

Health Care

Provider Regulation

Health care access and accountability continue to be pressing consumer demands. During the 1999 legislative session, measures focused on nursing home patients who want to return to familiar settings after care, mechanisms for patients to appeal a denial of a medical procedure, the rights of patients, consumer protections on dispensing of prescriptions, access to alternative forms of medicine, collaborative agreements between pharmacists and physicians, uniform standards for use of restraints, confidentiality of medical information and training requirements for certain health care providers.

Concerning payments for continuing care. For nursing home residents, it is important that there be a smooth transition from hospital care to custodial care in the same setting. Under Senate Bill 99-006, for residents of nursing homes who are discharged to the hospital for an acute episode, HMOs must pay for continuing care services provided by an out-of-network provider if: the patient is returning to the same location where they resided prior to hospitalization; if the HMO has a continuing care contract or rental agreement with the facility at that location; the service is one that the HMO would be liable for if provided by an in-network provider; the patient needs the level of care provided by the continuing care provider; and the HMO is willing to accept payment according to the same terms as an in-network provider.

Health maintenance organization liability. There is growing concern that managed care organizations are negatively affecting patient care through denial of benefits. House Bill 99-1197 would have strengthened internal HMO review procedures and allowed patients to sue health plans for negligence if their health is adversely affected by a health care treatment decision made by their HMO. Under current law, a managed care organization cannot be sued for medical malpractice because the corporate practice of medicine is prohibited. A patient's only recourse is to sue the physician, even though the physician's actions may have been dictated by the managed care organization.

Health coverage benefits as practice of medicine. Similar to House Bill 99-1197, this bill created a legal liability for insurance coverage decisions. Such decisions are not currently considered a part of the practice of medicine although they can affect an individual's health status. Thus, House Bill 99-1273 would have made the act of determining the appropriateness of medical care part of the practice of medicine.

Independent review panel. House Bill 99-1306 mandates external reviews for patients who want a medical procedure, but have been turned down in their health plans' internal reviews. The bill also requires the plans to notify the covered person of the availability of the process, and to pay the costs of the external reviews. Covered individuals will have access to the external review process only after denial of coverage and completion of a two tiered internal review process.

Patient Bill of Rights. Senate Bill 99-087 would have standardized areas of frequent contention, such as access to emergency care, access to speciality care and grievance procedures. Specifically, the bill would require health insurance companies to permit enrollees to receive primary care and specialty care from an available participating primary care physician or specialist. Health plans would be required to allow women enrollees to designate the OB/GYN as their primary care providers, and require carriers to disclose to enrollees specific information concerning procedures and limitations on coverages under the health benefit plan and establish an ombudsman program to assist consumers with choosing health plan benefits and resolving disputes with health plans.

Facilitate access to OBGYN medical care. Women sometimes have to change primary care physicians in order to see the OB/GYN of their choice. However, problems arise when access to these providers is denied through insurance pods. Pods are the group of providers that patients are able to see or be referred to under their primary-care health plans. Pods were developed to control costs by keeping referrals within the pod. Physicians lose money when they refer patients outside their pods because the referral adds administrative costs. Senate Bill 99-022 would have allowed women to select any OB/GYN affiliated with their insurance plan, regardless of the plan's subdivisions of providers. Under the bill, OB/GYNs would have to send a report to the primary care physician, updating the provider on the treatment received from the OB/GYN.

Allowing specialists to have standing referral. Currently under managed care, patients needing specialized care require permission from the primary care physician for every visit to a specialist. Patients who live with cancer, asthma, arthritis and cystic fibrosis need standing referrals with specialist. Efficient and easy access to health care providers for second opinions is important for these patients. Senate Bill 99-141 allows patients to have a standing referral with a specialist for up to one year. Under the measure, it would be up to the physician and the specialist to agree on how long the referral is needed. Primary care physicians would act as a watchdog because they are billed for any unnecessary care to their patients. Health insurance providers must inform a covered person that a second opinion for any diagnosis, procedure, or treatment is within the benefits provided for an insured with a chronic, disabling, or life threatening condition.

Collaborative drug therapy management agreements. Nationwide, pharmacists are seeking the authority to counsel patients and modify or even initiate prescriptions. Pharmacists claim that patients need monitoring more often than physicians can provide it, especially in the era of managed care. For instance, people with especially high blood pressure may need to have their pressure checked as often as weekly. Pharmacists say they can cut health-care costs by detecting problems before emergency care is needed. SB 99-082 would have allowed physicians and pharmacists to enter into voluntary collaborative drug therapy management agreements to manage drug therapy for patients in long term care settings, such as nursing homes and hospices. The delegation involved a written agreement between the physician and pharmacist containing protocols and specifying the scope of the activities the pharmacist may perform with respect to the drug therapy management. The agreement would be reviewed periodically and renewed.

Discriminatory pharmacy copayments. House Bill 99-1352 prohibited entities that administer prescription drug benefits in connection with a managed care plan from imposing different conditions upon covered persons for prescription drugs obtained through mail order pharmacy providers.

Prescription processing requirements. Senate Bill 99-120 was designed to assist a patient or the patient's care giver in distinguishing one prescribed medication from another. Under the measure, all drugs dispensed pursuant to a prescription would have to bear a label that included a description of the purpose for the prescription or the symptoms being treated unless otherwise requested by the patient, his or her representative or care giver. This only applied to prescriptions written by podiatrists, dentists, doctors, physician assistants, nurses, optometrists, and physical therapists.

Regulation of the practice of naturopathy. Responding to consumer demand for alternatives to conventional medicine, House Bill 99-1051 would have required persons who practice naturopathic medicine to register with the state's Division of Registrations. Naturopathic medicine is an array of healing practices, including diet and clinical nutrition; homeopathy; acupuncture; herbal medicine; hydrotherapy; therapeutic exercise; spinal and soft-tissue manipulation, ultrasound and light therapy; therapeutic counseling; and pharmacology. Under the bill, a naturopathic doctor's scope of practice was described and they were given exclusive rights to use certain terms indicating their status as naturopaths. The Director of the Division was authorized to deny, revoke, or suspend any registration, issue a letter of admonition to a registrant, or place a registrant on probation in the event disciplinary action is warranted.

Protection from restraint. House Bill 99-1090 puts into law minimum standards for the use of restraint on persons in health care facilities. The bill identifies circumstances under which an agency may use restraint and specifies agencies' duties when applying restraint. Agencies must document the circumstances surrounding the use of any type of restraint and establish a review process for the use of restraint. Agency staff must be trained in the use of restraint. If a nursing care facility meets the state and federal regulations covering restraints, they have met the intent of the bill.

Display of health care credentials. House Bill 99-1086 was an attempt to require health care providers to wear an identification badge when providing services. Under the measure, a health care professional's badge must contain their photograph along with full name and credentials or job title if such person is not registered, certified, or licensed. The bill would have excluded persons for whom such badge would pose a serious risk of physical safety, situations where a risk of infection would be created by the wearing of a badge, individuals who provide health care during an emergency, and professionals when their name and credentials are displayed upon entry to their office.

Confidentiality of medical information. House Bill 99-1184 clarified that any entity that provides health care coverage in Colorado is subject to the prohibition against theft of medical records or medical information. Upon the third conviction within 12 months of an entity or of any employees of an entity for theft of medical records or medical information, then the entity's certificate of authority or license is suspended for 6 months.

Chiropractic nutritional remedial measures. House Bill 99-1109 would have defined the "nutritional remedial measures" that licensed chiropractors may take to cure or relieve disease and improve general health and well-being. Included were the use of vitamins, minerals, plants, and food, but the bill excluded the use of controlled substances.

Spinal adjustment training requirements. Senate Bill 99-158 dealt with training requirements for those health care providers performing spinal adjustments. The bill would have required anyone performing spinal adjustment to be a doctor of medicine, doctor of osteopathy, or doctor of chiropractic. These health care providers must not perform any spinal adjustment without having first received at least 500 hours of classroom instruction and at least 900 hours of supervised clinical training. Claiming to be able to diagnose or perform spinal adjustment without adequate training would have been a deceptive trade practice under the "Colorado Consumer Protection Act".

Immunity

Immunity for volunteer doctors. This measure is an effort to recruit physicians, especially those who have retired, to volunteer their services. House Bill 99-1071 gives a licensed physician, who is practicing medicine as a volunteer for a nonprofit organization, nonprofit corporation, or hospital, immunity from civil liability for any act or omission while performing such volunteer work so long as the act or omission was not grossly negligent or willful and wanton misconduct. These entities must annually verify that the physician holds an unrestricted Colorado medical license. The physician must declare his or her volunteer status before the medical procedure occurs and the patient agrees in writing beforehand to accept such volunteer care.

Defibrillator immunity. An automated external defibrillator is compact unit, battery operated, and voice prompted tool to deal with cardiac arrest. It is used by businesses and airlines. House Bill 99-1283 grants immunity to persons and entities who render emergency care, without compensation, to a person in cardiac arrest by the use of a defibrillator so long as the person or entity meets certain training, maintenance, and notification requirements. Immunity is offered under these requirements: there is appropriate training, the unit is maintained and tested periodically, it involves a physician on site, there is a written plan for placement of the unit, and 911 is called each time.

Restructuring of the State Board of Nursing. Senate Bill 99-046 does not amend the Nurse Practice Act, however it does provide immunity from civil liability for members of nurse-disciplinary review boards.

Public Health

The majority of the 1999 public health bills establish mechanisms to educate the public and promote beneficial health practices. The Department of Public Health and Environment is charged with creating a program targeting Hepatitis C, and the University of Colorado Health Sciences Center was encouraged to work with the department to prevent and treat osteoporosis. A proposal to improve the general health status of public employees was also considered. Other public health bills established a legislative task force to study health care issues, addressed confidentiality of trauma patient records, and created provisions for persons with HIV who have been convicted of a sexual crime.

Hepatitis C Program. Although it is a serious disease with long-term effects, many people are unaware of the risks, symptoms, and treatments for Hepatitis C. House Bill 99-1118 instructs the Department of Public Health and Environment to create a Hepatitis C education and screening program that will:

Coordinate with local public health officials, workers, and community organizations to identify high risk populations, assist in the implementation of a model screening process, and provide referral services for persons with Hepatitis C infection; and

Raise the public's awareness and understanding about the virus.

If funding is available, the department is authorized to implement a system to investigate, collect, analyze, and report data regarding Hepatitis C.

Osteoporosis Program. Osteoporosis is a bone-thinning disease and a public health problem that poses a threat to the health and quality of life of millions of Americans. Senate Bill 99-146 instructed the Department of Public Health and Environment to create an osteoporosis prevention and treatment education program. The department would have:

Implemented a public education program to raise awareness about the causes and nature of osteoporosis, the value of prevention and early detection, personal risk factors, and options for diagnosing and treating the disease;

Educated consumers about risk factors, appropriate diet and exercise, diagnostic procedures, drug therapies, environmental safety and injury prevention, and the availability of diagnostic, treatment, and rehabilitation services; and

Educated health care professionals and service providers on findings available on osteoporosis prevention, diagnosis, treatment, therapies, detection and treatment in special populations, medications, and research advances.

Osteoporosis awareness. Despite the prevalence and serious impacts of osteoporosis, many people and health care professionals are not well-informed about the disease. Senate Resolution 99-009 encourages the University of Colorado Health Sciences Center to work with the Colorado Department of Public Health and Environment and other public and private organizations to prevent and treat osteoporosis through public awareness, education of medical experts, research, and community outreach.

Colorado Wellness Program Act. Maintaining healthy employees helps to create a productive work force. Senate Bill 99-047 created the "Colorado Wellness Program Act" which would have established a Wellness Council within the Colorado Department of Personnel. The Wellness Council was charged with:

Coordinating and developing wellness programs in state government; and

Working to encourage participation in wellness programs by state employees.

State agencies, including the Judicial Department and the legislative branch of the state government, would have appointed one wellness coordinator to serve on the Wellness Council.

Colorado Health Care Task Force. Health care issues can be complex and term limits have reduced the amount of time legislators have to become familiar with policy issues. House Bill 99-1019 creates the Colorado Health Care Task Force to increase legislators' knowledge of health care. The task force will continue for five years and replaces the Joint Review Committee for the Medically Indigent and the Medical Assistance Reform Advisory Committee. The nine members of the task force are given specific issues to study and may appoint subcommittees to assist in advising the task force. Issues the task force will examine include emerging trends in Colorado health care and their impacts on consumers; the effect of managed care on the ability of consumers to obtain timely access to quality care; and the role of public health programs and services.

Statewide trauma system. In 1995, Colorado established a statewide trauma care system. House Bill 99-1214 makes changes to the trauma care system's Continuing Quality Improvement System and authorizes the Department of Public Health and Environment to designate a facility as a regional pediatric trauma center. This facility will probably be located in the Denver Metro area and serve the Rocky Mountain region. Any information collected by an Area Trauma Advisory Council (ATAC) as part of the Continuing Quality Improvement (CQI) System and any records relating to the system must remain confidential. The CQI assesses the quality of area trauma systems and the statewide trauma care system. The information collected by a ATAC is not subject to the open records law and may not be subpoenaed or subject to discovery except by court order. The State Board of Health is directed to adopt rules protecting the confidentiality of patients' names and other identifying information collected through the Continuing Quality Improvement System.

HIV testing information. Any person who has HIV and who subsequently commits a criminal offense involving sexual behavior creates a risk to society by exposing others to HIV. Senate Bill 99-119 requires a person who is convicted of prostitution, patronizing a prostitute or other sex offense to submit to HIV testing. Mandatory sentences are imposed on individuals who knew they have HIV prior to committing a sex offense. District attorneys must maintain the confidentiality of HIV test results except under specified circumstances. Individuals who are convicted of prostitution may be ordered to receive treatment for alcohol and drug abuse or mental illness if appropriate.

Medicaid

Almost half of the Medicaid bills were proposed by the Joint Review Committee for the Medically Indigent (MI). The one Medically Indigent bill which passed authorizes the Department of Health Care Policy and Financing to examine the possibility of providing Medicaid prenatal care to undocumented immigrants. The other MI bills eliminated the asset test for children's Medicaid eligibility and guaranteed Medicaid benefits to enrollees for one year. The four bills which were not associated with the Joint Review Committee for the Medically Indigent created a family planning pilot program, addressed enrollees' contributory negligence in liability cases, established a pilot program for persons living with HIV, and continued the Home and Community Based Services for Brain Injury Program.

Undocumented aliens prenatal care. Under Medicaid, undocumented immigrants currently qualify for emergency medical services only. Delivery for pregnant women is covered by Medicaid, but prenatal care is not covered. House Bill 99-1018 authorizes the Department of Health Care Policy and Financing to review options for providing prenatal care to undocumented women and explore possible funding sources. The department is directed to seek a federal waiver for implementation of such a prenatal program which would include federal financial participation. The department must report on the program options and funding sources to the Joint Budget Committee and to the House and Senate Health, Environment, Welfare, and Institutions committees by October 1, 1999.

Medicaid asset test for kids. Many children are disqualified for Medicaid because their family have a resource such as a vehicle which exceeds eligibility requirements. House Bill 99-1085 would have eliminated the resource standard for determining Medicaid eligibility for children.

Guaranteed medicaid eligibility. Each month Medicaid recipients must qualify for medical assistance. This policy creates a situation where many people intermittently qualify and disqualify for Medicaid and

therefore receive discontinuous medical care. House Bill 99-1112 would have established a 12-month guarantee of eligibility for Medicaid once eligibility was established.

Family planning Medicaid waiver. Family planning services help women and men maintain their reproductive health and plan the timing of their children. State funding for such services provided through the Medicaid program receives a nine-to-one federal match. House Bill 99-1373 establishes a family planning pilot program for the provision of family planning services to individuals who are eligible for Medicaid and who are at or below 150% of the federal poverty level. The Department of Health Care Policy and Financing, in consultation with the Department of Public Health and Environment, is required to seek a federal waiver for the implementation of the family planning pilot program. The program is repealed five years after issuance of the federal waiver or at the time the waiver is terminated.

Chronic Illness Program. Individuals living with HIV and AIDS typically have very large medical expenses. Senate Bill 99-098 would have established a pilot program to provide Medicaid to persons diagnosed with HIV whose assets or income exceed current eligibility limitations. The Department of Health Care Policy and Financing was authorized to expand the program to other types of chronic illnesses if it could show that the program was cost-effective. The bill directed the department to study the program and to report its findings to the Joint Budget Committee.

Medicaid contributory negligence. Colorado law allows the state to recover medical expenses paid on behalf of Medicaid recipients in cases where a third party is legally liable. Under this law, a Medicaid recipient's contributory negligence can not be attributed to the state. House Bill 99-1238 strikes this language. The affect is that a Medicaid recipient's contributory negligence will be considered in the same manner as in other negligence cases.

Home and Community Based Services for brain injury. The Home and Community Based Services Program for Persons with Brain Injury provides services to Medicaid enrollees who would otherwise require hospitalization or nursing home care. House Bill 99-1307 eliminates the July 1, 1999 repeal of the program.

Comments to: LCS.GA@state.co.us