

BRI Legislative Update March 2022



Recent State and Federal Legislative Activity

Most state legislatures are in session this Spring and many of them are considering legislation that could impact medical students, the practice of medicine, and the doctor-patient relationship. For example:

- [Legislation](#) in California would have all but eliminated private health insurance and replaced it with a single-payer state-run system. Fortunately, the legislation failed to gain enough support and is now dead. Incidentally, there is a very interesting [battle](#) waging within the American Medical Association over single-payer health care
- [Legislation](#) signed into law last year adds Ohio to the Interstate Medical Licensure Compact, which is an alliance of states that allows physicians to practice medicine in multiple states under one license. The Compact strengthens the doctor-patient relationship by allowing the practice of medicine to occur where the patient is located at the time of the physician-patient encounter, all the while being under the jurisdiction of the state medical board where the patient is located.
- [Legislation](#) in New Jersey would provide an income tax credit to health care workers, including medical students, who were directly involved and assisted in the treatment of patients with COVID-19.
- [Legislation](#) in New York would require anti-bias training for every medical student in the state, including course work and competence evaluation.
- [Legislation](#) in the U.S. House of Representatives would increase the cap on graduate medical education payments for residency slots.

The Benjamin Rush Institute is currently monitoring these and other bills that potentially impact medical students, the practice of medicine, and the doctor-patient relationship. If you learn about important legislation that BRI should track, please reach out to Brian Williams at brian@benjaminrushinstitute.org. If you are

interested in contacting your state legislature about these or other legislative proposals, or if you need help identifying your federal or state representatives and senators, reach out to Brian for assistance. Below, there is a list of helpful state legislature websites, as well as the 2022 state legislative calendar.

Surprise Billing Update

A federal judge has [ruled](#) in favor of physicians who sued against the federal government's new surprise medical billing arbitration rules. "Surprise" medical billing can happen unexpectedly when a patient's insurance doesn't cover all the services or procedures from multiple providers (for instance, at a hospital). The new [rules](#), which went into effect on January 1, stipulate that if surprise medical bills go to arbitration, the arbiter must use the median in-network insurance rates as a starting point, before considering other information like the physician's experience. U.S. District Court Judge Jeremy Kernodle ruled that CMS did not follow the underlying statute (which does *not* stipulate the median in-network rate as a standard) when they implemented the new regulations. The federal government did not immediately say whether the court's decision would be appealed. There are several [similar lawsuits](#) from physicians and hospitals challenging the new law.

The surprise billing rules also require physician practices to provide a good faith estimate of expected charges, in order to avoid "surprise" billing situations. The rule does not explicitly exempt direct primary care (DPC) practices from the good faith estimate rule. Of course, DPC practices typically charge patients a flat monthly or annual fee, under terms of a contract, in exchange for a broad range of medical care services. In other words, there should be no surprises at a DPC practice. Therefore, BRI does not believe the rule should apply to DPC practices and we are hoping the Department of Health and Human Services will clarify the regulation, to include a specific exemption for DPC practices.

PBM Probe

On a tie 2-2 vote, the Federal Trade Commission (FTC) deadlocked about whether to investigate the business practices of pharmacy benefit managers (PBMs). If you recall from the recent [BRI Virtual Event Series with Antonio Ciaccia](#), the role of PBMs in today's health care system has significantly changed over time. PBMs are supposed to find the equilibrium among all the different drug prices, using negotiation and other market tactics. However, the largest PBMs (such as CVS Caremark and Express Scripts) are now dispensing prescription medication, which may have undermined—or at least significantly changed—their financial incentives. The FTC investigation would have presumably called for federal antitrust action to regulate PBMs, a heavy-handed approach that caused the two Republican commissioners to vote against the investigation. Rep. Buddy Carter (R-GA) is an outspoken critic of PBMs, as is Rep. John Rose (R-TN), both of whom are working on a legislative remedy.

Nevada	Not in Session									
New Hampshire	Jan 5-Jun 30					Unofficially Adjourned				
New Jersey	Jan 11-Jan 2023									
New Mexico	Jan 8-Feb 17									
New York	Jan 5-Jan 2023									
North Carolina				May 16-Jul 8						
North Dakota	Not in Session									
Ohio	Jan 3-Dec 31									
Oklahoma		Feb 7-May 26								
Oregon		Feb 1-Mar 7								
Pennsylvania	Jan 4-Nov 18									
Rhode Island	Jan 4-Jan 2023									
South Carolina	Jan 11-May 31					Unofficially Adjourned				
South Dakota	Jan 11-Mar 28									
Tennessee	Jan 11-Apr 21									
Texas	Not in Session									
Utah	Jan 18-Mar 4									
Vermont	Jan 4-May 6									
Virginia	Jan 12-Mar 13									
Washington	Jan 10-Mar 18									
West Virginia	Jan 12-Mar 12									
Wisconsin	Jan 11-Dec 31									
Wyoming		Feb 14-Mar 11								

State Legislature Websites

State	Website URL
Alabama	http://www.legislature.state.al.us/
Alaska	http://w3.legis.state.ak.us/
Arizona	http://www.azleg.gov/
Arkansas	http://www.arkleg.state.ar.us/
California	http://leginfo.legislature.ca.gov/
Colorado	http://www.leg.state.co.us/
Connecticut	https://www.cga.ct.gov/
Delaware	http://legis.delaware.gov/
Florida	http://www.leg.state.fl.us/
Georgia	http://www.legis.ga.gov/
Hawaii	http://www.capitol.hawaii.gov/
Idaho	https://legislature.idaho.gov/
Illinois	http://www.ilga.gov/
Indiana	https://iga.in.gov/
Iowa	https://www.legis.iowa.gov/
Kansas	http://www.kslegislature.org/
Kentucky	http://www.lrc.ky.gov/

Louisiana	http://www.legis.la.gov/
Maine	http://legislature.maine.gov/
Maryland	http://mgaleg.maryland.gov/
Massachusetts	https://malegislature.gov/
Michigan	http://www.legislature.mi.gov/
Minnesota	https://www.leg.state.mn.us/
Mississippi	http://www.legislature.ms.gov/
Missouri	http://www.moga.mo.gov/
Montana	http://leg.mt.gov/
Nebraska	http://nebraskalegislature.gov/
Nevada	http://www.leg.state.nv.us/
New Hampshire	http://www.gencourt.state.nh.us/
New Jersey	http://www.nileg.state.nj.us/
New Mexico	https://www.nmlegis.gov/
New York	http://assembly.state.ny.us/
North Carolina	http://www.ncga.state.nc.us/
North Dakota	http://www.legis.nd.gov/
Ohio	https://www.legislature.ohio.gov/
Oklahoma	http://www.oklegislature.gov/
Oregon	https://www.oregonlegislature.gov/
Pennsylvania	http://www.legis.state.pa.us/
Rhode Island	http://www.rilin.state.ri.us/
South Carolina	http://www.scstatehouse.gov/
South Dakota	http://sdlegislature.gov/
Tennessee	http://www.legislature.state.tn.us/
Texas	http://www.capitol.state.tx.us/
Utah	http://le.utah.gov/
Vermont	http://legislature.vermont.gov/
Virginia	http://viriniageneralassembly.gov/
Washington	http://leg.wa.gov/
West Virginia	http://www.legis.state.wv.us/
Wisconsin	http://legis.wisconsin.gov/
Wyoming	http://legisweb.state.wy.us/