HEALTHCARE LAW UPDATE

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STATE UPDATE

Deadline Fast Approaching for Medical Practices to Have Accessible Diagnostic Equipment—Is Your Practice Ready?

On July 8, 2024, the Department of Health and Human Services (HHS) implemented new accessibility requirements for medical diagnostic equipment (MDE) used by all public and private entities receiving HHS funding, including Medicare and Medicaid participants. These requirements apply to doctors, dentists, hospitals, clinics, emergency rooms, and other health care providers that receive HHS funding and use MDE to provide healthcare services. MDE includes, but is not limited to, examination tables, examination chairs for eye or dental exams and procedures, weight scales, mammography equipment, x-ray machines, and other radiological equipment commonly used for diagnostic purposes by health professionals.

Highlights of the New Requirements:

- Effective July 8, 2026, all HHS-funded entities that use exam tables and weight scales must have at least one accessible examination table and one accessible weight scale that conform to the U.S. Access Board standards for accessible MDE.
- If an HHS-funded entity purchases, acquires, or leases MDE after July 8, 2024, the MDE must meet applicable accessibility standards until the entity satisfies the required threshold for its equipment inventory.
  - For most healthcare settings that utilize MDE, including physician offices, hospitals and outpatient entities, the threshold is at least 10% of each type of MDE in use in the facility (but no fewer than one unit) must meet the accessibility standards.
  - For entities specializing in the treatment of conditions affecting mobility, such as rehabilitation centers and physical therapy entities, the threshold is at least 20% of each type of MDE in use in the facility (but no fewer than one unit) must meet the accessibility standards.
- Entities must ensure they have staff trained to operate the accessible MDE.
- Entities must ensure they have staff trained to assist patients with disabilities in transferring to the accessible equipment and positioning them on the equipment.

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New Jersey Pharmacy Owner Sentenced to Prison For $2.5 Million Medicare Fraud Scheme

On April 17, 2026, the United States Attorney's Office, District of New Jersey, announced that a former New Jersey pharmacy owner was sentenced to two years in federal prison after pleading guilty to a health care fraud scheme to defraud Medicare. From December 2019 to December

2021, the individual used his Paterson pharmacy to submit fraudulent claims to Medicare totaling roughly $2.5 million for the costly medication Dificid, despite never purchasing or providing the medication to patients. As the Medicare beneficiaries were never actually prescribed Dificid, the pharmacist fraudulently used health care providers' unique provider numbers to submit and support the false claims. The pharmacist used the illicit proceeds for luxury purchases and personal expenses. Along with the prison sentence, the pharmacist was ordered to repay more than $2.5 million and complete two years of supervised release.

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Medical Aid in Dying Act Implemented in New York State

Health care providers across New York State are now grappling with implementation of the Medical Aid in Dying Act (S.138/A.136). Signed into law by Governor Hochul on February 6, 2026, the Act allows terminally ill, mentally competent adults with six months or less to live to self-administer medication to end their lives. The subject of intensive negotiations between the Legislature and Governor Hochul, the Act contains more extensive safeguards than other aid-in-dying laws, including New Jersey's Medical Aid in Dying Act effective since August 2019. Specifically, the Act requires: (i) that two physicians determine that the patient meets the criteria to exercise rights under the law and an evaluation of capacity by a third health care professional who is a psychologist or psychiatrist; (ii) that the patient have the physical ability to self-administer and swallow the medication; and (iii) a five-day waiting period between the time the prescription is written and it can be filled by the patient. The Act protects health care entities and providers from liability and professional discipline if they act or refuse to act in good faith and reasonably in accord with the Act. It bars life insurance companies from denying benefits in cases when a death occurs pursuant to the Act and specifies that the death certificate list the underlying illness as the cause of death, not suicide. The Act becomes effective on August 5, 2026.

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FEDERAL UPDATE

New Federal Student Loan Caps May Impact Healthcare Workforce Pipeline

The U.S. Department of Education recently announced that it has finalized its "Reimagining and Improving Student Education" rule aimed at reducing higher education costs and simplifying student loan repayment. The rule amends the Department's regulations implementing the student loan provisions of the Working Families Tax Cuts Act. Effective July 1, 2026, the rule establishes new annual federal borrowing caps, including $50,000 for "professional" programs and $20,500 for "graduate" programs. Notably, certain healthcare training pathways, such as physician assistant programs and some advanced practice nursing programs, are classified as "graduate" programs rather than "professional," subjecting them to the lower borrowing limit.

Healthcare industry groups have raised concerns that these revised loan caps may limit access to education for prospective providers in high-demand fields. Organizations including the American Academy of Physician Associates warn that reduced borrowing capacity could deter qualified candidates from entering physician assistant programs,

potentially exacerbating existing workforce shortages and affecting patient access to care. Various industry groups have already filed legal challenges to the rule in federal court.

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Bipartisan Bill Targets Prior Authorization and Payment Practices in Medicare Advantage

On April 20, 2026, a bipartisan group of lawmakers introduced the Medicare Advantage Improvement Act of 2026 (H.R. 8375/S. 4384), which would implement significant reforms to the Medicare Advantage (MA) program. The bill responds to longstanding concerns that MA plans may delay or deny medically necessary care, particularly post-acute services such as skilled nursing, through extensive use of prior authorization requirements and retroactive payment denials.

The bill would impose new utilization management standards, including 72-hour turnaround times for standard prior authorization requests, 24-hour timelines for expedited prior authorization requests and appeals, and real-time determinations for certain routine services. The bill would also prohibit MA plans from applying coverage criteria that are more restrictive than traditional Medicare, and would bar retroactive payment denials following prior authorization approval. Additional provisions would require timely payment of claims, mandate that medical necessity determinations be made by appropriately qualified clinicians, and establish a compliance and accountability framework that ties financial penalties and public reporting to a plan's authorization and claims practices.

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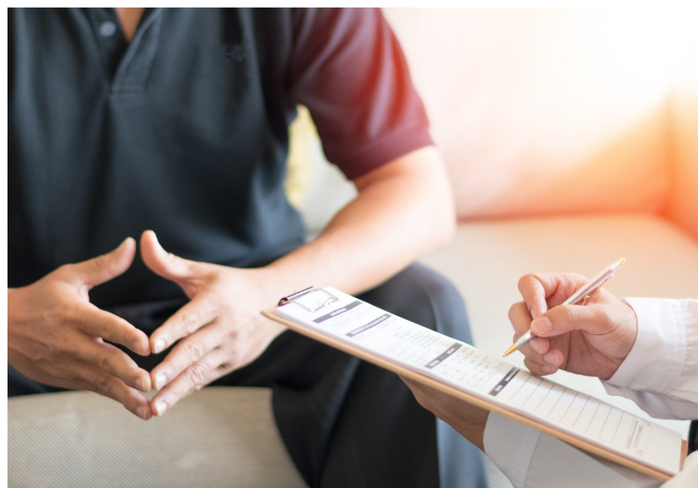

Bill Seeks to Expand Certified Community Behavioral Health Clinics Nationwide

On April 23, 2026, a bipartisan group of lawmakers in the U.S. House of Representatives introduced legislation aimed at expanding access to behavioral healthcare nationwide. The bill, the Ensuring Excellence in Mental Health Act (H.R. 8487), would permanently authorize the Certified Community Behavioral Health Clinic (CCBHC) model and give states the option to implement the model within their behavioral healthcare systems, building on prior federal efforts to expand community-based mental health services.

CCBHCs deliver a comprehensive range of services, including 24/7 crisis response, outpatient mental health and substance use disorder treatment, screening and diagnosis, and care coordination, positioning them as a key component of the behavioral health safety net. The bill would establish a Medicare payment structure for CCBHCs, codify Medicaid reimbursement methodologies, and provide for accreditation standards, grant funding, and enhanced data infrastructure. If enacted, the bill could strengthen reimbursement stability, expand service capacity, and further integrate behavioral health care across community-based providers.

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FTC Launches Task Force to Strengthen Healthcare Oversight

Federal Trade Commission (FTC) Chairman Andrew N. Ferguson recently announced the formation of a new Healthcare Task Force to centralize and strengthen the agency's oversight of the healthcare sector. The task force

will coordinate closely with the U.S. Department of Justice and U.S. Department of Health and Human Services to advance ongoing efforts addressing competition and consumer protection concerns across the industry. In addition to supporting existing enforcement initiatives, the task force is charged with identifying emerging risk areas and shaping future policy and advocacy priorities. The initiative reflects the FTC's continued focus on promoting competition, affordability, and innovation in healthcare, and signals the potential for increased scrutiny of transactions and business practices within the healthcare industry.

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Favorable OIG Advisory Opinion Regarding a Hearing Center's Sublease Arrangements

On April 28, 2026, the U.S. Department of Health and Human Services, Office of Inspector General (OIG) issued a favorable Advisory Opinion (26-08) regarding a physician-owned corporation's proposal to establish a centralized center providing items and services to patients with hearing loss who may be candidates for cochlear implants. As part of the arrangement, the corporation would enter into space and equipment subleases with cochlear implant manufacturers, audiologists, and physicians to fill the center.

Because the physician owner and the sublessees would be in a position to refer patients to one another, the arrangement implicates the federal Anti-Kickback Statute (AKS). However, under the proposed arrangement, the physician-owned corporation would receive only fair market value rental payments for the subleased space and equipment, would not receive any additional remuneration from sublessees, and would not profit from the sublease arrangements. No party would provide remuneration for referrals and there would be no requirement or pressure for the parties to make referrals.

For the following reasons, the OIG found that the proposed arrangement satisfies the AKS safe harbor for the rental of space and equipment:

- Each sublease would be in writing and signed by the parties.
- The agreements would specify the exact premises or equipment covered.
- Any periodic use arrangements would specify the schedule, duration, and rental amounts.
- Each sublease would have a term of at least one year.
- Rental charges would be fixed in advance, consistent with fair market value, and not determined based on referrals or other business generated between the parties.
- The rented space and equipment would be limited to what is reasonably necessary for the arrangement's commercially reasonable business purpose.

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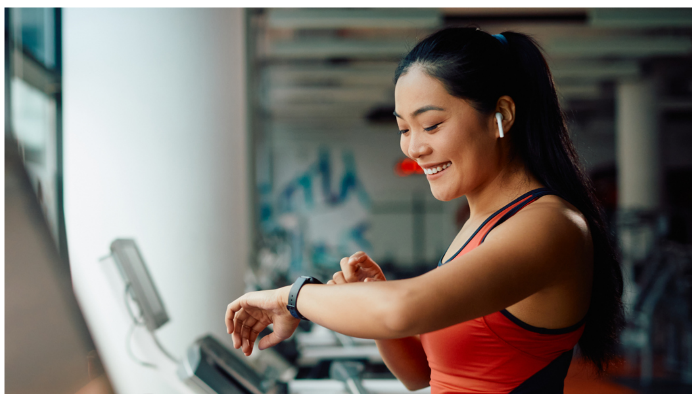

LEGISLATIVE AND REGULATORY UPDATE

Your Fitness Tracker's Secrets: New Bill Targets Wearable Health Data Sales

On May 4, 2026, the New Jersey State Senate introduced Bill No. 4065, which would prohibit technology companies from selling, or offering to sell, health information collected through wearable technology (smart watches, smart rings, fitness trackers, smart eyeglasses, and continuous glucose monitors) unless the consumer gives express written consent. The Bill is intended to give consumers more control over health data generated by wearable devices and to prevent that data from being sold without permission.

Can AI Be Your Lawyer? Proposed Bill Says 'Not So Fast'

On May 4, 2026, the New Jersey State Senate introduced Bill No. 4088, which would apply to people and businesses that develop or deploy generative artificial intelligence in New Jersey and market those tools to the public. The Bill would prohibit advertising or public statements that suggest a generative AI system can practice a profession or occupation which requires an individual to be licensed by the State of New Jersey. For this Bill, generative AI means a data-trained system that can simulate human communication through text, audio, or visuals and produce non-scripted outputs with little or no human oversight. The Bill is aimed at preventing misleading claims that AI can replace licensed or otherwise regulated professionals.

Out-of-Network Labs Could Gain Payment Protections Under New Bill

On May 4, 2026, the New Jersey State Assembly introduced Bill No. 4877, which would require health plans and Medicaid managed care contracts to pay licensed clinical laboratories for covered lab services even when the laboratory is outside the plan's network. The payment rate would have to match the rate paid to an in-network clinical laboratory for comparable services, and health plans and Medicaid managed care organizations could still review whether the services were medically necessary. The Bill would also prohibit the Division of Medical Assistance and Health Services from requiring a licensed clinical laboratory to join Medicaid managed care to receive Medicaid payment.

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HIPAA CORNER

HHS Restructures Office for Civil Rights

On May 18, 2026, the U.S. Department of Health & Human Services (DHHS) announced a restructuring of its Office for Civil Rights (OCR), DHHS's law enforcement agency that oversees laws protecting civil rights, conscience and religious freedom, and health information privacy and security (HIPAA and 42 CFR Part 2 regulations). OCR is now divided into three distinct divisions: the Civil Rights Division, the Conscience and Religious Freedom Division, and the Health Information Privacy, Data, and Cybersecurity Division.

As to data privacy and security, according to the announcement, "[t]he intake and processing of complaints filed with OCR and the review of reported breaches of unsecured protected health information will continue to be handled through an Enforcement Division that supports centralized intake and field office execution." We expect further information about the reorganization through a notice to be published in the Federal Register in June.

If you need assistance with your HIPAA compliance program, an OCR investigation, or a data breach incident, please contact:

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ATTORNEY **SPOTLIGHT**

Get to know the faces and stories of the people behind the articles in each issue. This month, we invite you to meet Member and Healthcare Law Vice Chair **Caroline J. Patterson**, and Counsel **Cynthia J. Liba**.

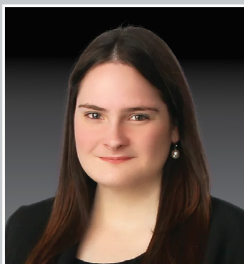
CAROLINE J. PATTERSON

What do you enjoy most about working with healthcare clients?

I enjoy working with healthcare providers. They are highly educated and thoughtful about their objectives and goals. Helping them requires strong communication, adaptability, and empathy. It is very rewarding to gain their trust and help guide them through challenging legal and business issues.

What non legal job or experience prepared you best for a career in the law?

In college, I coached a youth track team. I view it as my initial exposure to so many skills that I would later use as a practicing lawyer: strong communication, patience, leadership, and the challenge (and rewarding feeling) of building trust with others. It also reinforced the importance of preparation, hard work; and being a part of a team.



CYNTHIA J. LIBA

What do you enjoy most about working with healthcare clients?

I enjoy working with healthcare clients because their work has a direct impact on people's lives and communities. Healthcare is a fast-moving, highly regulated industry, which makes the legal challenges both complex and meaningful. It is rewarding to partner with providers and organizations as they navigate growth, innovation, and compliance while continuing to focus on patient care.

How do you help clients balance regulatory risk with business growth?

I approach compliance as part of a client's overall business strategy rather than as a barrier to growth. My goal is to help clients understand the regulatory landscape, identify practical solutions, and make informed decisions that allow them to expand confidently while minimizing legal risk. Strong compliance practices often create a stronger foundation for long-term success.

On May 4, Managing Member and Healthcare Law Chair, John D. Fanburg was named to NJBIZ's "2026 Health Care Heroes List".

On May 7, Managing Member and Healthcare Law Chair, John D. Fanburg participated in a *Legal & Legislative Panel Discussion* at the 16th Annual NJAASC Conference.

On May 9, Managing Member and Healthcare Law Chair, John D. Fanburg presented a *Legal & Legislative Report* at the NJOGS/NJ ACOG/NJ AWHONN 74th Annual Conference.

On May 18, Brach Eichler announced an important transaction representing our client, Simon Eye Holdings, LLC. —"Brach Eichler Serves as Healthcare and Regulatory Counsel to Simon Eye Holdings, LLC in Its Strategic Investment with Brightstar Capital Partners". The team was led by Member and Vice Chair, Caroline J. Patterson and included Counsel, Erika R. Marshall and Associate, Rebecca T. Falk.

On May 18, Healthcare Law Member, Lani M. Dornfeld, issued a client alert entitled "CMS Imposes Nationwide Freeze on New Home Health and Hospice Enrollments".

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