2016 Legislative Session Report

The 2016 legislative session was shaped largely by state budget issues in the face of split party control and impending elections in November. Much like last year, many bills intended to "send a message" were volleyed unsuccessfully between the chambers, while bipartisan legislation addressing healthcare regulation and transparency gained more traction. There were some very big wins for the Colorado Rural Health Center, including HB-1142 Rural & Frontier Healthcare Preceptor Tax Credit, and SB-069 Community Paramedicine Regulation. However, there were some significant losses, especially with the Hospital Provider Fee and the legislation to address 72-hour mental health hold procedures.

The Hospital Provider Fee dominated much of the session discussion and spending priorities for sectors other than healthcare, inciting a heated last few days of session where the bill was axed in Senate Finance two days before the session ended. Luckily, the Hospital Provider Fee issue, among many others, will surely make an appearance in the 2017 session, as the upcoming election and long list of ballot initiatives will transform the healthcare policy trajectory in Colorado in the years ahead.

This report is intended to give readers a categorized account of what happened in Colorado state rural health policy this year, and to help shape policy priories and discussions for next session.

The Colorado Rural Health Center's 2016 Legislative Session Report is divided into four categories:

- Healthcare Access and Affordability
- Workforce and Scope of Practice
- Transparency and Reporting Requirements
- Sustaining Rural Healthcare

Healthcare Access & Affordability

The rapidly growing Colorado Medicaid budget shaped the debate around healthcare access and affordability legislation. With the expansion of the ACA and several federal Medicaid reimbursements now in the hands of states, the Colorado General Assembly had to make some tough decisions about healthcare costs and access in the face of rising costs and a state budget deficit. However unfortunate, many healthcare advocates, including CRHC, took the opportunity to educate legislators about the value of investing in primary care and public insurance programs.

HB16-1408 Cash Fund Allocations For Health-related Programs is easily the best example how clear and unified legislative outreach can successfully address a policy problem. The legislation was introduced to address cuts to Medicaid primary care rates. The federal government had been funding a "bump" to Medicaid primary care rates in an effort to help providers deal with the huge increase in Medicaid patients. Federal funding for the "bump", rates at parity with Medicare, expired in 2014. The Colorado General Assembly made the decision to continue to the supplemental funding in 2015. This year however, the "bump" was discontinued, resulting in potential 26% cut totaling $45 million to Medicaid primary care reimbursements.

CRHC worked with a coalition of organizations to find address the cuts. The Primary Care Alliance polled memberships to gauge the importance of the bump and subsequent consequences of the cuts, and developed a communications and policy plan to not only voice concern for the cuts, but find a solution. The solution proposed in HB16-1408 is a one-time $20 million transfer of funds from the Tobacco Litigation Settlement Fund into the newly created Primary Care Provider Sustainability Fund. The bill received bipartisan support, surprisingly from some Republicans who voted against Medicaid expansion, who voiced their support for rural providers from a small business and economic stability perspective. The funds, while a huge win in such a tough budget year, are only a one-time and partial fix to a growing problem of funding Medicaid in Colorado. CRHC plans to continue working with the Primary Care Coalition, using the momentum of HB16-1408 to find a long term, sustainable solution to supporting primary care in the state.

Other notable healthcare access and affordability win includes SB16-069 Community Paramedicine Regulation. SB16-069 provides recognition and oversight to community paramedics, a relatively new health care provider type that dispatches paramedics proactively into communities to provide care, instead of waiting for an emergency. With the new regulations in place, community paramedics and related programs will be able to serve underserved populations across Colorado, increasing access to care and reducing preventable emergency room visits. The bill passed through the House on party-line votes, with Democrats in support of the legislation. Luckily, the Senate was considerably more open to the legislation, passing on a vote of 31-4, notably with rural Republicans breaking party ranks to support the vital new program.

SB16-169 Emergency 72-hour Mental Health Procedures also had a difficult journey through the General Assembly, passing through either chamber but ultimately failing by a veto from the Governor. When responding to mental health crises, health professionals in rural Colorado are stuck in a Catch-22 system. When an individual expresses a threat to themselves or others and a crisis worker cannot deescalate the threat, a 72 hour hold is initiated until in-patient placement can be found. In rural Colorado this creates a problem of what to do with the patient while finding placement for them. Individuals cannot legally stay in a non-designated emergency room because it is not a certified facility, but non-designated emergency rooms cannot deny these

patients service because it is a violation of EMTALA. Furthermore, crisis workers cannot recommend discharge of a patient who meets the legal requirements for a 72 hour mental health hold, as doing so puts the patient and others at risk.

The bill would have allowed individuals placed on a 72-hour hold to be taken to hospital emergency rooms while they await specialty psychiatric care at a "designated" facility. The bill would have made jails the "destination of last resort," limiting the circumstances under which individuals can be taken to jails to situations in which no designated or emergency facility is available and the individual's aggressive or violent behavior cannot be controlled by medical staff without the assistance of law enforcement.

The bill also would have required the Office of Behavioral Health to convene a stakeholder group to conduct a behavioral health needs assessment, which would be reported to the legislature during the CDHS SMART hearing for the 2017 legislative session. The bill also would have required data collection from hospitals and law enforcement entities to gauge frequency of 72- hour mental health holds.

The controversial legislation led to emotional committee testimony. Mental health advocates voiced concern about individuals being put in jail for mental health issues, while rural healthcare providers and police described desperation to address such situations with limited resources. Ultimately, while the bill did not address the much larger issue of the lack of behavioral health services in the state, it would have legitimized what is already happening across the state, protected valuable mental health professionals, and mandated a continuation of efforts to strategize behavioral health in Colorado.

The governor commented after vetoing the bill, "We agree that appropriate mental health facilities are not always readily available to treat persons having a mental health crisis. While well-intentioned, we are concerned that (the bill) does not provide adequate due process for individuals." Expect to see this issue revisited in the 2017 session.

Healthcare Access and Affordability

Colorado Rural Health Center

BILLS SUPPORTED

PASSED	NOT PASSED
SB16-069 ***Community Paramedicine Regulation**** The bill defines the terms community paramedic and community paramedicine.	
SB16-169 ***Emergency 72-hour Mental Health Procedures*** The bill clarifies the difference between a designated facility, an emergency medical services facility, and a law enforcement facility, as those terms are used in connection with the 72-hour emergency mental health procedure.	

BILLS OPPOSED

SB16-006 ***Health Insurance Exchange Insurance Brokers**** The bill requires the Colorado health benefit exchange (exchange) to establish a system to refer consumers to qualified insurance brokers to enroll consumers in health benefit plans.	***HB16-1015*** ***Contingent Repeal Health Insurance Laws Aligning With ACA*** The bill adds an automatic repeal to certain provisions in the state health insurance laws that is triggered if the comparable federal law requirement under the Affordable Care Act (ACA) is repealed by congress and approved by the president
	SB16-162 ***Medicaid Recipient Access To Medical Professionals*** The bill amends the Medicaid statute so that the prohibition on charging Medicaid recipients for medical services applies only if the medical provider is enrolled in the Medicaid program.

BILLS MONITORED

SB16-027 ***Medicaid Option For Prescribed Drugs By Mail**** For persons receiving medical assistance, the bill allows the option to receive through the mail prescribed medications used to treat chronic medical conditions.	***HB16-1065*** ***Income Tax Credit For Home Health Care*** The bill creates an income tax credit to assist a qualifying senior with seeking health care in his or her home.
HB16-1097 ***PUC Permit For Medicaid Transportation Providers*** The bill creates a new category of limited regulation carriers that allows providers of nonemergency transportation to Medicaid clients to operate under a limited regulation permit from the public utilities commission.	
SB16-135 ***Collaborative Pharmacy Practice Agreements**** The bill allows a health benefit plan to provide coverage for health care services provided by a pharmacist if the pharmacist meets specified requirements.	
HB16-1336 ***Study Single Geographic Area Individual Health Plans*** The bill directs the commissioner of insurance to study the impacts and viability of creating a single geographic rating area, consisting of the entire state, for purposes of determining premium rates for individual health benefit plans.	

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***Indicates the bill has passed through General Assembly and is still awaiting action from the Governor.**

Workforce and Scope of Practice

Considering the state's budget deficit, bills that addressed workforce and scope of practice often carried bipartisan support and fared quite well this session, similar to the 2015 session. Two of three bills CRHC was supporting in this category passed, including one bill that CRHC spearheaded as the leading organizational supporter.

HB16-1142 Rural & Frontier Healthcare Preceptor Tax Credit, was developed out of preceptor roundtables facilitated by CRHC over four years. The roundtable discussions included stakeholders from Colorado institutions of higher education that offer rural track healthcare training programs, with the goal of identifying common strategies for increasing rural rotations with preceptors. One proposed solution, a tax incentive for rural preceptors to help offset the costs of their voluntary mentorship, is similar to legislation passed in Georgia.

The bill ran unsuccessfully last year, with CRHC taking a much more active support role in the 2016 session. CRHC facilitated stakeholder meetings, developed numerous outreach and educational materials, testified in committee hearings, and participated in direct and grassroots lobbying to support the bill's passage. It took the entire six months of session for the pre-filed bipartisan sponsored bill to pass through the General Assembly, passing through the House 51-13 and the Senate 28-7. This exciting legislation will serve as a model for the rest of the country in addressing rural healthcare workforce shortages, and CRHC will continue to take an active role in the legislation, developing outreach and education materials about implementation, and tracking utilization as a means of possible expanding the credit at the end of the two year sunset.

Another win for workforce is HB16-1160 Sunset Surgical Assistants Surgical Technicians. The bill came as a response to recent controversies surrounding a Colorado surgical technician who potentially exposed patients to blood borne illness. Similar stories flooded the media, prompting the legislature to tighten regulations around the discipline. The bill continues requirements that surgical technicians and surgical assistants register with the director of the division of professions and occupations in the department of regulatory agencies. The bill also requires registrants take a drug test and submit their fingerprints to local law enforcement for purposes of a criminal background check.

CRHC also monitored a handful of workforce bills. HB16-1047 enacts a medical licensure compact with participating regional states. The legislation was introduced as a means to address workforce shortages, especially in rural areas, while the CRHC PLC voiced concerns the legislation may negatively affect patient volumes because of increased competition. HB16-1054 End-of-Life Options for Terminally Ill Patients, a bill that would have authorized individuals with terminal illness to request medication to hasten their death, was introduced in both the Senate and the House.

Workforce & Scope of Practice

Colorado Rural Health Center | Official

BILLS SUPPORTED	
PASSED	**NOT PASSED**
HB16-1142 Rural & Frontier Health Care Preceptor Tax Credit For income tax years commencing on or after January 1, 2017, but prior to January 1, 2020, the bill offers an income tax credit in the amount of $1,000 to a health care professional who provides a preceptorship during the applicable income tax year.	***SB16-078 Assisted Living Facilitator Competency Requirement*** The bill requires an operator of an assisted living facility to ensure that the administrator of the facility completes 30 credits of continuing competency every 2 years.
HB16-1160 Sunset Surgical Assistants Surgical Technicians* The bill continues the requirement that surgical technicians and surgical assistants register with the director of the division of professions and occupations in the department of regulatory agencies.	
BILLS OPPOSED	
None.	
BILLS MONITORED	
HB16-1047 Interstate Medical Licensure Compact The bill enacts and authorizes the governor to enter into an interstate compact with other states to recognize and allow physicians licensed in a compact member state to obtain an expedited license, enabling them to practice medicine in Colorado or another member state.	***HB16-1054 End-of-life Options For Terminally Ill Individuals*** The bill enacts the Colorado End-of-life Options Act (act), which authorizes an individual with a terminal illness to request, and the individual's attending physician to prescribe to the individual, medication to hasten the individual's death.
HB16-1034 Emergency Medical Responder Registration Program* The bill changes the name of first responders to emergency medical responders and creates a registration program for the emergency medical responders in the department of public health and environment (CDPHE).	***HB16-1201 Health Professionals Companion Animals*** The bill addresses medical professionals, patients, and companion animals.
HB16-1101 Medical Decisions For Unrepresented Patients An attending physician or his or her designee (physician) may make health care treatment decisions as a patient's proxy decision-maker.	

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	***HB16-1280* Update Air Ambulance Regulation** The bill removes direct references to CAMTS accreditation as the necessary and sufficient condition for Colorado licensure and substitutes a regulatory structure in which CAMTS accreditation is one of a number of factors considered by the department of public health and environment in its licensing decisions.	
	***SB16-134* Professional Licensing For Military Veterans** The bill requires the Colorado department of public health and environment (CDPHE) to consider crediting a military veteran's training, education, and experience toward the qualifications for certification as an emergency medical service provider.	
	SB16-158* Physician Duties Delegated To Physician Assistant The bill clarifies the duties that a physician may delegate to a physician assistant (PA) within his or her scope of practice.	
	***Indicates the bill has passed through General Assembly and is still awaiting action from the Governor.**	

Transparency & Reporting Requirements

The issue of transparency was addressed by both Democrats and Republicans this session, but with no clear concept of how to define or accomplish it. Much of the legislation intended to address transparency was controversial or left PLC members with too many unanswered questions. As such, CRHC did not take any active support or oppose positions on any legislation addressing transparency or reporting requirements.

HB16-1374 Required Notice & Disclosures Freestanding ERs was a controversial bill that morphed throughout the session. As introduced, the bill would have required freestanding emergency rooms to post signage throughout the facility indicating the services may not be covered by an individual's insurance program, and also that a facility fee may be charged. Moreover, the bill required medical providers to tell patients whether or not their condition is considered life-threatening and their options for seeking care elsewhere. The bill, while intended to help consumers avoid large medical bills and fees not necessarily communicated before treatment, the bill was rife with potential EMTALA violations in that it may have discouraged patients from seeking care. Amendments were added to the legislation, transforming the bill into a study about how to best communicate the intended use and potential costs of care in a freestanding emergency room. The amended bill would have required DORA to convene a stakeholder meeting to assess public education about primary care and freestanding emergency rooms, costs and fees associated with various venues of health care, and the potential need for a certificate of need for freestanding emergency rooms.

While the PLC voiced support for continued consumer education and transparency about healthcare costs, but a lack of freestanding emergency rooms in rural Colorado coupled with the potential EMTALA violations prompted PLC members to take a monitor position on the legislation.

SB16-120 Information to Prevent Medicaid Bill Fraud, passed this session, requires HCPF to develop an explanation of benefits for Medicaid enrollees to help them review their services and identify errors or fraudulent claims. The materials will be provided online or by mail every other month. Again, while the PLC expressed support for Medicaid enrollees to access in understanding their services, the legislation puts the burden on the consumer to pour through complicated medical bills as a means to avoid fraud. The PLC agreed such tasks would be better served by HCPF and medical facilities.

Transparency & Reporting Requirements

Colorado Rural Health Center | Official Bill

BILLS SUPPORTED	
PASSED	**NOT PASSED**
None.	
BILLS OPPOSED	
None.	
BILLS MONITORED	
HB16-1081 ***Obsolete Reporting Dept. Health Care Policy & Financing*** The bill repeals certain requirements of the department of health care policy and financing (department) and other providers.	*SB16-139* ***Waiver Proposal Total-cost-of-care Model Hospitals*** The bill directs the Colorado commission on affordable health care to develop a proposal under any applicable federal law to enable the state to modify the system for reimbursing hospitals located in certain rural areas of the state for treating Medicare and privately insured patients.
SB16-127 ***Repeal Medical Clean Claims Task Force*** The bill repeals the Medical Clean Claims Transparency and Uniformity Act.	*SB16-002* ***Health Exchange Voter Approval To Impose Tax*** The bill directs the Secretary of State to submit an initiative to the voters in 2016 on the Colorado Health Benefit Exchange for taxes to support its operations.
HB16-1277 ***Appeal Process For Changes To Medicaid Benefits*** The bill requires the department of health care policy and financing (state department) to give a Medicaid recipient a 20-dayadvance notice if medical assistance benefits are being suspended, terminated, or modified, (intended action) unless certain conditions are met.	*HB16-1374* ***Required Notice & Disclosures Freestanding ERs*** The bill requires a freestanding emergency room that provides emergency services in a facility, charges a facility fee, and is not attached to a hospital to post notices throughout the facility indicating that the facility is an emergency room that provides emergency services to treat emergency medical conditions.
SB16-120 ***Review By Medicaid Client For Billing Fraud**** The bill requires the department of health care policy and financing (department), by a certain date, to develop and implement an explanation of benefits for Medicaid recipients.	
***Indicates the bill has passed through General Assembly and is still awaiting action from the Governor.**	

Sustaining Rural Healthcare

In line with the strategic goals of CRHC, legislation addressing the long-term sustainability of rural healthcare was a definite priority this session. Healthcare policy was caught in the deep web of the state budget deficit, TABOR and the Hospital Provider Fee. The Governor's budget announcement early in the session set the stage for discussions around amending TABOR and/or the Hospital Provider Fee to pay for the growing state Medicaid budget while balancing priorities like education and transportation. Colorado has one of the most vibrant economies in the country, but tax spending limitations via TABOR and the growing Hospital Provider Fee collection increasingly impacting state spending and has set the stage for state budget cuts for years to come. A shrinking state budget means increased competition for funding, pitting vital services like education, healthcare and transportation against each other.

Considering changes to TABOR can only be introduced via a statewide ballot initiative, members of the General Assembly rallied to make changes to the Hospital Provider Fee. The provider fee is assessed on hospitals by the state via various quality measures, and the resulting revenue from the federal match dollars are used to cover the uninsured by expanding eligibility for Medicaid and CHP+. The provider fee also increases the amount that providers are reimbursed for treating patients enrolled in Medicaid.

The collection of the fee goes into the state general fund, where it then is used to draw a federal match. While the provider fee is a valuable funding source for hospitals, its collection dollars in the General Fund count against TABOR limits for collecting tax revenue, even though the fee is used only to garner a federal match. In an effort to free up more spending for other programs, the Governor proposed a cut to the fee's total General Fund collection, resulting in a cut to the federal matching dollars.

The fee and its federal match are especially important to rural facilities, as rural Colorado has higher enrollees of public insurance than urban. Lower reimbursement rates for public insurance in the face of Medicaid expansion has meant rural providers have been asked to do more with less. The provider fee, much like the Medicaid primary care "bump," have become essential for rural healthcare facilities to stay financially sustainable in the face of healthcare transformation.

HB16-1420 Colorado Healthcare Affordability & Sustainability Enterprise and its companion bill HB16-1421 Allocate Addition FY 2016-17 General Fund Reserves, served as the legislative mechanisms to move the collection of the fee from the General Fund and transforms the collection revenues into a state-run enterprise. Much like a publically owned parking garage, the enterprise fund would be used solely for the collection of the assessed fees and the allocation of the federal matching dollars. HB16-1421 then directs the allocation of the dollars that would then be freed up for education and transportation projects.

Democrats viewed the bill package as a fix in the "glitch" of the fee, claiming it should have been an enterprise fund to begin with. Republicans viewed the bill package as an assault on TABOR and conservative fiscal policy. Debate began long before the legislation was introduced. The bill passed through the House on party lines, with the exception of three rural Republicans, J. Paul Brown, Don Coram and Bob Rankin, voting in favor. All three legislators voiced support for the rural healthcare facilities and voted in favor of the conversion, regardless of serious backlash from their party.

It is also important to note that the legislation did garner one Republican Senate Sponsor, Larry Crowder, who bucked his party from the beginning in order to support the fee and rural healthcare.

Senate President Bill Cadman was much less welcoming to the legislation, refusing to even introduce it to the chamber until three days before session end date. HB16-1420 was luckily granted a Finance Committee Hearing, which allowed the wide variety of advocates the opportunity to speak in favor of the legislation. Healthcare professionals and advocates, business leaders, transportation and education advocates and Colorado citizens lined up to speak at length about the significance of the legislation. And while efforts to reach rural decision makers proved successful, it was not enough to pass the legislation. No one spoke in opposition of the bill. HB16-1420 failed on party lines in the committee and was postponed indefinitely.

The PLC voted early in the session to support legislation converting the fee to an enterprise. CRHC worked with the Colorado Hospital Association, among other partners, to ensure the rural perspective was considered throughout the bills journey in the legislature. CRHC developed letters of support and rallied grassroots lobbying support to directly connect with rural legislators.

The failure of the Hospital Provider Fee legislation served as a seemingly sad end to the session. However, considering the party makeup of this year's General Assembly and the upcoming elections, its failure did not come as a surprise. Luckily, coalitions were built, legislators were educated, and the ground has been laid to address this issue in the future.

The election will paint a new picture for the 2017 session, and n CRHC will continue to work internally and with partners to strategize solutions to supporting the long-term sustainability of rural healthcare.

Sustaining Rural Healthcare

Colorado Rural Health Center | Official Bill

BILLS SUPPORTED

PASSED	NOT PASSED
HB16-1408 ***Cash Fund Allocations For Health-related Programs*** The bill modifies the allocation of cash fund revenues to various health-related programs.	***HB16-1420*** ***CO Healthcare Affordability & Sustainability Enterprise*** The bill creates the Colorado healthcare affordability and sustainability enterprise as a type 2 agency and government-owned business within the department of health care policy and financing (HCPF) for the purpose of participating in the implementation and administration of a state Colorado healthcare affordability and sustainability program on and after July 1, 2016, and creates a board consisting of 13 members appointed by the governor with the advice and consent of the senate to govern the enterprise.
SB16-094 ***District Public Health Agency Costs By County*** The bill allows the boards of the county commissioners to select the county that shall serve as treasurer of the district if the combined population of the counties is 4,000 or fewer.	***HB16-1421*** ***Allocate Additional FY 2016-17 Gen Fund Revenues*** Contingent upon the passage of legislation (the CHASE Act) that eliminates the hospital provider fee at the end of fiscal year 2015-16, the bill allocates certain funds.
	SB16-081 ***Rural Economic Emergency Assistance Grant Program*** The bill creates the rural economic emergency assistance grant program (program) within the department of local affairs (department) for the purpose of disbursing emergency-based grant funds to rural communities experiencing significant economic events.

BILLS OPPOSED

None.

BILLS MONITORED

HB16-1409 ***Unclaimed Prop Fund Transfer For State Programs*** The bill sets up a transfer to be used to implement the adult dental benefit for the fiscal year 2016-17. The bill also clarifies that any amount from the trust fund that is credited to the adult dental fund or the general fund constitutes fiscal year spending for purposes of the state constitution.	***SB16-136*** ***Broadband Deployment*** The bill modifies the law respecting a local government's provision of television service, telecommunications service, or advanced service, which is defined as high-speed internet access greater than 256 kilobits per second services.

***Indicates the bill has passed through General Assembly and is still awaiting action from the Governor.**