care for any Medicaid members, that process is managed by separate managed care organizations known as the regional accountable entities (RAEs) under HCPF. Coordination between the RAEs and the BHASOs will be critically important, and HB 23-1236 attempts to align the effective dates for both.

HB 23-1236: Implementation Updates to Behavioral Health Administration – *continued*

Technical/Structural Changes:

The bill:

- Codifies that the BHA is the oversight entity for behavioral health in Colorado;
- Creates new regional subcommittees for the BHASOs; and,
- Clarifies that transportation holds (i.e., M-0.5 holds) end when the individual arrives in an EMS facility. This is currently the case in Colorado as the specific timing related to transportation holds does not comport with the timing requirements emergency department settings are held to in their need to provide stabilizing treatment.

Timeline

- **Oct. 1, 2023:** BHE licensure changes take effect
- **Jan. 1, 2024:** Operational changes for involuntary holds take effect
- **July 1, 2024:** Hospitals begin reporting disaggregated information on M-1 holds to the BHA

**As of May 19, 2023, Governor Polis has not yet signed the bill but is expected to by June 8, 2023.*

Additional Resources

- [Final bill text](#)
- [Fiscal note](#)
- [CHA's BHA Implementation Page](#)
- [CHA's Modifications to Civil Involuntary Commitment Page](#)
- [CHA's Accountable Care Collaborative 3.0 Page](#)
- [BHA Laws and Rules Page](#)

HB 23-1269: Extended Stay and Boarding Patients

[HB 23-1269](#) focused on addressing barriers to safe discharge for pediatric patients with behavioral health diagnoses no longer needing hospital-level care, but who remain hospitalized for lack of safe discharge placements.

Hospitals must report deidentified data quarterly to the BHA beginning Sept. 1, 2023, on the number of children and youth who were boarding or had an extended stay in the previous quarter. The BHA will aggregate this data as well as a similar data collection from counties. This reporting requirement will expire Oct. 1, 2024.

Each hospital shall report to the BHA:

- The total number of children and youth patients who were boarding or had an extended stay in the previous quarter;
 - Children and youth are defined as patients less than 21 years of age.
 - Extended stay means when a child or youth has been waiting longer than 72 hours to be discharged from an acute level of inpatient psychiatric care to a less intensive or restrictive clinically appropriate level of psychiatric care, including a discharge home or to a home-like setting with behavioral health supports.

HB 23-1269: Extended Stay and Boarding Patients – *continued*

Each hospital shall report to the BHA:

- Boarding means when a child or youth has been waiting longer than 12 hours to be placed in an appropriate treatment setting after being clinically assessed and determined to be in need of inpatient psychiatric treatment and received a determination from a licensed provider of medical stability without the need for urgent medical care.
- Hospitals must also report, if known, how many children and youth were boarded or had an extended stay and were in county custody during that time; and,
- To the extent possible, for patients who were ultimately discharged during the quarter, the location of the discharge placement.

Requirements on state agencies – the bill:

- Requires HCPF to analyze whether setting minimum rate requirements for RAEs to certain services, including residential treatment and psychotherapy, will expand access to needed services;
- Provides support to extend 12 residential pediatric beds located at Southern Peaks Regional Treatment Center for two years until December 2025;
- Requires CDHS to initiate a process to develop an incentive pool to further incentivize residential treatment providers to serve children with higher acuity needs and to report on their findings by Oct. 1, 2023; and,
- Requires CDHS to develop a plan for when pediatric residential treatment facilities close or change their operations and report annually.

Timeline

- **Sept. 1, 2023:** Hospitals begin reporting
- **Oct. 1, 2023:** HCPF payment report and CDHS incentive pool report are due
- **Oct. 1, 2024:** Hospital reporting requirements end

Additional Resources

- [Final bill text](#)
- [Fiscal note](#)

SB 23-064: Continues Office of Public Guardianship

[Senate Bill \(SB\) 23-064](#) continues the Office of Public Guardianship (OPG) and expands the pilot to all judicial districts. OPG is a public agency that provides guardianship services for indigent and incapacitated adults, including those in need of hospital services. OPG currently operates in only three judicial districts and was set to expire this year without reauthorization. Beginning fiscal year 2025, the office will begin expansion to all 22 judicial districts over a period of five years.

Timeline

- **July 1, 2025:** OPG must begin operating in additional judicial districts
- **Dec. 1, 2030:** OPG must operate in all judicial districts

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SB 23-064: Continues Office of Public Guardianship – *continued*

Additional Resources

- [Final bill text](#)
- [Fiscal note](#)

HB 23-1071: Licensed Psychologist Prescriptive Authority

[HB 23-1071](#) allows licensed psychologists to obtain certification that allows them to prescribe psychotropic medications if they meet additional training qualifications. To be able to prescribe these medications, the psychologists must have completed a doctoral program in psychology, a Master of Science in clinical psychopharmacology, receive at least 750 hours of practical training overseen by a physician, and undergo a peer review with approval by the Colorado Medical Board. The bill also establishes a strict criteria process for psychologists to obtain a prescription certificate and requires that they maintain a collaborative relationship with the patient's health provider and meet practicum and 40 hours of continuing education requirements every two years. They must also disclose that they are not a physician licensed to practice medicine and obtain consent from the patient.

Timeline

- **Aug. 7, 2023:** Bill effective date

Additional Resources

- [Final bill text](#)
- [Fiscal note](#)

HB 23-1130: Drug Coverage for Serious Mental Illness

[HB 23-1130](#) prohibits state-regulated insurance plans from requiring more than one alternative drug trial as a part of step therapy protocols before covering a drug prescribed by the provider for bipolar disorders, depression, obsessive-compulsive disorders, paranoid and other psychotic disorders, schizoaffective disorders, and schizophrenia. The bill also allows providers to attest that the prescribed drug is necessary without undergoing step therapy.

Additionally, the bill requires HCPF to review newly FDA-approved drugs for those mental conditions within 90 days for Medicaid coverage. The current process varies, but generally lasts more than 90 days.

Timeline

- **Aug. 7, 2023:** Bill effective date

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Additional Resources

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- [Fiscal note](#)