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Healthcare Law Update

BRACH | EICHLER 2027
HEALTHCARE STRATEGY FORUM

Save the Date
APRIL 23–24, 2027

Park Chateau Estate and Gardens
EAST BRUNSWICK, NJ

PLEASE NOTE | This event was formerly known as Brach Eichler's New Jersey Healthcare Market Review. We look forward to seeing you there!

Click here for more details.

State Update

Horizon Agrees to Acquire Summit Health's New Jersey Operations

On October 21, 2026, Horizon Blue Cross Blue Shield of New Jersey (Horizon), through its parent company, Horizon Mutual Holdings, signed a definitive agreement to acquire Summit Health's New Jersey operations, including its CityMD urgent care locations. The transaction, which is subject to regulatory review, is reportedly valued at more than $1 billion and could close by the end of 2026. Horizon stated that the acquisition is intended to preserve access to high-quality care, improve healthcare quality and affordability for its members, and support the continued independence of Summit Health's physicians and clinicians. The transaction represents a significant expansion of Horizon's role in healthcare delivery and another ownership transition for Summit Health, which became part of VillageMD in 2023 before being separated into a standalone business in 2025. Summit Health operates more than 120 locations across New Jersey, New York, and Connecticut, while CityMD operates more than 180 urgent care centers across the region. However, the proposed acquisition is limited to the New Jersey operations of Summit Health and CityMD.

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Hackensack Meridian Health and Hunterdon Health Agree to Merge

On October 20, 2026, Hackensack Meridian Health (HMH) announced that it entered into a definitive agreement with Hunterdon Health (Hunterdon) to join the HMH network. Under the agreement, HMH has committed to invest $230 million in Hunterdon Health, including $200 million for capital projects intended to improve facilities, expand clinical programs, and increase access to care, and an additional $30 million to implement HMH's Epic electronic health record system across Hunterdon, including its hospital, medical group, ambulatory sites, and participating independent physician practices. The agreement also provides for continued local governance, with Hunterdon retaining local board oversight for six years following closing, and Hunterdon's existing leadership continuing to manage day-to-day operations. Hunterdon Medical Center will retain its medical staff leadership, while Hunterdon Medical Group will remain an employment option for physicians for at least five years.

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Federal Update

Proposed Federal Bill Would Restrict Private Equity Ownership of Physician Practices

On September 16, 2026, a group of House and Senate lawmakers introduced the "Stop Corporate Takeovers of Physicians Act of 2026" (S. 5419 / H.R. 10444), which would significantly restrict corporate ownership and control of physician practices. If adopted, the legislation would generally prohibit entities that are not majority-owned and controlled by licensed clinicians from owning or controlling medical practices, employing clinicians or contracting for their professional services, subject to specified exceptions for nonprofit and public healthcare providers and certain hospitals. The bill would also substantially limit the role of management services organizations (MSOs), prohibiting them from owning or financing the acquisition of practice ownership interests, controlling practice sales, receiving dividends from practice ownership, or exercising direct or indirect control over key operational decisions, including hiring, compensation, staffing, revenue disbursement, revenue targets, coding, billing, pricing and payor contracting. Management services agreements would be permitted only if independently negotiated by the practice at arm's length and priced at fair market value. If enacted, these restrictions could fundamentally alter the traditional private equity-backed physician practice model and require significant restructuring of existing MSO arrangements.

The legislation would also strengthen protections for clinicians by prohibiting non-healthcare providers from interfering with clinical judgment, including decisions concerning patient treatment, admission, discharge, referrals, and diagnosis coding. In addition, the legislation would generally render noncompete, nondisclosure and non-disparagement agreements with clinicians void and unenforceable. Noncompetes may remain enforceable if the clinician owns at least 25% of the practice. The legislation remains at the introductory stage, and its ultimate prospects are uncertain. Nevertheless, physician practices, healthcare organizations, and investors should monitor its progress and consider its potential implications when evaluating ownership structures, management agreements, employment arrangements, and prospective transactions.

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DOJ Strengthens Corporate Fraud Enforcement, With Healthcare Fraud Among Its Priorities

On October 1, 2026, the Department of Justice's (DOJ) National Fraud Enforcement Division (Division) issued a directive outlining how it will investigate and prosecute corporate fraud, building on the Division's August 2026 announcement identifying the DOJ's enforcement priorities. Healthcare remains a central focus of the DOJ's fraud enforcement activities, including Medicare and Medicaid fraud, telemedicine schemes, illegal distribution of controlled substances, home health and hospice fraud, and the deceptive marketing of unsafe healthcare products and services. The October directive establishes a more centralized approach to corporate investigations by requiring prosecutors to coordinate with the Division's Corporate Enforcement Section throughout investigations and prosecutions. The directive also advises prosecutors to prioritize specified categories of fraud and give significant weight to factors such as management's knowledge of or involvement in misconduct, efforts to conceal fraud, harm to government-funded programs, schemes lasting three years or more, and losses of at least $25 million or harm to 25 or more victims. In addition, the directive calls for the development of policies and programs to incentivize whistleblowers to report credible information about fraud, including individuals who participated in the misconduct.

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OIG Issues Favorable Advisory Opinion on Hearing Referral Service

On September 3, 2026, the U.S. Department of Health and Human Services Office of Inspector General (OIG) issued a favorable Advisory Opinion regarding a proposed hearing treatment referral service owned and operated by a manufacturer of a handheld ear, nose, and throat (ENT) medical device. Under the arrangement, primary care clinicians, who pay a subscription fee for use of the device, would use the device to examine patients' ears, remove earwax, and conduct an initial hearing assessment. If the assessment indicates abnormal hearing, the clinician could elect to refer the patient to the referral service. With the patient's consent, the referral coordinator would verify that certain clinical criteria were met before forwarding a report to a participating group of audiologists, hearing aid specialists, or ENT specialists who pay the manufacturer an annual fee to participate in the referral service. The participating group and its affiliated practitioners would eventually treat the patient and report the treatment outcome to the referring primary care clinician.

Upon review, the OIG concluded that this arrangement would satisfy the referral services safe harbor and not violate the federal Anti-Kickback Statute because:

- Any group who meets the qualifications to participate in the referral services arrangement would not be excluded from participating.
- The annual fee paid by participating groups would be set in advance, be based on estimated operating costs of the referral service, and would be owed regardless of how many groups participate in the referral service or how many referrals a participating group generated.
- The referral service would not impose clinical protocols, product restrictions, or pricing demands.
- Each person seeking a referral would be provided with, and sign, the required disclosures under the safe harbor.

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Legislative and Regulatory Update

Legislation Would Require Substance Use Disorder Treatment Centers to Dispense Opioid Antidotes at Discharge

On September 17, 2026, Bill A5530 was introduced in the New Jersey State Assembly, which would require substance use disorder treatment centers to provide opioid antidotes to certain patients upon discharge. Under the Bill, a treatment center would be required to dispense at least two doses of an opioid antidote to a discharged patient who has a history of opioid use, has been diagnosed with opioid use disorder, or has experienced an opioid-related overdose, together with counseling and education documented in the patient's file as part of the discharge plan.

Legislation Would Permit Pharmacists to Administer Long-Acting Injectable Psychiatric Medications

On September 24, 2026, Bill A5539 was introduced in the New Jersey State Assembly, which would amend the pharmacy practice law to permit pharmacists to administer a long-acting injectable drug under a prescription from an authorized prescriber to treat or manage symptoms of a psychiatric condition or disorder for up to 24 weeks with a single dose, as long as the pharmacist is appropriately educated and qualified, as determined by the New Jersey State Board of Pharmacy.

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HIPAA Corner

HHS OCR Settles 56th Right of Access Enforcement Action

The Department of Health & Human Services, Office for Civil Rights (OCR) announced on October 8, 2026 the settlement of its 56th Right of Access enforcement action. By way of background, the OCR's Right of Access initiative is an OCR HIPAA compliance initiative focused on ensuring that patients can obtain their health records promptly, at a reasonable cost, and in the requested format when readily reproducible. Under HIPAA, covered entities must provide timely access to patient records, within 30 days after receipt of a request unless an additional 30-day extension is needed, after notice to the patient, for legitimate reasons. The OCR deems the 30 days as an outside limit—records should be provided as promptly as possible after a request is made. Holding patient records hostage for payment of an overdue invoice or even for payment of the reasonable costs of reproducing the records is not permitted.The most recent settlement was the result of an OCR investigation initiated due to a complaint made by a patient's attorney about a dental practice's failure to timely provide a copy of the patient's records following multiple requests. During OCR's investigation, OCR found that the practice was not properly maintaining patient records, could not produce evidence that it had implemented HIPAA policies and procedures or staff training, and failed to produce evidence that the practice had reasonably safeguarded protected health information from intentional or unintentional disclosure. In its settlement with the OCR, the dental practice agreed to pay a civil penalty of $140,000.

IF YOU NEED ASSISTANCE WITH YOUR ORGANIZATION'S PRIVACY AND SECURITY PROGRAM, CONTACT:

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Brach Eichler in the News

On October 1, 2026, Member and Litigation Chair Keith J. Roberts and Healthcare Law Member Shannon Carroll, authored a client alert, *DOBI Proposes Weekly Cap on New Jersey PIP Rehab Fees.*

On October 1, 2026, Brach Eichler announced that NJBIZ has named the firm a 2026 Empowering Women honoree.

On October 9-12, Member and Healthcare Law Vice Chair Caroline J. Patterson, was a featured speaker at the American Academy of Ophthalmology (AAO) 2026 Annual Meeting.

On October 16, Brach Eichler announced that 21 of its attorneys have been selected for the 2027 edition of New Jersey Super Lawyers. In addition, 15 attorneys from the firm have been named to the 2027 New Jersey Rising Stars list, bringing the firm's total to 36 honorees.

On October 21, Member and Healthcare Law Vice Chair Caroline J. Patterson, was honored by Executive Women of New Jersey (EWNJ) at its Salute to Policy Makers Gala.

On October 22, Managing Member and Healthcare Law Chair John D. Fanburg and Member and Healthcare Law Vice Chair Caroline J. Patterson presented on the topic of *Physicians as Employees* to Mount Sinai Family Residents.

On October 26, Healthcare Law Counsel Tracy E. Miller, coauthored an article, *Board Oversight of AI in Health Care: New Technology, Familiar Duties,* published in the American Health Law Association's Healthlaw Weekly.

On October 29, Managing Member and Healthcare Law Chair John D. Fanburg was recognized as a New Jersey Law Journal 2026 Legal Awards Finalist in the category of Office Managing Partner of the Year.

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 **Paul J. DeMartino, Jr.**, Counsel, Healthcare Law and Litigation and **Tracy E. Miller**, Counsel, Healthcare Law.



Paul J. DeMartino, Jr.

Paul represents physicians, physician groups, ambulatory surgery centers, and other healthcare providers in business disputes, including restrictive covenant, partnership, shareholder, payor, and contract matters. He handles matters from early counseling through trial, with the goal of resolving them efficiently so clients can stay focused on patient care. He also advises providers on regulatory and compliance issues and represents them before government agencies and licensing boards.

Clients value Paul's responsiveness, clear explanations, and practical understanding of how healthcare practices run. Outside of the office, Paul enjoys spending time with his family, summers at the Jersey Shore, golfing, and grilling.



Tracy E. Miller

Tracy advises health systems, physicians, and other health care clients in connection with governance, transactions, compliance, privacy, and contracts. Prior to joining Brach Eichler, she served as EVP & General Counsel of a health system, overseeing all legal matters, including complex vendor and physician contracts, AI, data privacy, cybersecurity, and regulatory affairs. That in-house experience helps her guide clients toward their business, strategic, and operational goals.

In her free time, Tracy enjoys biking, gardening, traveling, and time with family and friends. Her most recent trip was to Paris and Normandy.



Healthcare Law Practice

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