



Behavioral Health and Patients with Intellectual and Developmental Disabilities

Senate Bills (SB) 26-004, 26-149;

House Bills (HB) 26-1040, 26-1116, 26-1305

Background

The Colorado General Assembly passed a handful of bills during the 2026 legislative session that impact hospitals throughout the behavioral health continuum of care. At times, these laws also address issues that impact care for patients with intellectual and developmental disabilities. These new laws will likely affect hospital operations, licensing, care coordination, and service delivery.

SB 26-004: Expand List of Petitioners for Protection Order

Extreme risk protection orders (ERPOs) are a type of civil restraining order issued by the courts to temporarily prevent a person who poses a significant risk to themselves or others from accessing firearms. Under current law, licensed health care professionals, mental health professionals, and educators (community members) who have had direct and recent interactions with a person, as well as law enforcement and family or household members, may petition the court for an ERPO.

The bill creates a new category of “institutional petitioner” to allow entities that employ or contract with community members to petition the court for an ERPO. It also expands the list of community members to co-responders.

What You Need to Know:

Hospitals and health care facilities can now submit an ERPO petition asking for a patient’s access to firearms to be removed. Petitions are not anonymous and must be submitted in the district where the patient is currently employed or resides.

The law explicitly allows the disclosure of protected health information (PHI) as necessary for the full investigation and disposition of the petition for an ERPO, though reasonable efforts should be made to limit PHI disclosure to the minimum amount necessary to accomplish filing the request.

The law also precludes criminal, administrative, or civil liability for acts or omissions made in good faith related to obtaining an ERPO, including both reporting and declining to report or petition.

Hospitals and health care facilities that would like to use institutional petitions should designate escalation pathways, approving authorities, and other internal protocols.

Effective Date:

- April 6, 2026

Additional Resources:

- [SB 26-004 Final Bill Text](#)
- [SB 26-004 Fiscal Note](#)

SB 26-149: Pathways for Individuals with Mental Health Disorder

This bill modifies involuntary treatment processes in two main areas. For individuals found incompetent to proceed in criminal cases, it creates two new civil placements: Civil commitments (for individuals with mental health disorders) and enhanced protective placement (for individuals with intellectual and developmental disabilities or neurocognitive disorders).

For those in involuntary treatment outside the criminal system, it removes the requirement for an emergency mental health hold (M1 hold) before certification and adds a new short-term and long-term protective placement for individuals with neurocognitive disorder that meet certain criteria.

What You Need to Know:

Under this law, a civil court judge may certify a person for short-term treatment for not more than three months if:

- The person has been found incompetent to stand trial;
- The person has not accepted voluntary treatment;
- The person has either a persistent mental health disorder or a mental health disorder and is unwilling or unable to comply with voluntary treatment; and,
- The person is a danger to themselves, others, or is gravely disabled.

The bill requires the court to order the Colorado Department of Human Services to provide care coordination unless a provider has been identified and is willing to hold the certification.

The bill expands the use of an M1 hold in the civil commitment pathway when a person has a persistent mental health disorder. The bill defines this as a person who has a mental health disorder and:

- Has at least three M1 holds, certification for treatment, or periods of incompetency in a criminal case within three years;
- There is substantial probability the mental health disorder will result in additional M1 holds, certification for treatment, or periods of incompetency within the next year; and,
- The disorder substantially impairs the person's capacity to make an informed treatment decision.

The bill also allows a person who is lawfully confined in a county jail who needs an M1 hold to be cared for and evaluated in a secure placement or their place of confinement. If the person is released from confinement but still requires an M1 hold, the Behavioral Health Administration (BHA) is responsible for identifying an appropriate facility and care coordination.

To terminate a certification for these patients, this bill now requires a second evaluator to consult with the professional person in charge of treatment and the BHA to determine that the patient no longer meets the criteria for certification. The additional second evaluator requirement is waived if the hospital only employs or contracts with one eligible evaluator.

The bill establishes an Enhanced Protective Placement for individuals with a neurocognitive disorder who is unwilling or unable to comply with voluntary treatment, are a danger to themselves or others, and are exiting from involvement in the criminal justice system. The Colorado Department of Health Care Policy and Financing (HCPF) is responsible for care coordination and placement identification.

When a patient is terminated from certification, civil commitment, or enhanced protective placements, this law requires the BHA to provide care coordination services.

Hospitals should review and update their policies and workflows for patients arriving from correctional settings, documentation standards supporting involuntary treatment standards, and care coordination protocols with courts, law enforcement, jails, and the BHA.

Effective Date:

- May 21, 2026

Additional Resources

- [SB 26-149 Final Bill Text](#)
 - [SB 26-149 Fiscal Note](#)
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HB 26-1040: Sterilization Rights of Person with Disabilities

This law modernizes Colorado law governing consent for sterilization procedures involving patients with individuals with intellectual and development disabilities (IDD). HB 26-1040 removes previous court-based sterilization provisions and reinforces requirements for informed consent and substitute medical decision-making.

What You Need to Know:

Hospitals and clinicians must ensure that informed consent is obtained before performing a sterilization procedure on a patient with an IDD.

- If the patient has decision-making capacity, the patient must provide informed consent.
- If the patient lacks decision-making capacity or is a minor, consent must be obtained from the legally authorized decision-maker.
- An emergency exception applies when treatment is necessary to address an imminent threat to the patient's life or health.

Hospitals should review and update any informed consent policies, forms, procedures, and documentation standards for capacity assessments. Hospitals should also review escalation pathways for legal or ethics consultation when capacity or consent authority is unclear.

Effective Date:

- Aug. 12, 2026

Additional Resources:

- [HB 26-1040 Final Bill Text](#)
 - [HB 26-1040 Fiscal Note](#)
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HB 26-1116: Process for People with Behavioral Health Disorder

This law updates Colorado behavioral health requirements related to post-discharge follow-up after emergency mental health (M1) holds and behavioral health facility licensure requirements.

Under current law, facilities must attempt follow-up contact within 48 hours after discharging a person from a mental health hold. HB 26-1116 extends this timeframe to 72 hours, excluding weekends and holidays.

The law also updates certain licensure requirements for behavioral health entities. Current law requires behavioral health entities to obtain a certificate of compliance with building regulations from the Division of Fire Prevention and Control within the Department of Public Safety. HB 26-1116 allows outpatient behavioral health facilities to obtain certification following an inspection conducted by a fire department with a certified inspector and exempts telehealth-only behavioral health providers from the requirement.

What You Need to Know:

Hospitals and behavioral health providers should review operational processes related to discharge follow-up timelines and documentation requirements for patients released from M1 holds. Hospitals should review policies and documentation standards, as well as electronic health record reminders, tracking systems, staff education, and care coordination protocols.

Hospitals with outpatient facilities or telehealth behavioral health providers should review licensure and renewal procedures and fire safety inspection documentation.

Effective Date:

- Aug. 12, 2026: This law goes into effect only if signed by the governor – CHA will update accordingly

Additional Resources

- [HB 26-1116 Rerevised Bill Text](#)
 - [HB 26-1116 Fiscal Note](#)
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HB 26-1305: Licensing of Behavioral Health Facilities

HB 26-1305 updates Colorado behavioral health facility licensing requirements to allow certain remote psychiatric inpatient health-care facilities to operate under the license of a main hospital. The law is intended to support access to inpatient behavioral health services, particularly in rural communities.

What You Need to Know:

Hospitals seeking to operate remote psychiatric inpatient facilities under a main hospital license should review eligibility criteria and operational requirements. Additionally, hospitals should review and update licensure and accreditation documentation for remote psychiatric inpatient facilities, compliance monitoring and reporting processes, and internal workflows related to inspections, licensing fees, and regulatory compliance.

Effective Date:

- May 5, 2026

Additional Resources

- [HB 26-1305 Final Bill Text](#)
- [HB 26-1305 Fiscal Note](#)