MCH Innovations Database

EVIDENCE-INFORMED POLICY DEVELOPMENT

Colorado Birth Equity Bill Package

Location	Focus Area	Policy Type
Colorado	Preconception/Reproductive Health; Health Equity; Access to Healthcare/Insurance; Service Coordination/Integration	Big P Policy

Target Population
All birthing people in Colorado, especially those of color, and their families.

SECTION 1: POLICY DESCRIPTION

Despite the fact that Americans pay more for their perinatal care than any other nation world-wide, we have some of the worst outcomes. This is true for all birthing people, but especially for birthing people of color, who consistently experience lower quality of care, higher rates of mistreatment and obstetric violence at the hands of their providers, and higher rates of maternal morbidity and mortality. To improve care, human rights must be protected. Even though Colorado ranks mid- to average- in safe birthing indicators, social determinants, like a significant racial wealth gap, are impacting Colorado's families. The pandemic only worsened these inequities.

The Birth Equity Bill Package aims to address these perinatal racial inequities through 2 bills and a sunset bill by: 1) Addressing Structural Inequalities in Perinatal Care, by Aligning Data and Systems for Equity 2) Protecting the Perinatal Period by addressing Maternity Care with a Human Rights approach 3) Supporting the integration of midwifery care through continuing the Direct-Entry Midwifery program.

KEY ELEMENTS & GOALS

The Colorado Birth Equity Bill Package contains multiple bills for a reason. We believe that there is no, single, policy shift that can adequately address the many factors that contribute to harm in our perinatal care system. There are multiple bills, each with different- but united and interconnected- goals, because a multi-pronged and comprehensive approach is necessary in order to begin to change the systems we know aren't working.

We also know that this is only the beginning: Our birth equity policy platform reflects some of our longer-term goals, which extend beyond the three bills that were passed in 2021. Below is a map of our overarching policy goals- many of which, but not all, are encompassed by the Birth Equity Bill Package described above. We have divided our goals up into phases and themes below in order to illustrate the kinds of policy needs (human rights, equity/data/systems, and innovation and quality improvement), as well as an approach for how to sequence these policy changes over time:

PHASE ONE:

Human Rights

- Create a grievance process for obstetric violence and mistreatment during pregnancy and birth (include public reporting)
- Prohibit any licensed facility from having a VBAC ban of any kind
- Amend the advance directives law so that pregnant people aren't excluded
- Increase the statute of limitations for informed consent violations
- Require that licensed facilities allow for every birthing person to have a client identified support person and or Doula to support them in the birth room or operating room, in addition to a partner or spouse.
- Require that licensed facilities have policies and procedures that prevent removal of infants from their families after birth
- Require access for incarcerated folks to childbirth preparation, lactation information/support/pumps, pads and tampons, skin to skin for a minimum of 6 hours after birth (include public reporting of these measures and accountability for the law against use of restraints)

Equity, Data and Systems

- Expand Medicaid coverage postpartum for 1yr+
- Reimburse all Colorado licensed perinatal care providers via Medicaid, including CPMs
- Require acceptance of transfers from community birth of all hospitals/providers
- Improve access to community birth

- Require public reporting of things like, cesarean surgery rates, induced labors, birth outcomes by race & ethnic categories, NICU stays by race & ethnic categories, diagnosed preeclampsia rates by race & ethnicity categories, deaths associated with preeclampsia, distances traveled for care, grievances filed at the facility level
- Require community-based organization representation on Maternal Mortality Review committee

Innovation and Quality Improvement

- Assess systemic failures using existing tools measuring patient experience, including patient experience of racism
- Do a basic income pilot for at-rise pregnant people
- Pilot a program to equitably and sustainably reimburse community-based health providers in a hybrid model
- Eliminate pregnancy warning labels on substances
    - Research indicates that pregnancy warning labels on substances such as alcohol do not correlate with better outcomes, but rather, contribute to punitive environments that make pregnant people less likely to seek out prenatal care or disclose their alcohol consumption (which, in turn, contributes to worse outcomes).

PHASE TWO:

Human Rights

- Create a private right of action for informed consent violations and obstetric violence
- Require malpractice insurance companies to cover VBACs in all settings
- Expand prohibition on restraints to include jails
- Prohibit discrimination against providers and against patient choices

Equity, Data and Systems

- Ensure equitable reimbursement for all perinatal care providers
- Ensure options for birth site are equitable
- Require reporting of data on CNM graduation rates by POC in Colorado
- Track training, recruiting, and hiring of doulas of color and those that reflect their clientele in doula programs that are housed in hospitals
- Adjust network adequacy to require plans include all forms of perinatal care in their networks
- Require hospitals to include community-based representatives on their Governing boards
- Add community-based reps to the Board of Medicine and the Board of Health
- Create a new Perinatal Health Equity Board with majority community-based representatives
- Create provisions that would allow midwives who are indigenous or attending indigenous births to be licensed in any four-corners state
- Increase protections for certain information like: no transmission of drug tests to law enforcement without informed consent, restrict use of phone data by law enforcement for information related to reproductive health care, ensure confidential CAPTA notifications
- Address social determinants of health that impact perinatal outcomes

Innovation and Quality Improvement

- Expand basic income pilot
- Expand community-based reimbursement for hybrid services pilot
- Expand visiting nurse programs
- Expand medication assisted treatment access
- Resource community-based groups as a mental health intervention during the perinatal period

- Resource the Protecting Pregnant People Project as a hub for free, multi-lingual information and resources during the perinatal period
- Promote innovative payment models to incentivize high-quality maternity care and continuity of health insurance coverage from pregnancy through labor and delivery and up to 1 year postpartum.
- Subsidize community-birth malpractice insurance
- Create a midwifery training program at a Colorado community college, college or university, targeting opportunities for midwives of color
- Provide funding to community-based organizations that are working to improve maternal health outcomes for the Black and Indigenous communities.
- Create tax rebates for folks providing perinatal health services in specific geographic areas

EVIDENCE TO SUPPORT THE POLICY APPROACH

This bill package is a community-based response to our maternal health crisis. Although we drew on all of the forms of evidence above in creating this bill package, the key ingredient to its success was community leadership. It was the stories, vision and goals of people who have direct lived experience with giving birth in Colorado, and supporting Coloradan birthing people, that had the greatest impact on our proposal and the development of the three bills in this package. The term "community-based" is used dozens of times in the Momnibus legislation and is an important concept in improving maternal health. It is a term that is used in many disciplines, from social work to public health, healthcare, the arts, design, technology, research and more. Frameworks like "reproductive-justice" and "intersectionality" are also informative and relevant to the use of "community-based" in this context.[1] While there isn't one shared definition, research has demonstrated that "people largely agree about what community is" and that an element of community-based success is making sure people are "empowered to function in ways that are meaningful to their community base."[2] Doulas and midwives, especially midwives who attend people in community-birth settings, are often considered "the key" to addressing the U.S. maternal health crisis.[3] This bill package was not developed by a health system's policy staff or professional association's lobbyist. It was developed by people rooted in community and people who don't gain from maintaining the status quo or aren't financially invested in the status quo. It is inspired by and driven by people who have direct experience with community-birth, as well as midwives and doulas. It is the kind of work that the Momnibus seeks to support in both form and content. This video provides an in-depth discussion of our process, and the ways community members and birth workers were centered within it.

1. *See* L. Ross et. al. Eds., Radical Reproductive Justice, (Feminist Press 2017).
2. KM MacQueen et al. "What is community? An evidence-based definition for participatory public health." Am J Public Health. 2001;91(12):1929-1938. doi:10.2105/ajph.91.12.1929
3. *See* Nora Ellmann, "Community-Based Doulas and Midwives: Key to Addressing the U.S. Maternal Health Crisis," Center for American Progress, April 14, 2020. Available at: https://www.americanprogress.org/issues/women/reports/2020/04/14/483114/community-based-doulasmidwives/

HEALTH EQUITY

Families of color, Indigenous families, undocumented families, families who are experiencing poverty, LGBTQIA+ families, parents who use drugs, and parents who have been impacted by incarceration and/or over-policing and surveillance are especially vulnerable to the health inequities that this bill package aims to address. Although families who do not hold these identities or experiences experience better perinatal outcomes (namely wealthy, white families), even their outcomes are comparatively poor when considering those that exist in other geographic contexts. Our bill package aims to improve the quality, outcomes, and accountability mechanisms across the spectrum of perinatal care, benefitting all birthing people in Colorado.

Structural change is necessary in order to begin to address the multiple ways in which our perinatal care system is failing Colorado families. The same conditions exist across the country so we offer this Colorado-based example as a model for other state policy platforms to advance birth justice. As far as we know this is the first-ever state-level policy platform for birth equity. We use the term "birth equity" because these provisions aim to structurally address inequities that lead to poor outcomes, human rights violations, and system failures. Systemic changes like extending Medicaid coverage from two months to one year postpartum, enhancing protections for informed consent throughout the perinatal period and requiring hospitals to include community-based representatives on their governing boards, are just some of the ways in which our bills address the structural problems contributing to poor outcomes. However, it was also important to us that our bill reach, and benefit, people who are giving birth outside of the hospital system. Our package includes sweeping reforms that aim to expand access to midwifery care and doula care—two forms of perinatal care that historically have had better outcomes for birthing people. We also included provisions that will support future bills and work in this area. Our package places a heavy emphasis on data collection and reporting mechanisms because we knew from the outset that this proposal was just the beginning, and that it is one step forward among many, paving the way for future systemic transformation down the line.

SOCIAL & POLITICAL CONTEXT

This bill is in direct response to our perinatal health crisis, which is intrinsically connected to America's long history of entrenched, systemic, racism throughout our healthcare system. We cannot understand the racist disparities in perinatal health outcomes as separate from the broader context of over-policing and hyper-surveillance of BIPOC communities in general. Our bill proposal aims to address key points throughout the perinatal care process where we see systemic racism getting in the way of birth equity. We also placed a special emphasis on incarcerated pregnant and birthing people in our proposal as a way of ensuring that our reforms reach people who are currently being impacted by this social and political context. Our bills also came in the midst of the COVID-19 pandemic, which made racist disparities across the healthcare spectrum especially glaring. Growing awareness about both the urgency and the interconnectedness of these health crises- COVID and systemic racism- facilitated the development of the bill package.

Regarding the political appetite for this bill, we were approached by three members of the Black Caucus who were motivated by data about racist inequities in perinatal health and wanted to act.

They felt they could get the votes from their party members, and knew we had been engaged in years of community building/organizing around these issues. It was a great partnership. This was also the session following the 2020 protests and calls for racial equity, and a year into the pandemic. Health equity had traction, and it felt like there was clear political will to act. In order to get COPIC Insurance on board, we had to agree to remove a provision that extended the statute of limitations for bringing a medical malpractice complaint/complaint alleging obstetric violence. This was a major concession. We would like future legislation to create more avenues for accountability for obstetric violence and obstetric racism. Above we have listed our long-term goals (many of which were not in the bills but are aspirations for future bills).

PARTNER ENGAGEMENT

This bill was led by people who have direct lived experience with birth in Colorado, whether through their own journeys into parenthood or through professional experience supporting birthing people throughout the perinatal period, or both. Our bills are the result of decades of listening- and belonging- to a community of parents, midwives, doulas, and birth justice advocates here in Colorado. Their stories, vision and goals are at the core of the bill's provisions and goals. While much of this process was done through in-depth conversations, circles and gatherings across the state over the course of many years, we also disseminated a survey as part of our process, getting responses from 77 birth equity leaders around the state, a majority of whom identified as BIPOC perinatal professionals and parents, and asked them what they thought the biggest issues were that needed to be addressed. The survey results were consistent with the stories and priorities that came up again and again in the course of our work and provided additional data to support our proposals.

Partner	Role in Development Process	Structure of Engagement
Birthing People & Parents	Leaders: Identifying ways in which the system fails birthing people in general, and birthing people of color in particular. Identifying policy solutions that would expand options within, and improve the quality of, perinatal care.	Birthing people & parents were the key stakeholders throughout this process in that it was their stories, vision and goals that generated the impetus to draft these bills, the knowledge and expertise that shaped their provisions, and the momentum to get them passed.
Midwives	Leaders: Identifying ways in which the system fails birthing people in general, and birthing people of color in particular. Identifying policy solutions that would make the system more responsive to the wants and needs of birthing people.	Midwives and community birth workers were essential stakeholders in that they could provide technical expertise and essential insight into the system, and its alternatives. They also played an essential role in connecting community members (clients and former clients) to the bill drafting process, as well as the advocacy around it.

Doulas	Leaders: Identifying ways in which the system fails birthing people in general, and birthing people of color in particular. Identifying policy solutions that would expand options for families & hold systems accountable for failing to honor the dignity and autonomy of birthing people.	Doulas were essential stakeholders in that they could essential insight into the ways in which the system fails to support birthing people and honor their visions, and the ways in which the system denies equitable and dignified wages to doulas and other community birth workers. They also played an essential role in connecting community members (clients and former clients) to the bill drafting process, as well as the advocacy around it.
Birth Justice Advocates	Listeners: Gathering community perspectives and providing technical expertise to turn that community vision into a policy proposal that achieves their goals.	Birth justice advocates provided technical expertise into the legislative drafting process and helped to craft a series of bill proposals that responded directly to the needs and goals identified by the stakeholders above throughout the bill visioning process.
Elected Representatives	Advocates: The Black Caucus and the Democratic Caucus were pivotal in building support among Coloradan legislators.	Elected officials played an important role in championing the package and building support and momentum within the CO state legislature.
Hospital Systems, Health Insurers, and Providers	Advocates and Listeners: They were included as stakeholders but not in the development of the bills and that was deliberate because we needed solutions that were not going to replicate the status quo.	We have partnered with them in advocacy around the bills and their implementation. For example, we have formed the CO Safe Transfers Coalition as one of the implementation efforts coming out of the passage of the bill and it is co-convened by physicians and midwives and it is intentionally multidisciplinary.

SECTION 2: CONSIDERATIONS FOR FUTURE POLICY DEVELOPMENT

LESSONS LEARNED

What makes our package unique, and we believe what makes it successful, is that it is 1) community led and 2) comprehensive. We believe that sweeping reform, stemming from the lived experience and goals of people who have been directly impacted, is the most promising path forward toward birth equity. A major lesson that we have learned since passing this legislation is that it is equally important to have community leadership and involvement at the implementation stage as it is at the policy development stage. This looks like creating new pathways for community leadership over the monitoring and implementation of the bills through coalitional work, task forces and data collection, but also in the very task of defining what community leadership looks like in this specific context. Elephant Circle partners with several community-led coalitions and taskforces (such as the Safe Transfers Coalition, Birth Equity Implementation Taskforce and Direct Entry Midwives Taskforce, for example) that work together in order to create systems for data collection and monitoring mechanisms that are genuinely accessible and which provide meaningful data about the landscape of birth equity in the wake of passing the bills.

FUTURE CHANGES

General

- Those seeking to replicate should consider funding sources for the work, especially given the number of hours that go into adequate stakeholder engagement.
- Consider the unique political and social context of your state when adapting this policy package.
- Think about the practical elements of implementing the policies within your local jurisdiction (e.g., accountability measures, evaluation, funding, etc).
- There are some measures that will be implemented that are specific to the state of Colorado (of course), so those will have to be changed slightly if another state would like to implement this policy.

Health Equity

- Since this policy was rooted in the specific needs of a community located in Colorado, it would be beneficial to see if those needs are similar to the needs of other birthing people in other states. Personal accounts of birthing people, doulas, and midwives in other states should be explored before replicating this policy effort.

Partnership/Advocacy Efforts

- Consider engaging health insurers, hospitals, health departments and other stakeholders that would be impacted by the policies to ensure successful implementation of the policies.

- Cultivate champion lawmaker(s) and stakeholder(s) who can move the policy forward in the legislative process.
- An effort this large requires a significant level of relationship building and time dedicated to cultivating trusted partnerships with the community and people with lived experience.

FUNDING

This work grew out of necessity and determination and was not fully funded when we decided to dive in, regardless. Nonetheless, The Groundswell Birth Justice Fund has given us general operating support for many years and was our first foundation champion. Private individual donations and foundation grants have also been critical in supporting this work.

ADDITIONAL RESOURCES

1. Birth Equity Bill Package – Summary
2. Inspiration for Birth Equity Legislation
3. Birth Equity Bill Package Panel
4. What is "Community-Based?"
5. Elephant Circle's Resource on CO Birth Equity Platform

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