EPIC

August 2016

COLORADO CHAPTER
American College of Emergency Physicians®

FROM THE PRESIDENT

Reimbursement Updates from Colorado ACEP—

The Good the Bad and the Ugly

by David Friedenson, M.D. FACEP

We'll start with the bad news. The Colorado Legislature updated Medicaid physician reimbursement this year and targeted decreased payments for Emergency Medicine surgery and inpatient hospital care. This all stems back to 2012 and passage of "Obamacare" which reimbursed states to increase Medicaid coverage and reimbursement at rates equivalent to Medicare to entice PCPs to take more medicaid patients. As we've seen, there hasn't been an increase in timely access to primary care for Medicaid patients except in the ED. Obamacare stopped 100% reimbursement of Medicaid expansion to states last year and the budget crunch under Tabor led the legislature to cut $20 billion from the Medicaid budget. For many groups in Colorado, this represents about a 5% overall reimbursement cut compared to last year though it could be worse or better depending on the Medicaid population in your area. Colorado's Health Insurance Exchange also went bankrupt last year so about 80,000 patients unfortunately went back to being uninsured this year as well. Another negative adjustment to emergency medicine reimbursement is the increase in patient co-pays, co-insurance and deductibles. While many patients have insurance, they are responsible for up to 50% of the cost of each visit and may be responsible for the first $12,000 of expenses in a given year. The new "Self Pay" patients are actually insured, their insurer just provides inadequate coverage.

For many groups in Colorado, this represents about a 5% overall reimbursement cut compared to last year.

On the bright side, our regular self pay population has decreased by half or even two thirds for some groups over the last three years, mostly replaced by Medicaid. Most ED groups have figured out how to pass PQRS via claims submitting and a few are dipping their toe in the CEDR, developed in conjunction with ACEP. Many groups have figured out how to be more efficient in their time and space through the use of PAs, APNs and scribes in addition to improving through put with models like provider in triage, RME areas, and appropriate guideline based decreased imaging.

At both the federal and state legislative levels, we've spent the year fighting legislation that would have drastically

President's Letter continued on page 2

INSIDE:

EPIC

Colorado Chapter
American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

"The mission of the Colorado Chapter, American College of Emergency Physicians is to serve as the primary organization in the State of Colorado representing the specialty of Emergency Medicine, promoting the interests and values of emergency physicians, and supporting quality emergency medical care."

CHAPTER OFFICE

Colorado ACEP
10465 Melody Drive #101
Northglenn, CO 80234
Phone: 303-255-2715
Fax: 303-255-2704
Email: bburgess@estreet.com

www.coacep.org

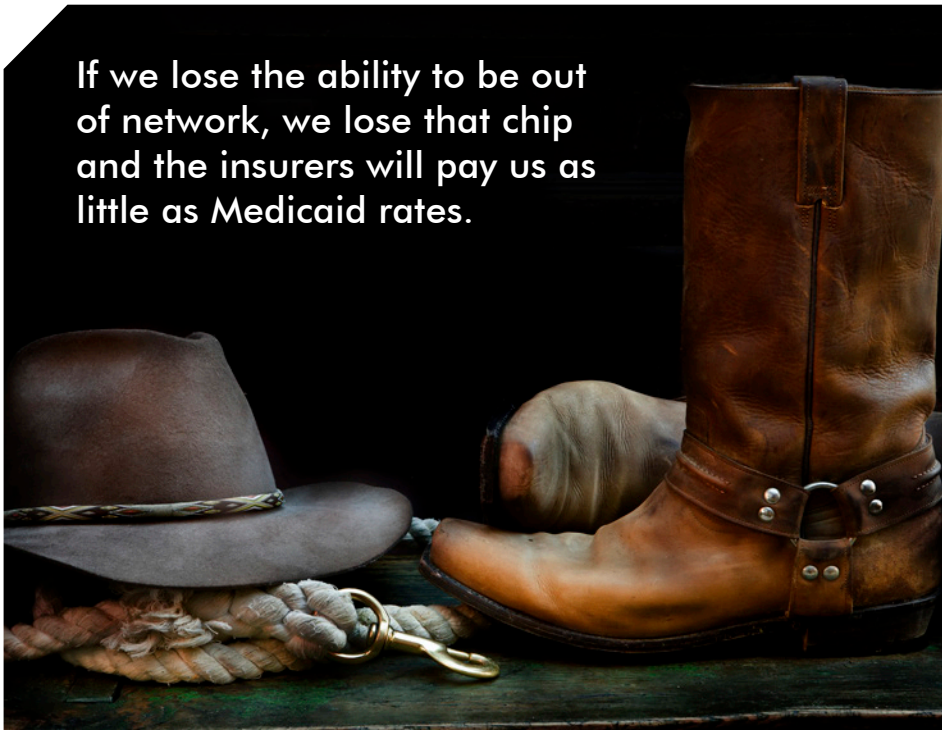
President's Letter continued from page 1

decreased our reimbursement from insurers. They attempted to pass and continue to try to pass legislation and regulations that would allow insurers to reimburse physicians whatever they feel is appropriate, as low as Medicare or even less. Colorado ACEP and members of the board have provided testimony at hearings and sat on physician advisory groups and committees to prevent such regulations from going through but have also worked to protect patients from being stuck with surprise bills. From all the press reports, you may not realize that in Colorado, insurers are actually responsible for the balance of the bill when a patient sees a physician for out of network emergencies. They of course don't tell the patient this so patients complain and it makes the physicians look like the bad guy. We continue to work towards legislation that would strengthen the current laws and regulations.

Why is it important to protect your right to go out of network or be non-contracted with an insurer? Insurers play all kinds of games with physician groups. They have been caught repeatedly cheating physicians. They underpay physicians by as little as dimes and as much as 50% and hope physicians don't notice. They also delay payment with records requests, denials for minor reasons or even denials just for the sake of denying. When insurers refuse to abide by their contracts, physician groups have only one option after fighting these battles. They can cancel the contract which results in higher payments from the insurance companies and ultimately, drives the insurer back to the negotiating table for fairer rates and compliance terms. If we lose the ability to be out of network, we lose that chip and the insurers will pay us as little as Medicaid rates.

Colorado ACEP will continue to fight for your reimbursement and patient protections so we can continue to provide the safety net care at the highest quality for our patients.

Thanks for your time and participation. **E**



JOIN US

Symposium at the ART Hotel

Colorado ACEP is Proud to Announce The **Seventh Annual Symposium on Emergency Medicine**

Friday, September 16th, 2016 is your opportunity to enjoy a day of fun and education with the members of the Colorado Chapter of the American College of Emergency Medicine. The Symposium will be held at the extraordinary *ART* Hotel in Denver. Previous symposia have been met with enthusiastic reviews. This year's program promises to be inspiring. The program includes:

- *Pediatric Emergency Medicine Myth*s presented by **Genie Roosevelt, MD**
- *What's new in ultrasound: applications you can be doing right now?* presented by **John Kendall, MD**
- *Opioids: Modern Medicine's Greatest Folly & How to Revolutionize Our Treatment of Pain in the ED.* presented by **Don Stader, MD**
- *Intubation without Perspiration: Avoiding Hypoxia in Airway Management* presented by **Mike Overbeck, MD**

In addition, our two keynote speakers, and Colorado ACEP Alumni, are Stephen Wolf, MD and Chuck Cairns, MD. Stephen, the host of the first symposium, returns to Colorado to present *Rapid Guideline Review: 2016 ACEP Clinical Policies-tPA, TIA & Peds Fever.* Chuck, Dean of the University of Arizona College of Medicine – Tucson, returns to Colorado to reprise his role as the moderator of the *Colorado Emergency Medicine Research Forum.* We also have a special lunchtime speaker.

Lunch and CME is included with the registration price. Discounted hotel rooms are available.

Location: The ART Hotel • 1201 Broadway • Denver

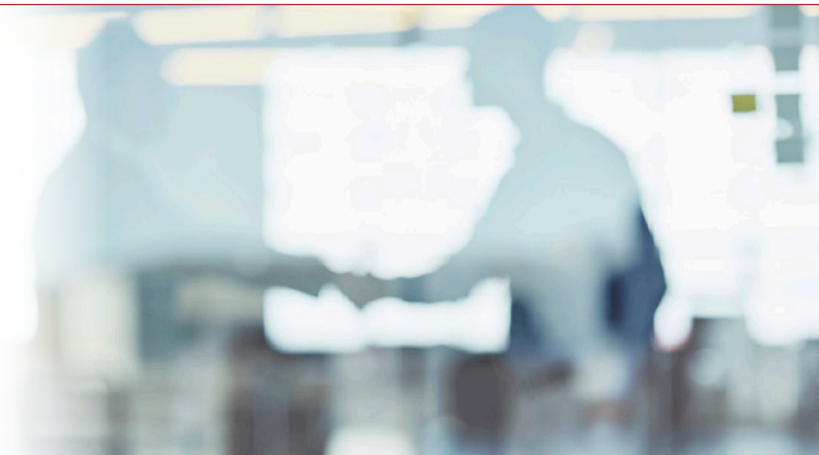
Date: September 16, 2016 • Time: 8:00am - 3:30pm

To Register or for more information CLICK HERE

UPCOMING
COLORADO ACEP MEETINGS

- SEPTEMBER 14
- NOVEMBER 9

CO ACEP Meetings will be held at
COPIC/CMS Headquarters at 7351 Lowry Blvd.
1:00 - 3:00 pm • Lunch/Networking 12:00 - 1:00 pm



Leadership & Advocacy Conference

LAC Conference Testimonial: It WAS That Great

By Cara Bergamo, MD

The American College of Emergency Physicians (ACEP) hosts an annual conference in Washington, DC called the Leadership and Advocacy Conference (LAC). For those that are unfamiliar with LAC, it is a four day gathering of EM providers that addresses leadership topics and the current national issues facing Emergency Medicine. It has quite the reputation. Immediately upon my decision to attend LAC this year, I had multiple EM physicians approach me and tell me how amazing the conference was for them and their understanding of the intricacies of practicing EM. They commented that they would recommend it for anyone currently working as a physician in an ED. Needless to say, I had my doubts. How could it be *that* great?

From day one, however, it *was* that great. The information provided throughout the conference was applicable to all that attended, from myself, a young, EM resident physician relatively new to health policy and advocacy to those that have already found their place in the EM national spotlight. It provided fundamental knowledge of the current state of our specialty and then funneled our newfound awareness and energy into visiting our local congressmen and women at the state Capitol to voice our opinions on current legislation. The conference did not stop at the policy aspect of advocacy, but also spent a day focused on being an adequate leader, applying the advice to EM in a large hospital system or in a small ED setting.

Unlike some other business matters that occur in DC, LAC lived up to its expectations. I would recommend this conference to any EM provider that is able to attend next year.

The benefits of attending the conference continued beyond the classroom environment. Due to LAC's relatively small size (~600 people), the ability to meet local and national leaders was readily available. It was very exciting to make new connections and realize that most of our current leaders are very approachable. As a resident, this was an invaluable experience as most of the time it seems like complete strangers are making the big decisions that dictate my professional career while I am trying to survive as a resident and feel powerless to help. Now, I feel I have a baseline understanding of the people and processes in place to keep EM the amazing specialty that it is.

Unlike some other business matters that occur in DC, LAC lived up to its expectations. I would recommend this conference to any EM provider that is able to attend next year (Dates: March 12-15, 2017). Go with the anticipation that you will be provided the most up to date information on the current state of EM, and leave with new friends, newfound confidence in your ability to advocate for your patients and yourself, and the ability to lead others in doing so as well. **E**

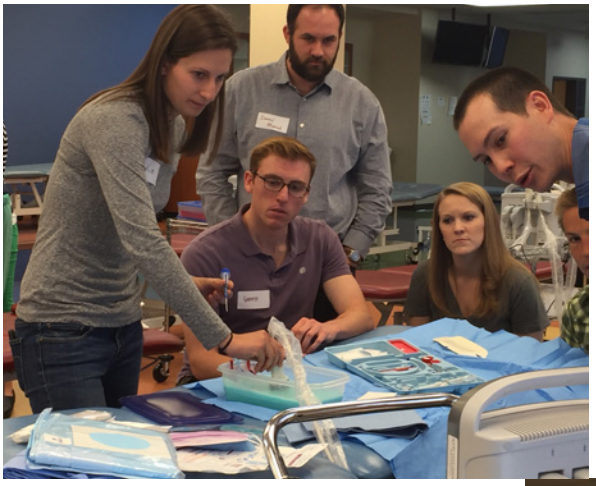
First Emergency Medicine Boot Camp

By David Ross, DO FACEP

Director, Rural & Wilderness Medicine Honors Track
Associate Director, Military Medicine Track
Assistant Professor of Specialty Medicine
Rocky Vista University College of Osteopathic Medicine

On Saturday, April 23, 2016, Rocky Vista University College of Osteopathic Medicine (RVUCOM) held the first, of what is hoped to be annual, Emergency Medicine (EM) Boot Camp. This was an all-day conference aimed primarily at third year medical student attendees desiring to obtain an emergency medicine residency position before graduation.

The Boot Camp was conceived and developed by two second year osteo-pathic medical students, Danika Evans, Adam Olson and Daniel Morrad, a first year student. The idea was to better prepare mostly third year students before they embark on emergency medicine audition rotations. The training was also offered to some 2nd year students.



Additionally, invitations were extended to 2nd and 3rd year students interested in emergency medicine at the University of Colorado School of Medicine. Unfortunately, another previously scheduled event for students at CU that day precluded their participation in the EM Boot Camp this year.

Financial assistance was needed to fund the EM Boot Camp. A course outline and a grant proposal request were drafted by Ms. Evans, Mr. Olson and Mr. Morrad for consideration by the Colorado ACEP Board of Directors. On March 9, 2016 following a verbal presentation by Mr. Olson, the Board of Directors kindly agreed to award a grant of $1,000 for the Boot Camp.

Three 4th year RVUCOM students, Graham Kerher, Renee Sanders and Brian Russ, who had previously matched into different EM residency programs, outlined to attendees the pathways they took that to reach their residency goals. A lecture on trauma management was provided by Keasha Kuhnen, DO from the UC Health System in Fort Collins. A presentation was made by Jamie Dhaliwal, MD, one of the Chief Residents in EM at Denver Health, regarding the benefits of EMRA and ACEP membership for students. This was supplemented by Don Stader, MD, from Swedish Medical Center and a COACEP Board Member. Finally, Gannon Sungar, DO, another Denver Health EM Chief Resident, discussed strategies to maximize a student's performance on an EM audition rotation.

Later in the afternoon, a variety of skills stations were available to students. These included central line placement with, and without, ultrasound guidance, lumbar puncture, airway management techniques, suturing and knot tying, general ultrasound imaging techniques, abscess drainage, digital blocks and intraosseus line placement. Guest faculty included the above mentioned physicians and 4th year RVUCOM students, along with Resa Lewiss, MD, University of Colorado School of Medicine, Doug Hill, DO, North Suburban Medical Center, Jack Dillon, MD, recently retired from the Penrose/St. Francis Healthcare System, Colorado Springs, and David Ross, DO, RVUCOM.

Twenty-five students attended the conference. The vast majority of these were 3rd year students which was the primary target audience for the Boot Camp.

Survey evaluations of the course were uniformly positive. RVUCOM is extremely grateful to the COACEP Board of Directors for the financial and teaching support provided. We would also like to, once again, thank all of our visiting faculty for the great job they did. Finally, the organizing students Danika Evans, Adam Olson and Daniel Morrad deserve credit for their hard work on the project. We look forward to future EM Boot Camp conferences.

Overall 'Win' for Colorado ACEP

2016 End-of-Session Legislative Recap

By Suzanne Hamilton

During the 2016 Regular Session politics overshadowed policy. Because this is an election year, many issues were introduced merely to create a voting record that a candidate will use for campaigning or against an incumbent in the elections. These bills included, but not limited to, abortion, guns, religion and the right to die. Aside from those heated debates, the Colorado General Assembly, once again addressed insurance issues such as out-of network providers, including surprise bills, as well as issues concerning non-physician provider's scope of practice, and the hospital provider fee to name a few. Over 1800 bills were introduced this session. Each bill was reviewed and those impacting the practice of medicine were evaluated and positions were taken so that Colorado ACEP's voice could be heard on those issues.

Following is an overview of some bills on which Colorado ACEP engaged this year as well as a wrap-up of the state budget:

One of the significant bills Colorado ACEP opposed was SB 152, which would have created ambiguity as to the carrier's existing responsibility to pay the out-of-network (OON) physician's bill, made it difficult for physicians to get paid, and would have expanded the value of a lawsuit by creating a private cause of action for plaintiffs against physicians for deceptive trade practices exposing physicians to three times the amount of actual damages (treble damages).

Colorado ACEP, along with various other medical societies, stakeholders and lobbyists worked together in opposing this bill, which was heard on March 16th before the Senate State, Veterans, & Military Affairs Committee. The bill was killed at that hearing by a vote of 3 (Republicans) - 2 (Democrats).

HB16-169 72-Hour Mental Health Hold

This bill was by far the most time consuming proposal for both Colorado ACEP Leadership and lobbyist. The Office of Behavioral Health notified hospitals that they would sue them if the hospitals did not start releasing patients after a 72-Hour Hold regardless of the patient's status. EMTALA and the Department of Public Health and Environment required a patient to be stabilized or transferred to a "designated facility." The Colorado Hospital Association introduced SB16-169 in order to clarify that EMTALA requirements must be adhered to. The bill quickly became a hot-button bill for the mental health community, law enforcement and the ACLU. As the bill slowly worked it's way through the process, and with almost 60 different amendments debated, Colorado ACEP, CMS, COPIC and CAFP worked with CHA to ensure the bill was in the best possible shape. We were able to defeat amendments that would have placed unrealistic requirements on hospitals and especially the physicians in addition to requiring physicians to choose between following Colorado law and EMTALA. Further, some of the amendments would have placed ER physicians, staff, especially those that work in rural hospitals without sufficient security, as well as the public at risk of harm from violent or unstable patients. We recognized that the current system, even with the changes made in 2014 and this year through SB 16-169, did not "fix" the system, but placed in statute some patient protections and more importantly, pulls together a stakeholder group to conduct a

needs assessment and make systemic recommendations along with a budget request as we, the professionals in the facilities with patients placed on a 72-hour hold, believe that a lack of resources is the largest contributing factor to the problems with the current system.

The bill additionally enabled aggregate data collection from hospitals and law enforcement entities in order to gauge the frequency of 72-hour mental health holds. There is an information gap between what the physicians experience and what the OBH believes to be true. In the OBH report to the JBC for 2014-2015 they estimated 106 M-1 holds. Our physicians estimate that number to be but a small fraction of what is actually taking place across the State.

The Governor's office wanted additional patient protections, but with the federal requirements of EMTALA and HIPAA, we believed that patients are receiving the best care possible given the current resources.

The Governor had all of his applicable lobbyists lobbying against us, but we were able to prevail. Unfortunately the Governor had the last word and he vetoed SB16-169. Instead he created a 30-member panel to work on this issue. While several ER physicians applied to serve on behalf of Colorado ACEP, none were appointed. Colorado ACEP will be in attendance at all meeting and will provide input whether we are on the panel or not. This bill will come back again next year.

HB16-1374 Disclosures by Freestanding Emergency Rooms

Colorado ACEP also opposed HB 1374, as introduced would require 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.

The freestanding emergency room must explain the contents of a detailed written statement to each patient, obtain the patient's signature on the document, provide the patient with a copy of the signed document, and maintain the signed document in the patient's medical record.

Any posted language in an emergency department that references going to another facility without screening and treatment at the emergency department likely violates EMTALA. Any posted language that references insurance coverage, for example participating or non-participating providers, also likely violates EMTALA. If a patient leaves the emergency department prior to screening because of the signage and suffers injury from the medical condition, the facility and physicians will be exposed to an EMTALA violation claim, including a malpractice lawsuit and statutory penalties. Colorado ACEP opposed the bill due to concerns about possible EMTALA violations and increased liability. The billed passed through the House with amendments and much controversy, but was ultimately defeated in the Senate State, Veterans, & Military Affairs Committee by a vote of 3 (Republicans) to 2 (Democrats).

SB16-158 Physician Duties Delegated to Physician Assistant

This bill expands how physicians and physician assistants ("PAs") work together within the "Colorado Medical Practice Act" (Act) by clarifying what duties a physician may delegate to PAs within his or her scope of practice, improving access to care in underserved communities within the structure of the "Colorado Medical Practice Act", and by retaining physician supervision and the delegation of PA activities. Colorado ACEP supported this bill, which passed.

HB16-1142 Rural & Frontier Health Care Preceptor Tax Credit

It is vital for the well-being and quality of life that excellent health care be available in all regions of Colorado, including rural and frontier areas which currently suffer from a shortage of primary health care providers. Colorado ACEP supports and encourages training residency programs to assist physicians in rural areas. This bill offers a $1,000 personal income tax credit per year on or after January 1, 2017 (but prior to January 1, 2020) to a health care professional that serves as a preceptor during the applicable income tax year. The tax credit is available to a taxpayer who has practiced his/her primary health field of medicine in a rural or frontier area during the portion of the tax year the credit is being claimed. This bill caps at 300 the number of preceptors that may claim the tax credit for any one income tax year.

HB16-1047 Interstate Medical Licensure Compact

To strengthen access to health care, this bill 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. Colorado ACEP supported this bill that was signed by the Governor.

HB16-1101 Medical Decisions for Unrepresented Patients

This bill addresses the issue of orphan or "unrepresented" patients, i.e. patients without the capability of making their own medical decision and who do not have an interested person (a spouse, parent, adult child, sibling, grandchild, or close friend) who is willing or able to explain the patient's wishes. This bill allows an attending physician or his or her designee to serve as proxy decision-maker [after reasonable efforts to locate an interested person to make medical decisions on behalf of the patient have failed] to make those decisions without being subjected to civil or criminal liability or regulatory sanction for acting as a proxy decision-maker.

The bill also provides protections for patients in defining and limiting the authority of the proxy decision maker. The authority of the physician to serve as the patient's proxy decision-maker terminates in the event an interested person is willing to serve as proxy decision-maker or a guardian has been appointed.

HB16-1360 Continue Regulation Direct-entry Midwives

This bill implements the recommendations of the Department of Regulatory Agencies (DORA) as contained in the sunset review of direct-entry midwives (DEM) with some modifications. Key modifications include while DEMs may not perform any operative or surgical procedure, they may perform sutures of first-degree and second-degree perineal tears and obtain and administer local anesthetics in connection with the sutures procedure. In order to perform first and second degree sutures, the DEM must first apply to the director (Director) of the division of professions and occupations in DORA, pay an application fee, and demonstrate he or she has received approved education and training in suturing within the previous 6 months. Additionally, DEMs are required to sign a disclosure statement acknowledging that he or she does not have liability insurance and must include in the disclosure a statement indicating that, by signing the disclosure, the client is not waiving any rights against the DEM for negligent acts. A copy of the disclosure statement must be provided to each client. Further, if liability insurance is available at an affordable price, the DEM is required to carry such insurance.

Colorado ACEP opposed the expansion of their scope of practice, and with excellent testimony from Dr. Caleb Hernandez was able to get limiting amendments placed on the bill in the House. Unfortunately, the Senate reversed those amendments.

The executive director of DORA is required to convene a working group, consisting of individuals with expertise in risk management and knowledge in the practice of midwifery, to investigate the means to manage risks in the practice of midwifery.

HB16-1420 CO Healthcare Affordability & Sustainability Enterprise – "Hospital Provider Fee"

How it works today: Hospitals pay the fee into a cash program overseen by the Department of Health Care Policy & Financing (HCPF), and Colorado draws down federal matching funds on a 1:1 ratio. These additional dollars are used to support coverage for 382,000 vulnerable Coloradans and increase reimbursements for hospitals, reducing the costs of health care for all Coloradans.

This bill sought to change the program into an enterprise thereby removing it from TABOR caps. The funds would have allowed for dollars to go to transportation and cap at $73M for the Hospital Provider Fee collected, impacting hospitals around the state but allowing for dollars to go to education and beyond.

HB16-1101 addresses the issue of orphan or "unrepresented" patients, i.e. patients without the capability of making their own medical decision and...who do not have an interested person who is willing or able to explain the patient's wishes. This bill allows an attending physician or his or her designee to serve as proxy decision-maker...to make those decisions without being subjected to civil or criminal liability or regulatory sanction for acting as a proxy decision-maker.

CSOM supported this bill, which passed through the House, but failed in the Senate Finance Committee by a vote of 3 (Republicans) - 2 (Democrats).

HB16-1405/HB16-1408 Budget Bill for FY2016-17 (the "Long Bill")

The Long Bill has passed through both the House and the Senate with numerous amendments. Pursuant to the Colorado Constitution, the Legislature balanced the budget. Notable changes to health care were made in HB16-1408. With a significant budget shortfall this year,

($49 million in Medicaid alone) Medicaid reimbursement was cut across the board and rates were rolled back to 2012 reimbursement amounts. This was caused by the expiration of a "bump" intended to increase access to primary care for Medicaid patients. Many physician specialty organizations, in Colorado ACEP, participated in an Alliance to preserve reimbursement. Unfortunately, with the growth of the budget in other areas, the Alliance was only able to find $20 million in the budget to sustain reimbursement.

The Department of Health Care Policy and Financing, which operates the Medicaid program, took some very hard lines on this issue. The Joint Budget Committee chose to prioritize five primary care billing codes to remain at 100% of Medicare, while the rest of medicine was cut, including emergency medical care codes. The Alliance will continue to meet to determine how to increase Medicaid reimbursement for all of medicine in subsequent budgets.

I do not want to end this on a disappointing note so instead I would conclude that this session was an overall win for Colorado ACEP. In an election year, where politics often trumps policy, Colorado ACEP was able to prevail on the vast majority of issues. I want to extend a special thanks to Colorado ACEP leadership, specifically Dr. Dave Friedenson who gave some much of his time working with me on legislation and testifying at the Capitol.

Resident Emergency Medicine Advocacy Day 2016

Colorado Voters to Decide on Amendment 69

Dangerous ballot measure could produce several unintended consequences—and would be nearly impossible to rescind.

By Nathaniel Hibbs, MD, FACEP

Some of you may have heard of or know about Amendment 69 (ColoradoCare Amendment) that will be on the ballot in November. I'm writing this to offer some education on this amendment and reasons why you should care GREATLY about it.

Amendment 69 or ColoradoCare is a movement that has been ongoing for the last decade in some fashion or another. Many of you have seen previous iterations of this ballot measure tried to pass through the state legislature.

This year, however, the group behind this initiative has accumulated over 105,000 signatures of support, enough to place this CONSTITUTIONAL amendment directly on the ballot. What does that mean for us?

If this legislation were voted in, it would be nearly impossible to change or get rid of, as it would be intrinsic to the state constitution.

So the nuts and bolts of this ballot measure are as follows:

1. This is a single payer health care financing system (not insurance)
2. It creates a 10 percent income tax increase (with ability to increase taxes in perpetuity with no oversight)

a. 3.3% personal income tax to everyone + 6.7% employer income tax = 10% income tax for business owners (all non-hospital employed physicians)

b. Everyone is taxed regardless if you live here full time or not

c. These percentages provide the minimum sum of money to create this enterprise, likely these percentages would increase quickly when the money runs out

3. Provides "membership" to the pan for anyone who has lived in CO for 1 year. This applies to being "IN-STATE" only and there are no details on who pays for health care if someone is out of state when they need it
4. The primary supporters are Irene Aguilar, MD (state senator), Jeanne Nicholson, RN (former state senator), League of Women Voters, and Michael Bennet (US Senator)
5. Opposition includes Gov. Hickenlooper, Former Gov. Bill Ritter, Colorado Hospital Association, multiple chambers of commerce, multiple unions, farmers, miners, realtors, insurers, as well as others with interest in health care reimbursement and protecting both small and large business
6. All health care providers (docs, clinics, hospitals, nursing homes, physical therapists, nurses, etc) will be forced to enter a contract where the terms of the contract are unknown
7. Reimbursements are projected to range between a low of Medicaid level payments to a high of 160% of Medicare depending on the tax revenue collected.

Here is a Wikipedia-style description: CLICK HERE

Hopefully this is educational for you. I think that we need to take any opportunities we have to reach out to our colleagues, administrators, patients, friends, and neighbors to educate them on the harms that this ballot measure would impart on our state.

CLICK HERE **for another Amendment 69 article.**

I truly believe that passage of this legislation would lead to a mass exodus of physicians to other states, closure of hospitals, and overall a dramatic decrease in access to health care for the people of Colorado. E