

Health Law Vitals - A Healthcare Newsletter from Haynes and Boone, May 2016

By Jennifer S. Kreick, Phong Tran | May 5, 2016

RELATED PRACTICES OSHA, Healthcare Transactions and Regulatory, False Claims Act and Qui Tam Defense, Health Privacy (HIPAA) and Healthcare IT, Life Sciences, Healthcare and Life Sciences

[*Click here to view the May 2016 Health Law Vitals Newsletter PDF.*](#)

[OCR HIPAA Guidance for Mobile Health Developers](#)

With the recent increase in health information technology, developers in this area are finding themselves facing a web of complex federal and state regulations and are often left with more questions than answers. However, the cost of hiring legal advisors and experts to help untangle this web can be insurmountable for some individuals and startup companies. An interactive web platform released by the U.S. Department of Health & Human Services Office of Civil Rights (“**OCR**”) could help those trying to navigate some of these difficult issues [Read more.](#)

[New Reimbursement Requirements for Telemedicine Services in School Settings](#)

On April 15, 2016, the Texas Health and Human Services Commission (“**HHSC**”) adopted a Medicaid rule clarifying that physicians must be reimbursed for telemedicine services provided in school-based settings, if certain conditions are met (the “**Rule**”). The Rule becomes effective on May 15, 2016. The Rule implements HB 1878, which was passed during the 84th Legislative Session. The Rule has been adopted amidst the recent support and expansion of telemedicine services as a method of increasing children’s access to medical care. [Read more.](#)

[OSHA’s Focus on Workplace Violence in the Healthcare Industry](#)

The Occupational Safety and Health Administration (“**OSHA**”) has taken a special interest in workplace violence and more specifically in patient interactions in the healthcare field. Two Haynes Boone employment lawyers attended the American Bar Association (“**ABA**”) Occupational Safety and Health Law Conference in March 2016. One of the panels focused entirely on “Workplace Violence in Healthcare,” addressing the advisory guidelines issued by OSHA regarding workplace violence in the healthcare setting and OSHA’s use of its General Duty Clause to fine employers and enforce its workplace violence guidance. [Read more.](#)

[Developments in the PPACA Contraceptive Coverage Controversy](#)

Under the Patient Protection and Affordable Care Act of 2010 (“**PPACA**”), non-grandfathered group health plans subject to the PPACA’s plan design mandates must provide a number of preventive services without cost sharing when the services are received in-network by a covered participant. The inability for a plan sponsor to engage in significant cost shifting and maintain grandfathered

status has led to the number of grandfathered plans steadily dwindling over time.

[Read more.](#)

[U.S. Supreme Court Reviews the FCA Implied Certification Theory](#)

On April 19, 2016, the U.S. Supreme Court heard oral arguments in *Universal Health Services, Inc. v. United States ex rel. Escobar*. The case will decide the fate of the “implied certification” theory of False Claims Act (“**FCA**”) liability. Normally, a defendant violates the FCA by submitting a false claim for payment to the United States. Under the implied certification theory, however a defendant may violate the FCA if it submits a proper claim for payment but nevertheless fails to comply with all governing statutory, regulatory, or contractual requirements that are conditions of payment.

[Read more.](#)