



Riker Danzig Health Care Update May 31, 2018

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New Jersey State: Selected Proposed and Adopted Legislation

- S. 2480 – Introduced – Provides nursing home residents with the right to timely respond to certain complaints, concerns, or requests.
- S. 2389 – Introduced – Requires New Jersey State Board of Pharmacy to establish prescription drug pricing disclosure website and certain pharmaceutical manufacturing companies to provide prescription drug price information.
- S. 2432 – Introduced – Permits recovery of certain medical expenses as an uncompensated economic loss in a civil action for damages arising from an automobile accident.
- S. 2405 – Introduced – Requires health insurance coverage and limits cost-sharing for certain birth control methods.
- S. 2457 – Introduced – Deletes prior authorization requirements by certain insurers for accessing certain health care services.
- S. 2471 – Introduced – “Uncompensated Pending Medicaid Beneficiary Payment Relief Act”; provides compensation relief to nursing facilities when resident’s Medicaid eligibility determination is delayed more than 90 days.
- S. 2460 – Introduced – Authorizes visiting advanced practice nurses who are not certified by endorsement in New Jersey to engage in the limited practice of prescribing medications and devices, if they have appropriate educational qualifications.
- S. 2144 – Amended/Substituted – called the “New Jersey Insurance Fair Conduct Act,” the bill seeks to curb, among other things, unreasonable delays and/or unreasonable denials of claims for payment of benefits under insurance policies by creating a civil right of action for individuals affected thereby.
- S. 160 – Amended/Substituted – Requires firearms seizure when certain health professional determines

patient poses a threat of harm to self or others.

- A. 3380/S. 1877 – Amended/Substituted – Called the “New Jersey Health Insurance Market Preservation Act,” the bill imposes requirements similar to the individual mandate of the Patient Protection and Affordable Care Act in requiring all taxpayers and dependents of that taxpayer, if an applicable individual, to have minimum essential coverage for each month and assessing penalties for failure to be so covered.
- A. 3379/S. 1878 – Amended/Substituted – Called the “New Jersey Health Insurance Premium Security Act,” this bill establishes health insurance reinsurance plans.
- A. 3769/S. 2427 – Introduced – Requires DOH to license certain qualifying hospitals to provide full service diagnostic cardiac catheterization, primary angioplasty, and elective angioplasty services.
- A. 1709 – Amended/Substituted – Called the “Revised State Medical Examiner Act,” it establishes the Office of the Chief State Medical Examiner in DOH.

Federal: Selected Proposed and Enacted Legislation

- S. 2678 – Introduced – Directs the Secretary of Health and Human Services, acting through the Director of the Center for Substance Abuse Treatment of the Substance Abuse and Mental Health Services Administration, to publish and disseminate best practices for operating recovery housing, and for other purposes.
- H.R. 5453 – Introduced – Amends the Public Health Service Act in relation to requiring adrenoleukodystrophy screening of newborns.
- H.R. 5594 – Introduced – Amends the Controlled Substances Act to clarify the eligibility of certain community mental health centers to register for purposes of the practice of telemedicine, and for other purposes.
- H.R. 5598 – Introduced – Amends the Public Health Service Act to require certain disproportionate share hospital covered entities under the 340B drug discount program to submit to the Secretary of Health and Human Services reports on low-income utilization rates of outpatient hospital services furnished by such entities.

Federal: Selected Proposed and Adopted Regulations

- 83 FR 16440-01 – Adopted – This final rule revises the Medicare Advantage program (Part C) regulations and Prescription Drug Benefit Program (Part D) regulations to implement certain provisions of the Comprehensive Addiction and Recovery Act to further reduce the number of beneficiaries who may potentially misuse or overdose on opioids while still having access to important treatment options.
- 83 FR 16930-01 – Adopted – This final rule sets forth payment parameters and provisions related to the risk adjustment and risk adjustment data validation programs; cost-sharing parameters; and user fees for

Federally-facilitated Exchanges and State Exchanges on the Federal platform.

- 83 FR 14391-01 – Proposed – The Secretary of the Department of Health and Human Services is proposing to amend the National Vaccine Injury Compensation Program Vaccine Injury Table to include vaccines recommended by the Centers for Disease Control and Prevention for routine administration in pregnant women.

Federal/Other State Litigation

- Pediatrix Medical Services Inc., a national pediatric services provider, recently sued Aetna Inc. in Texas state court and Florida federal court, alleging that Aetna engaged in a systematic scheme to pressure and manipulate medical providers to reduce claims payments. According to the Texas suit, Aetna has sought reimbursement of payments for services it says weren't medically necessary or were coded at a higher than appropriate level of care and threatened to sue Pediatrix over the disputed bills. For more information, see [Magella Medical Associates Billing Inc. et al. v. Aetna Inc. et al.](#), Case No. DC-18-05324, in the District Court of Dallas County, Texas, and [Pediatrix Medical Group of Florida Inc. et al. v. Aetna Inc. et al.](#), Case No. 18-cv-60908, in the U.S. District Court for the Southern District of Florida.
- An Illinois federal judge recently released Advocate Medical Group (“AMG”) and one of its staffers from a False Claims Act whistleblower suit filed by a former medical resident of Advocate Christ Medical Center (“Advocate Hospital”) finding that the payment restrictions the relator accused the staffer of violating do not apply to assistant-at-surgery services provided by physicians' assistants. The court, however, allowed many of the claims to move forward as against Advocate Hospital and some staff members related to their alleged practice of charging the government for operations performed by assistants. For more information, see [U.S. ex rel. Ailabouni et al. v. Advocate Health and Hospitals Corp. et al.](#), Case No. 1:13-cv-01826, in the U.S. District Court for the Northern District of Illinois.
- A Rhode Island federal judge recently rejected Blue Cross & Blue Shield of Rhode Island's motion for summary judgment in an antitrust suit brought by Steward Health Care System, finding a trial necessary to determine if Blue Cross' decision to remove Woonsocket, Rhode Island-based Landmark Medical Center from its provider list and its negotiating stance with the Cerberus Capital Management-owned Steward was an attempt to keep Steward out of the Rhode Island market by preventing it from buying the in-receivership Landmark. For more information, see [Steward Health Care System LLC et al. v. Blue Cross & Blue Shield of Rhode Island](#), Case No. 1:13-cv-00405, in the U.S. District Court of Rhode Island.
- A Delaware health care laboratory services startup recently filed an antitrust and fraud lawsuit against LabCorp and one of the state's Medicaid service management organizations, AmeriHealth, claiming AmeriHealth conspired to make LabCorp the state's only Medicaid lab service provider at the expense of patients. Plaintiff seeks an injunction requiring AmeriHealth to grant plaintiff “in-network” status. For more

information, see [Prescient Medicine Holdings LLC v. Laboratory Corporation of America Holdings et al.](#), Case No. 1:18-cv-00600, in the U.S. District Court for the District of Delaware.

- The Texas Supreme Court recently denied North Cypress Medical Center Operating Co. Ltd.'s (the "Hospital") bid to overturn a lower court's order that the Hospital's insurance reimbursement rates be disclosed in a lawsuit brought by an uninsured patient who alleged she was overcharged for treatment. The Supreme Court rejected the Hospital's argument that because the patient didn't have private health insurance or Medicare or Medicaid benefits, the confidential and proprietary contracts and reimbursement rates negotiated between the Hospital and various carriers aren't even relevant. For more information, see [In re North Cypress Medical Center Operating Co. Ltd.](#), Case No. 16-0851, in the Supreme Court of Texas.

In the News

- California recently introduced a bill, Bill No. 3087, to its state assembly that seeks to create a state commission that would cap health care costs by setting prices for hospital stays, doctor's visits and other commercially-insured medical services. While the bill has the backing of several major unions, many physician groups and the California Medical Association have raised significant concerns over government intrusion in the market.

The list above does not include every proposed or adopted legislation, litigation or guidance document that may impact the health care industry. Instead, it includes only a select few chosen by the authors, and any information in this Update is not intended to provide legal advice. If you are concerned that a proposed or adopted legislation, litigation or guidance document may impact your practice, then you should seek legal advice. We send these Updates to our clients and friends to share our insights on new developments in the law. Nothing in this Update should be relied upon as legal advice in any particular matter. © 2018 Riker Danzig Scherer Hyland & Perretti LLP.

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