

“Many bills were introduced this year addressing health care and the insurance industry in Colorado. Recurring topics this session including reproductive health care, hospital and facility policies, prescription drugs, and consumer protections.”

Pharmacies and Prescriptions

House Bill 23-1195 authorizes prescription drug outlets to operate automated pharmacy dispensing systems to dispense prescription medications to patients. The prescription drug outlets are responsible for security, operation, and maintenance of the system, as well as following the law's requirements and ensuring a pharmacist provides clinical services for patients accessing the system

House Bill 23-1002 requires health insurance carriers that provide coverage for prescription auto-injectors (Epipens) to cap the total amount that a covered person is required to pay at \$60 for a two pack of injectors. It establishes eligibility requirements for residents of Colorado and requires the Division of Insurance to create an application for this program.

Step therapy, or a fail first requirement, is when an insurance company requires certain steps before paying for a medication. This typically means a patient taking a preferred medication before the insurer will cover a non-preferred medication. House Bill 23-1183 requires the Department of Health Care Policy and Financing (HCPF) to review and determine if an exception to step therapy is granted if the prescribing provider submits a prior authorization request for the treatment of a serious or complex medical condition that states the provider attests that the patient is stable on the prescribed drug or that the alternative drug is unlikely to work based on patient characteristics or is likely to cause a negative reaction. HCPF must respond to or request additional information within 24 hours after receiving a prior authorization request. If requested, the provider must respond with additional information within 72 hours or the prior authorization request is denied.

Senate Bill 23-162 authorizes supervising pharmacists to delegate certain testing and technical tasks to pharmacy technicians. It modifies the supervision requirement for pharmacists overseeing pharmacy technicians and interns. The bill also allows pharmacists enrolled in the Vaccines for Children Program to receive reimbursement for vaccinating children under 19 years old through Medicaid.

Health and Insurance

A pharmacy benefit manager (PBM) is an organization that manages prescription drug benefits on behalf of health insurers, large employers, and other payers. [House Bill 23-1201](#) limits the amount that health insurance carriers or PBMs may charge for a prescription drug to be equal to or less than the amount paid to the contract pharmacy for the drug.

Under [House Bill 23-1227](#), the Commissioner of Insurance in the Department of Regulatory Agencies can enforce existing state laws regulating PBMs and impose penalties against a PBM that fails to comply with state laws. All PBMs are required to register with the commissioner and pay a registration fee.

[House Bill 23-1225](#) makes several changes to the Colorado Prescription Drug Affordability Review Board including:

- limiting conflict of interest recusal requirements to board members only;
- changing various cost thresholds for drugs that prompt the board to conduct a review;
- requiring the board to produce a report summarizing drug affordability data that it uses;
- changing the cap on the number of prescription drugs upper payment limits may be set on;
- extending the repeat date and sunset review of the board; and
- expanding when an individual may request a review to include cases when the drug is no longer available in the state.

Hospitals and Facilities

[House Bill 23-1243](#) makes changes to the Hospital Community Benefit Program. This bill establishes corrective action procedures for hospitals that fail to meet the minimum community investment threshold. It restricts out-of-state spending and transactions covered by hospitals with the amount spent not to exceed total margins earned in Colorado. The bill also places reporting requirements on hospitals and requires HCPF to review the reports and conduct stakeholder meetings.

[Senate Bill 23-182](#) temporarily suspends various statutory requirements related to enrollment and cost sharing for Medicaid and other state health programs in line with federal law. These changes are a condition of receiving federal funds through the federal Families First Coronavirus Response Act, which requires states to maintain continuous coverage for clients and provide certain services during specified wind-down periods following the end of the federal public health emergency.

[House Bill 23-1030](#) prohibits a health care staffing agency from requiring fees when a contracted employee is hired as a permanent employee to a health care facility or assisted living residence. If a staffing agency collects or attempts to collect compensation from a health care worker or facility in violation of the bill, the worker or facility can sue for damages.



Health and Insurance

Reproductive Health Care

Senate Bill 23-188 codifies protections for health care providers and facilities that provide reproductive health care and gender-affirming health care services in compliance with Colorado law. These protections address:

- insurance coverage and professional licensing;
- courts and criminal proceedings, including those pertaining to out-of-state investigations; and
- general prohibitions on public entities from restricting reproductive health care access.

The bill requires the Department of Corrections to provide pregnant persons with information for accessing abortion and miscarriage management. It also protects providers from unauthorized release of their personal information and makes them eligible for the state's Address Confidentiality Program.

Senate Bill 23-190 makes it a deceptive trade practice for a person to make or disseminate to the public any advertisement that indicates that the person provides abortions, emergency contraceptives, or referrals for abortions or emergency contraceptives when the person knows or reasonably should have known that he or she does not provide those specific services. Under the bill, a provider engages in unprofessional conduct if he or she provides, prescribes, administers, or attempts medication abortion reversal. The Colorado Medical Board, State Board of Nursing, and State Board of Pharmacy must promulgate rules, in consultation with each

other, about whether engaging in medication abortion reversal is a generally accepted standard of practice.

Senate Bill 23-189 makes multiple changes to reproductive health insurance coverage requirements, including:

- adding preventative health care and screening recommendations to the mandatory preventive health care services coverage;
- if counseling, prevention, and screening for sexually transmitted infections are covered services, a plan must also include these services for individuals on HIV prevention drugs;
- if sterilization services are a covered service, a plan must provide coverage regardless of the covered person's sex or gender and without deductibles, copayments, coinsurance, annual or other cost sharing; and
- large employer plans must provide coverage for the total cost of abortion services without deductibles, copayment, or coinsurance.

Under the bill, additional health care providers acting within their scope of practice can provide minors contraceptive procedures, supplies, or information without notification to or consent of the minor's parents and guardians. The bill also expands the Reproductive Health-Care Program in HCPF to include family planning-related services.

Senate Bill 23-284 requires state-regulated insurance plans to cover a 12-month supply of all FDA-approved contraceptives, or their therapeutic equivalent, when permitted by



Health and Insurance

the prescription and the supply, without imposing prior authorization requirements. The plan must include point-of-sale coverage for over-the-counter contraceptives without requiring a prescription, prior authorization, or step therapy.

[Senate Bill 23-288](#) requires HCPF to initiate a stakeholder process to promote the expansion and utilization of doula services for pregnant and postpartum Medicaid recipients. The act's requirements include:

- requiring HCPF to seek federal authorization for Medicaid providers to provide doula services;
- creating a doula scholarship program;
- requiring the Division of Insurance to contract with an independent entity to study potential health-care costs and benefits or providing coverage for doula services; and
- requiring the Division of Insurance to submit a report to the General Assembly during the state department's SMART Act hearing.

Medicaid

[House Bill 23-1228](#) adjusts the supplemental Medicaid payment rates a qualifying nursing facility receives. The bill requires HCPF to engage with stakeholders, define nursing home reimbursement, and submit annual reports to the Joint Budget Committee.

[House Bill 23-1300](#) requires HCPF to study the feasibility of extending continuous medical coverage for additional children and adults. HCPF is required to submit a report detailing its findings and recommendations to the Joint Budget Committee, the

Governor, House Public and Behavioral Health and Human Services Committee, and the Senate Health and Human Services Committee by January 1, 2026. By April 1, 2024, HCPF must seek federal authorization to extend continuous eligibility coverage for children under 3 years of age, and to extend coverage for 12 months for adults who have been release from a Colorado Department of Corrections facility.

[Senate Bill 23-289](#) requires HCPF to seek federal authorization through an amendment to the state medical assistance plan to create the Community First Choice (CFC) option under the state Medicaid program and moves several services provided under the Home and Community-Based Services waiver program to the new CFC option. The bill outlines eligibility for the CFC option and requires that Medicaid ensure continuity of support for eligible individuals previously receiving services. This bill requires the state plan amendment to include personal care services, home health services, health maintenance activities, personal emergency response systems, and voluntary training on how to select, manage, and dismiss an attendant.

Consumer Protection

[Senate Bill 23-093](#) changes medical transaction consumer protections laws, including:

- placing a 3 percent cap on the interest rate on medical debt per year;
- establishing requirements for payment plans and legal actions by a creditor or debt collector;



Health and Insurance

- specifying what must be included on itemized statements for debt collection disputes;
- requiring a health care facility to provide an estimate of the cost for a person who intends to self-pay for services and limiting how much the final cost can exceed the estimate; and
- prohibiting collection of debt during an appeals process.

The bill makes failure to comply with these requirements and current laws related to out-of-network billing a deceptive trade practice.

[House Bill 23-1218](#) requires certain health care facilities to inform patients and the public about the denial of reproductive health care, LGBTQ health care, and end-of-life health care services. It requires these facilities to submit data on service availability, including how frequently certain services are denied for nonmedical reasons, to the Colorado Department of Public Health and Environment (CDPHE). CDPHE must develop a service availability form and make the submitted forms publicly available. Facilities must also provide patients with the current service availability form. CDPHE is required to investigate any complaints of noncompliance and may issue fines.

[House Bill 23-1077](#) prohibits health professionals, students, and trainees from performing intimate examinations on sedated or unconscious patients unless the patient has given specific informed consent to an intimate examination or the examination is medically necessary for the life or wellbeing of the patient. Students or trainees may only perform intimate

examinations if related to the planned procedure and the patient has recognized them as part of the care team.

[House Bill 23-1215](#) prohibits certain health care providers from charging a facility fee that is not covered by a patient's insurance for preventative services provided in an outpatient setting. Providers are required to disclose information about facility fees to consumers and post this information in their facilities. Failure to comply with these provisions is a deceptive trade practice. HCPF must form a steering committee to produce a one-time report detailing the impact of outpatient facility fees on the Colorado health care system, including the impact on consumers, employers, and providers.

[House Bill 23-1226](#) changes the name of the annual written hospital expenditure report issued by HCPF to the hospital transparency report. Hospitals must disclose additional information for the hospital transparency report, including details on specific revenue sources and expenditures. HCPF can enforce data collection procedures through corrective action plans or fines. Beginning July 1, 2024, hospitals are required to provide specific information on a patient's bill regarding services rendered.

[Senate Bill 23-252](#) requires hospitals to disclose Medicare reimbursement rates. HCPF must monitor hospitals for compliance with this disclosure requirement and federal price transparency rules, and take corrective action. Failure to comply is considered a deceptive trade practice. The bill also moves existing hospital transparency reporting requirements from CDPHE to HCPF.

