

Health Law Vitals - A Healthcare Newsletter from Haynes and Boone, April 2017

By Neil Issar, Suzie Trigg | April 27, 2017

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The Latest on Alternative Payment Models

The Medicare Access and CHIP Reauthorization Act of 2015 provided, among other things, an opportunity for eligible providers to earn incentives for providing high-quality, efficient, and coordinated care, including a five percent annual payment for participating in advanced alternative payment models.

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Department of Justice Continues to Scrutinize Medicare Advantage Plans

Medicare Advantage plans have been the target of a number of False Claims Act cases in recent years. In those cases, private whistleblowers – mostly former employees – have alleged that some of the nation's largest insurance companies have systematically overbilled the Medicare program.

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New Era for Patient Privacy Laws: SAMHSA Updates 30-Year-Old Rule on Confidentiality of Patient Records

Over the past two decades, healthcare has transitioned from primarily fee-for-service payment models to coordinated care that encourages and rewards collaboration and electronic exchange of patient information to improve health outcomes. Now, after more than 30 years, the Substance Abuse and Mental Health Services Administration chose to update its regulations on confidentiality of patient records, 42 CFR Part 2, in order to facilitate the exchange of health information while addressing the privacy concerns of substance use disorder patients.

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The Tide in Texas is Turning Toward Telemedicine

As reported in the September 2016 and February 2017 issues of *Health Law Vitals*, Texas and other states are responding to the growing utilization of technology in the delivery of health care, with lawmakers passing and amending state laws related to telemedicine and telehealth. At the federal level, the Trump administration also appears to favor advancement of telehealth technology, and Senators Cory Gardner (R-CO) and Gary Peters (D-MI) recently introduced a bill that would expand Medicare's coverage of telehealth services by permitting eligible hospitals, through the Center for Medicare and Medicaid Innovation, to test the effect of including telehealth services in Medicare health care delivery models.

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Healthcare Establishments in California are Subject to New Workplace Violence Requirements

Effective April 1, 2017, California became the state with the strictest workplace violence requirements in the nation for healthcare employers. Title 8 of the California Code of Regulations Section 3342 outlines California's attempt to protect employees working in healthcare and reduce the number of injuries suffered by employees from violent acts. The new regulation applies to California health facilities, as defined in the regulation, which includes various hospitals and nursing facilities; home health care and home-based hospice; drug treatment programs; outpatient medical offices and clinics; and emergency medical services and medical transport, among others.

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Supply Chains Make Final Preparations as FSMA Transportation Rule Goes Into Effect

Only one day before the compliance date for the FDA's final Rule on Sanitary Transportation of Human and Animal Food (the "FSMA Transportation Rule"), the FDA issued long awaited waivers that clarify the scope of exemptions to the Rule. The waivers reflect the FDA's response to industry concerns that retail food establishments would be required to comply with additional regulations even though they are already subject to rigorous regulatory oversight by state and local authorities.

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