

# HEALTH CARE

## Health Care Professionals

**SB 12-054** (Postponed Indefinitely)  
*No Retaliation Against Health Employees*

**HB 12-1052** (Enacted)  
*Health Care Work Force Data Collection*

**HB 12-1054** (Enacted)  
*Simplify Procurement Department of Health Care Policy and Financing Health Care Providers*

**HB 12-1065** (Enacted)  
*Deadline Advance Practice Nurse Retain Prescriptive Authority*

**HB 12-1141** (Postponed Indefinitely)  
*Health Care Professionals Acudetox*

**HB 12-1204** (Enacted)  
*Sunset Regulation Hemodialysis Technicians*

**HB 12-1205** (Postponed Indefinitely)  
*Sunset Continue Audiologist & Hearing Aid Providers*

**HB 12-1210** (Postponed Indefinitely)  
*Recognition Out-of-state Professionals to Practice*

**HB 12-1300** (Enacted)  
*Sunset Continue Professional Review Committees*

**HB 12-1303** (Enacted)  
*Department of Regulatory Agencies Certify Speech-language Pathologists*

**HB 12-1311** (Enacted)  
*Sunset Continue Pharmacy Board*

**HB 12-1332** (Enacted)  
*Licensure of Anesthesiologist Assistants*

## Medicaid and the Children's Basic Health Plan

**SB 12-018** (Postponed Indefinitely)  
*Alternative Medicaid Program for Elderly*

**SB 12-023** (Enacted)  
*Improve Eligible Persons Access to PACE Program*

**SB 12-032** (Postponed Indefinitely)  
*Medicaid Reform Seek Federal Waiver*

**SB 12-060** (Enacted)  
*Improve Medicaid Fraud Prosecution*

**SB 12-090** (Postponed Indefinitely)  
*Restore Medicaid Funding Circumcision*

**SB 12-108** (Deemed Lost)  
*Medicaid Dental Services Pregnant Women*

**SB 12-127** (Enacted)  
*Medicaid Health Homes Long-term Care Providers*

**SB 12-128** (Enacted)  
*Alternative Care Facility Reimbursement Pilot*

**SB 12-159** (Enacted)  
*Evaluation Children With Autism Medicaid Waiver*

**HB 12-1281** (Enacted)  
*Medicaid Payment Reform Pilot Program*

## Health Care Reform and Access

**SB 12-053** (Postponed Indefinitely)  
*Colorado Health Benefit Exchange Repeal*

**SB 12-093** (Postponed Indefinitely)  
*Notice of Hospital Services Not Provided Religious Grounds*

**SB 12-134** (Enacted)  
*Hospital Payment Assistance Program*

**HB 12-1203** (Enacted)  
*Reenact Comprehensive Primary Care Services Statute*

## Prescription Drugs

**SB 12-037** (Enacted)  
*Electronic Prescription Controlled Substances*

## Miscellaneous

**HB 12-1202** (Enacted)  
*Allow Department of Health Care Policy and Financing Appropriations For Quitline Matching Funds*

In the 2012 legislative session, the General Assembly considered a variety of health care-related bills. Specific topics that were addressed included the regulation of health care professionals, Medicaid and the Children's Basic Health Plan, health care reform and access, and prescription drugs.

## **Health Care Professionals**

In 2012, the General Assembly considered a variety of bills related to health care professionals, including several sunset bills of various professional regulatory boards.

***Health care workers generally.*** The General Assembly considered five bills concerning health care workers in general; two bills were adopted, and three bills were postponed indefinitely.

**House Bill 12-1052** requires the Department of Regulatory Agencies (DORA) to request health care workforce data from certain health care professionals when receiving their initial or renewal license applications beginning on or before July 1, 2013. Professionals affected include: physicians, physician assistants, nurses, mental health practitioners, and pharmacists. Required data elements include the practice address, the number of hours of direct patient care provided at each practice location, information about the practice setting, and specific information about the health care professional. The data collected are not required to be validated and there is no penalty for noncompliance. The Director of the Primary Care Office in the Department of Public Health and Environment (DPHE) is required to designate a voluntary advisory group to recommend the structure of the data elements to be collected. The data are to be made available to the Primary Care Office and, in limited form, to the public.

**House Bill 12-1054** allows the Department of Health Care Policy and Financing (DHCPF) to issue rules to simplify the procurement process for programs over which it has regulatory authority, including Medicaid, the Children's Basic Health Plan, and the Colorado Indigent Care Program, among others. Under the bill, a provider who has already completed a department-approved application will no longer be required to complete a secondary provider agreement and state contract for the sole purpose of complying with state fiscal rules.

**Senate Bill 12-054**, which was postponed indefinitely, would have prohibited a licensed health care facility or its agent from retaliating against an employee when the employee was using the best available practices and acting in the best interests of the patient; or when the employee was following a patient's directive. The bill defined retaliation to include: demotion, reassignment of duties, discharge from employment, or loss of pay or benefits.

The Division of Registrations in the DORA regulates 49 professions, occupations, and businesses in the state. Many of the boards within the division have reciprocity agreements with other states that allow a licensee in another state to qualify for licensure in Colorado. Each year, the division receives approximately 8,000 applications for licensing, registration, or certification based on active credentials in other states. As amended by the House of Representatives, **House Bill 12-1210**, which was postponed indefinitely, would have allowed a person who holds a valid professional license, registration, or certification in another state to practice his or her profession in Colorado for up to nine months before having to meet Colorado's licensing

requirements, provided the person met certain criteria. The bill would not have applied to optometrists, physicians, or physician assistants with credentials to practice from another state.

As amended by the House Health and Environment Committee, **House Bill 12-1141**, which was postponed indefinitely, would have allowed certain mental health professionals to perform auricular acudetox under their current scope of practice if they have completed specific training. These mental health professionals include: psychologists, social workers, marriage and family therapists, licensed professional counselors, and addiction counselors. Auricular acudetox is defined as the subcutaneous insertion of sterile, disposable acupuncture needles on five specific locations of a person's ear. The reported benefits of auricular acudetox are improved attitudes of clients and reductions in cravings, anxiety, sleep disturbance, and the need for certain chemical substances.

*Specific health care professionals.* During the 2012 legislative session, the General Assembly enacted three bills concerning specific health professions. The bills concerned the regulation and practice of advance practice nurses (APNs), speech-language pathologists, and anesthesiologist assistants.

An articulated plan documents how an APN intends to maintain ongoing collaboration with physicians and guides the APN's prescriptive practice. Pursuant to legislation adopted in 2009, APNs who were granted prescriptive authority prior to July 1, 2010, were required to develop their plans by July 1, 2011. APNs who missed the deadline lost their prescriptive authority. **House Bill 12-1065** allows the State Board of Nursing to extend the deadline to September 30, 2012, for APNs to develop an articulated plan for safe prescribing. APNs seeking an extension must submit to the State Board of Nursing an application, the required fee, a signed verification that he or she developed an articulated plan by, or had an existing collaborative agreement with a physician on, July 1, 2011.

**House Bill 12-1303** enacts the Speech-Language Pathology Practice Act, and requires that the Division of Registrations create a certification program for speech-language pathologists. Beginning July 1, 2013, only individuals properly certified by the division may use the title "certified speech-language pathologist" or otherwise represent themselves as such. Speech-language pathologists who are employed by schools and licensed by the Colorado Department of Education as special education services providers are exempt from the certification requirements. In addition, the bill:

- defines speech-language pathologists and the scope of their work;
- specifies educational background, qualifying examination requirements, and continued competency requirements;
- allows the Division of Registrations to adopt necessary rules;
- allows for certification by endorsement;
- provides the DORA with the ability to set fees and schedule renewals of certifications;
- establishes the grounds for disciplinary proceedings;
- authorizes the director of the division to take disciplinary actions; and
- establishes a class 2 misdemeanor for conviction of the first offense of practicing as a speech-language pathologist without an active certification, and a class 1 misdemeanor for subsequent convictions.

To practice medicine in the state, a physician or a physician assistant must adhere to the requirements of the Medical Practice Act. **House Bill 12-1332** adds anesthesiologist assistants to the act and, effective July 1, 2013, requires that they be licensed by the Colorado Medical Board to practice in the state. The bill sets the minimum qualifications for licensure, and subjects anesthesiologist assistants to the same standards for unprofessional conduct and discipline that exist for physician assistants. A licensed anesthesiologist assistant, working under the direct supervision of a physician anesthesiologist, may be delegated medical tasks that provide anesthesia services to patients. A supervising physician may not supervise more than three assistants without approval from the Colorado Medical Board.

***Sunset reviews of professional regulatory boards.*** A sunset review is conducted by the DORA, and evaluates the need for continued regulation of certain programs and professions. In 2012, several different health care professionals were subject to a sunset review, including hemodialysis technicians, pharmacists, and audiology and hearing aid providers. The legislature considered legislation to implement the recommendations of the sunset reviews, and to make other changes to the regulation of these professions. The legislature also enacted legislation concerning the sunset review of professional review committees, which evaluate the professional conduct of health care providers.

**House Bill 12-1204** implements the recommendations of the DORA in its sunset review of hemodialysis technicians, and continues the regulation of hemodialysis technicians until September 1, 2019. The bill clarifies that the DPHE may verify the qualifications of hemodialysis technicians while conducting routine surveys of dialysis clinics, and that nurses or physicians who supervise hemodialysis technicians must be licensed.

**House Bill 12-1311** continues the Colorado State Board of Pharmacy in the DORA and the regulation of the practice of pharmacy through September 1, 2021. It also recodifies and relocates the laws regulating the practice of pharmacy and the laws pertaining to the licensing of addiction programs by the Department of Human Services. The bill:

- adds registration requirements for ambulatory surgical centers, medical clinics operated by hospitals, specialized prescription drug outlets, federally qualified health centers, and hospices;
- repeals the Rehabilitation Evaluation Committee and transfers its functions to the Colorado State Board of Pharmacy;
- changes requirements for seeking assistance from the Peer Health Assistance Diversion Program to include the potential existence of a psychiatric, psychological, or emotional problem, excessive alcohol or drug use, or addiction;
- establishes a new hospital satellite pharmacy registration so that the satellite can obtain its own registration from the federal Drug Enforcement Agency;
- reduces the regulatory requirements for veterinary prescription drugs;
- removes the prohibition on optometrists to dispense prescription drugs or controlled substances for a fee;
- modifies disciplinary procedures; and
- modifies the definition of intern and allows a pharmacy intern to practice under the direct and immediate supervision of a registered manufacturer or other regulated individual.

**House Bill 12-1205**, which was postponed indefinitely, would have implemented the recommendations of the DORA in its sunset review of the state Audiology and Hearing Aid Provider Licensure Program, and continued the licensure of audiologists and hearing aid providers until September 1, 2019. Pursuant to the sunset process outlined in statute, a one year wind-up period occurs for any function that is terminated. During the wind-up period licenses continued to be issued or renewed. So while the function of licensing audiologists and hearing aid providers was terminated due to the fact that the bill was postponed indefinitely, those professions will continue to be licensed until July 1, 2013.

**House Bill 12-1300** implements the recommendations of the DORA in its sunset review and extends the functions of professional review committees under the Colorado Professional Review Act (CPRA) until September 1, 2019. Professional review committees evaluate the professional conduct of, and the quality and appropriateness of patient care provided by, health care providers. The CPRA provides legal privilege and immunity to individuals and groups that conduct professional review of health care providers as long as they comply with the due process provisions of CPRA. The bill includes the following DORA recommendations:

- authorizing professional review of physician assistants and APNs;
- enabling sharing of professional review records and information with regulators and other professional review entities; and
- clarifying that CPRA applies to professional reviews as opposed to peer reviews.

On or before July 1, 2013, and annually thereafter, the governing boards for health care providers covered by the bill are required to register with the Division of Registrations in the DORA and report on their professional review activities. The division is required to publish this information in aggregated form without individually identifiable information. The division may collect fees to recover the direct and indirect costs of implementation. A governing board that fails to register or report as required by the bill, rule, or board order and the individual or group represented by the governing board are not entitled to the immunity from liability for any act or omission occurring during the period that the governing board failed to register or report. The division must maintain a list of all registered professional review committees and publish the list on its website.

## **Medicaid and the Children's Basic Health Plan**

Medicaid and the Children's Basic Health Plan (CBHP) are health care programs that provide medical care to adults and children in families with low incomes. The state and federal government jointly administer and fund both programs. In 2012, the General Assembly considered a number of bills related to these programs. The legislature addressed eligibility levels for the programs, funding reform, and changes to benefits and services offered under the Medicaid program.

***Medicaid and CBHP eligibility.*** The legislature considered one bill that was postponed indefinitely that would have required the state to seek a federal waiver to modify eligibility criteria for Medicaid and CBHP.

**Senate Bill 12-032**, which was postponed indefinitely, would have required the DHCPF to seek a federal waiver for the Medicaid and CBHP programs on or before September 1, 2012. Among other things, the waiver would have requested federal permission to allow the state to determine program eligibility criteria, including eligibility categories and income levels, and establish an asset test for eligibility. The DHCPF would have been:

- authorized to negotiate a cap on federal reimbursements to the state with provisions for adjustments based on population growth and inflation;
- directed to report to health-related committees of the General Assembly concerning federal authorization received; and
- subject to federal approval, required to identify any changes to state law necessary to implement changes to the Medicaid and CBHP programs.

**Medicaid funding.** In 2012, the General Assembly considered a number of bills related to funding reform for Medicaid, including legislation related to investigation of Medicaid fraud, enhancing reimbursements for alternative care facilities, creating the Medicaid Payment Reform and Innovation Pilot Program, and creating an alternative Medicaid program.

**Senate Bill 12-060** requires the DHCPF and Department of Law to prepare annual reports on Medicaid client and provider fraud, respectively, for certain legislative committees. Beginning on or before January 15, 2013, these reports are to detail the number of Medicaid client and provider fraud investigations, actions undertaken to make recoveries and prosecute fraud, amounts recovered, and trends in methods used to commit Medicaid fraud. The bill also specifies that recoveries of fraudulently obtained Medicaid benefits are to be deposited in the County Social Services Fund, and any amounts not required to be reimbursed to the federal government for a share proportional to the amount of federal funds initially paid may be retained by the county.

**Senate Bill 12-128** allows the DHCPF to create an enhanced reimbursement program in which an alternative care facility will receive a temporary increase in the Medicaid per diem reimbursement rate for a client discharged from a nursing facility. It also authorizes the DHCPF to create a program to identify Medicaid clients who are at risk of a nursing facility placement and redirect them to alternative care facilities and services. The DHCPF is to develop criteria for program participation and to submit a written report to certain legislative committees on the design, implementation, and outcome of any programs created as part of the annual reporting process.

**House Bill 12-1281** creates the Medicaid Payment Reform and Innovation Pilot Program within the structure of the existing coordinated care system to foster the use of new payment projects. The DHCPF is directed to create a process for interested contractors to submit payment projects for consideration under the pilot program. The DHCPF is to complete its review of proposed projects and notify contractors of which projects are selected by July 1, 2013. Projects included in the pilot program must be budget neutral and operate for at least two years, but not beyond June 30, 2016. The DHCPF is directed to report on or before January 1, 2013, to certain legislative committees on policy goals and recommendations for streamlining contracting for managed care. Between February 1, 2013, and the end of the pilot period, the DHCPF is also to report at specified intervals to certain legislative committees on the status of the pilot program. Finally, the bill directs DHCPF to allow payment proposals that include, but are not limited to, global payment, risk adjustment, risk

sharing, and aligned payment incentives in response to requests for proposals for the statewide managed care system that occur on or after January 1, 2015.

**Senate Bill 12-018**, which was postponed indefinitely, would have created the Alternative Medical Assistance Program for the Elderly in the DHCPF, subject to receiving federal authorization to implement it. The program would have allowed a Medicaid-eligible person, age 55 or older, to accept an amount equivalent to 70 percent of the medical assistance benefits the person would have received in the traditional Medicaid program. Enrolled clients would have been issued a debit card to be used to purchase medical services from any provider in the state and funded each month with a portion of the allotted annual benefit. The DHCPF would have been directed to review benefit eligibility and amounts for each client on an annual basis, although the DHCPF could have provided this review earlier if the client's health condition substantially changed. Participation in the program would have been voluntary, and a client could have withdrawn by providing 30 days written notice to the DHCPF.

**Medicaid benefits and services.** In 2012, the General Assembly considered several bills to expand benefits and services under Medicaid. The bills addressed Programs of All-inclusive Care for the Elderly (PACE), health homes, services for children with autism, circumcision, and dental benefits for pregnant women.

**Senate Bill 12-023** modifies outreach and enrollment policies for PACE. Specifically, the bill allows a person enrolled in a managed care organization, such as the accountable care collaborative, under Medicaid to terminate such enrollment and opt to receive services through a PACE organization. The rules of the Medical Services Board are to define how such elections must be made. It adds services provided by a PACE organization to the list of long-term health care programs that Single Entry Point (SEP) agencies serve and requires SEPs to inform eligible persons about the benefits of PACE as an alternative to enrollment in a managed care or similar organization. The bill allows a PACE organization to contract with a Medicaid enrollment broker to include the PACE program in its marketing materials to eligible long-term care clients.

**Senate Bill 12-127** requires the DHCPF, in determining the structure of health homes for chronic conditions for the purposes of the federal "Patient Protection and Affordable Care Act" and state plan amendments to the Medicaid program, to include provisions allowing long-term care providers to participate as health homes. It also requires the DHCPF to permit long-term care providers to contract with regional care collaborative organizations either as health homes or to provide primary, specialty, or long-term care supports.

**Senate Bill 12-159** clarifies the frequency and content of evaluations for children receiving Medicaid home- and community-based services through the Children with Autism Waiver Program. Specifically, child evaluations are to occur at entry, every six months, and upon leaving the program, and must be completed by the child's lead therapist or other trained professionals as designated by the DHCPF. The DHCPF is directed to annually review the fund balance of the Colorado Autism Treatment Fund to determine whether additional eligible children may be enrolled in the program. The DHCPF priority shall be to move off the wait list those children who are determined to have an imminent need for services as determined through an objective assessment process. On or before June 1, 2013, DHCPF is to submit a written program evaluation to specified legislative committees,

which includes the number of children receiving services, age and length of service information, and average cost of services. Additional reporting requirements are included for the written program evaluations made on June 1, 2014, and June 1, 2015. Finally, the bill allows child and program evaluations to be paid for with moneys from the Colorado Autism Treatment Fund.

In 2011, Senate Bill 11-209 eliminated male circumcision as a reimbursable physician service in the Medicaid program. **Senate Bill 12-090**, which was postponed indefinitely, would have reinstated male circumcision as a reimbursable physician service provided in the Medicaid program. It would have also prohibited the Medical Services Board from limiting the provision of male circumcision.

**Senate Bill 12-108**, which was lost in the House of Representatives, would have required the DHCPF to provide limited dental benefits to pregnant women enrolled in Medicaid by January 1, 2014. It directed the DHCPF to seek federal authorization, as necessary, to implement the bill and to collaborate with stakeholders to design the limited dental benefit plan. The DHCPF would have also been directed to report on the program to certain legislative committees and allowed to seek an independent evaluation of the health outcomes achieved as a result of the program.

## **Health Care Access and Reform**

Health care reform and access to health care continue to be topics of discussion. In 2012, the General Assembly enacted legislation to expand access to health care by reenacting the Comprehensive Primary Care Services Program and requiring notice to patients of hospital charity care programs and limiting charges for patients that qualify for such programs. The General Assembly also considered, but did not enact, legislation concerning the repeal of the Colorado Health Benefit Exchange Act and notification of services not provided at hospitals due to religious grounds.

**House Bill 12-1203** reenacts statutes allowing the DHCPF to operate the Comprehensive Primary Care Services Program. This program is funded from the Primary Care Fund, which receives a portion of tobacco tax revenue, and provides funding to primary care providers who serve a large portion of low-income persons. These statutes governing the operations of Comprehensive Primary Care Services Program were erroneously repealed by Senate Bill 11-216. Statutes creating the Primary Care Fund and providing tobacco tax revenue to the fund were not repealed.

**Senate Bill 12-134** places requirements on hospitals regarding financial aid to qualified patients who are uninsured, have a family income of less than 250 percent of the federal poverty income guidelines, and who do not qualify for the Colorado Indigent Care Program. Under the bill, hospitals are required to:

- provide information to all patients concerning the hospital's financial assistance, charity care, and payment plan policies;
- communicate the required information in a clear and understandable way and in languages appropriate to communities and patients served;
- post the information conspicuously on its website and in waiting areas;

- provide the information upon each patient's discharge; and
- offer to screen uninsured patients for eligibility for financial aid, and to offer financial assistance to qualified patients on a community-specific basis.

Hospitals are limited to charging persons eligible for financial assistance the lowest negotiated rate from a private payer for emergency or other medically necessary care. Collection proceedings may not commence until the hospital offers a qualified patient a reasonable payment plan, and until a scheduled payment is at least 30 days overdue. The 30-day rule applies only to the first overdue payment.

**Senate Bill 12-053**, which was postponed indefinitely, would have repealed the Colorado Health Benefit Exchange Act if the federal Patient Protection and Affordable Care Act is ruled unconstitutional, in full or in part, by the United States Supreme Court or is repealed by Congress.

**Senate Bill 12-093**, which was postponed indefinitely, would have required hospitals to provide notice of all services that the hospital refuses to provide because of religious beliefs or moral convictions. The notice would have been required to inform patients of their right to obtain these services from another hospital. The hospital would have been required to provide the notice prior to or at admission of the patient or as soon after admission as is practicable. The DPHE would have been required to specify the manner of notice that must be provided.

## **Prescription Drugs**

**Senate Bill 12-037** conforms Colorado statutes to the federal Drug Enforcement Administration regulations by allowing a pharmacy to dispense a prescribed Schedule II, III, IV, or V controlled substance from an electronically transmitted prescription. It also allows a practitioner to dispense these controlled substances directly to the ultimate user without a written prescription.

## **Miscellaneous**

**House Bill 12-1202** allows the General Assembly to annually appropriate moneys in the Tobacco Education Programs Fund to the DHCPF. By so doing, the DHCPF can draw down additional federal matching funds for the Colorado Quitline Program. These moneys will be reappropriated to the DPHE to administer the Quitline Program.