



National State Attorneys General Program

The Affordable Care Act and Consumer Protection - Resources

INSURANCE MARKET REFORM

- Affordable Care Act Implementation Fund, *Building a Consumer-Friendly Exchange in Colorado*, Community Catalyst, http://www.communitycatalyst.org/projects/ACA_Fund/impact?id=0002 (describing the efforts and conclusions of a group of Colorado consumer advocates who, drawing on consumer input, make recommendations to policymakers to maximize consumer protection in the state's health insurance exchange)
- Abbe R. Gluck, *Intrastatutory Federalism and Statutory Interpretation: State Implementation of Federal Law in Health Reform and Beyond*, 121 Yale L. J. 534 (2011), available at http://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID1967287_code1056236.pdf?abstractid=1967287&mirid=1 (arguing that state implementation of federal law plays many different roles, and that those differences should affect both how statutes are interpreted and how they are conceived from a federalism perspective)
- Carrie Tracy et al., *Making Health Reform Work: State Consumer Assistance Programs*, Community Catalyst (Sept. 2010), http://www.communitycatalyst.org/doc_store/publications/CAP_report.pdf (providing recommendations to policymakers on how to best support the develop and implementation of independent consumer assistance programs—for which § 1002 of ACA establishes a federal funding stream—performing outreach and enrollment assistance to health care consumers)
- Gillian Metzger, *Federalism Under Obama*, 53 Wm. & Mary L. Rev. 567 (2011), available at <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=3410&context=wmlr> (analyzes the status of federalism under the Obama Administration and argues that rather than assertions of federal power at the expense of the states, the central

dynamic evident under the Obama Administration to date is a move towards more active government, at both the national and state level)

- Roger Alford, *Ky. Urges People to Replace Medi-Share Immediately*, The Miami Herald (Oct. 10, 2012), <http://www.miamiherald.com/2012/10/12/3046849/ky-urges-people-to-replace-medi.html> (news story describing the legal battle between the state of Kentucky's a Florida-based health care "cost-sharing ministry" that a state judge found to be in violation of the state's insurance code)
- Kentucky Department of Insurance, *Frequently Asked Questions for Medi-Share Members*, <http://insurance.ky.gov/Documents/MediShareFAQ101112.pdf> (the Kentucky Department of Insurance's responses to frequently asked questions regarding the state's position on—and current status of—Medi-Share, a Florida-based cost-sharing ministry order by a state court to cease operations until it received a license from the Department of Insurance to operate in the state)

HEALTHCARE DELIVERY MARKETPLACE

- Ameet Sachdev, *Accretive settles Minnesota charges for \$2.5M*, Chicago Tribune (July 30, 2012), http://articles.chicagotribune.com/2012-07-30/business/chi-accretive-settles-minnesota-charges-for-25m-20120730_1_accretive-health-mary-tolan-fairview-hospitals (news story detailing the Minnesota Attorney General's settlement with health billing and collections company Accretive Health over the company's aggressive bill collection practices)
- State of Minnesota Office of the Attorney General, *Compliance Review of Fairview Health Services' Management Contracts with Accretive Health, Inc.*, Vol. 1 (April 2012), <http://www.ag.state.mn.us/PDF/PressReleases/ComplianceReview/Vol.%201.pdf> (Volume 1 of Minnesota Office of the Attorney General 6-volume review of nonprofit health organization's contract with billing and collection agency Accretive Health; all volumes of the review are available on the Minnesota Attorney General website in right-hand column at <http://www.ag.state.mn.us/>)
- Ames Alexander and Joseph Neff, *AG Roy Cooper will seek ways to curb N.C. hospital prices*, Charlotte News & Observer (Oct. 6), <http://www.newsobserver.com/2012/10/06/2395213/ag-roy-cooper-will-seek-ways-to.html> (news story detailing North Carolina Attorney General Roy Cooper's announcement that he will investigate the "artificially high" price of health care in the state, possibly by pushing new legislation)
- *Anthem To Pay \$150,000 To Settle Personal Data Breach Allegations*, California Healthline (Oct. 3, 2012),

<http://www.californiahealthline.org/articles/2012/10/3/anthem-to-pay-150000-to-settle-personal-data-breach-allegations.aspx> (news story describing the California Attorney General's settlement with Anthem Blue Cross over an alleged data breach that compromised the personal data of more than 33,000 Anthem members)

- Prescription Drugs
 - Pennsylvania Attorney General, *Commonwealth of Pennsylvania Prescription Monitoring Program*, <http://www.attorneygeneral.gov/drugs.aspx?id=5946> (last visited Oct. 26, 2012) (Office of Pennsylvania Attorney General webpage describing the Office's regulatory authority—and activities with regard to—over prescription drugs)
 - State of West Virginia Office of the Attorney General, *Press Release: McGraw Launches Assault in Battle Against Drug Abuse, Sues 14 "Pill Mill" Suppliers* (June 26, 2012), <http://www.wvago.gov/press.cfm?fx=more&ID=630> (West Virginia Office of the Attorney General press release announcing lawsuit seeking injunction against 14 out-of-state drug distributors who allegedly supplied prescription drugs to drugstores who dispensed them for illegitimate, nonmedical purposes)
 - Office of the Attorney General, State of Vermont, *Disclosures by Manufacturers of Prescription Drugs, Biological Products and Medical Devices*, <http://www.atg.state.vt.us/issues/pharmaceutical-manufacturer-payment-disclosure.php> (Vermont Office of the Attorney General webpage detailing the state's registration and reporting requirements applicable to expenditures of pharmaceutical products, biological products, and medical devices to Vermont health care providers, including those for samples and medical trials)
 - Office of the Attorney General of Florida, *Statewide Task Force on Prescription Drug Abuse & Newborns*, <http://myfloridalegal.com/pages.nsf/main/cfc9846f8d7790fc85257a10004ae67e> (Florida Office of the Attorney General webpage detailing Statewide Taskforce on Prescription Drug Abuse and Newborns)

CONSUMER PROTECTION IMPLICATIONS OF MEDICAID EXPANSION

- Wells Wilkinson, *Arkansas' Game-Changing Trial on Drug Fraud Could Save Medicaid Program*, Prescription Access Litigation (PAL), <http://blog.prescriptionaccess.org/?p=1006> (article on Arkansas Attorney General's trial verdict against drug company Johnson & Johnson for its illegal promotion of off-label uses of antipsychotic drug Risperdal; verdict secured \$1.19 billion in fines, most of which was earmarked for the state's Medicaid fund)
- Average Wholesale Price lawsuits
 - Louisiana Office of the Attorney General, *Press Release: Attorney General Recovers \$38 Million from Drug Companies Charged with Fraud* (July 25, 2012), <http://ag.state.la.us/Article.aspx?articleID=611&catID=2> (Louisiana AG Caldwell settles with 8 pharmaceutical companies for \$38 million over their misreporting of drug pricing in order to inflate Average Wholesale Prices (AWP) for drugs under the state's Medicaid program)
 - Attorney General of Texas, *Press Release: Attorney General Abbott Recovers \$24.4 Million For State of Texas*, (Aug. 24, 2011), <https://www.oag.state.tx.us/oagnews/release.php?id=3832>: (under multistate settlement including Florida, Kentucky, South Carolina and Alaska, four pharmaceutical companies agree to pay \$24.4 million to state of Texas over allegations they misreported the price of drugs for the purposes of Medicaid reimbursement. Multistate settlement)

FRAUD AND LICENSING

- Pharmaceutical marketing:
 - Florida Office of the Attorney General, *Attorney General Pam Bondi Reaches Landmark \$181 Million Multistate Settlement with Janssen Pharmaceuticals, Inc.* (Aug. 30, 2012), <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/8C8DD6A28B942DA585257A6A0057EEF2> (Florida Office of the Attorney General press release describing multistate settlement, including 36 states, for \$181m over unfair and deceptive trade practices by Janssen Pharmaceuticals in marketing antipsychotic drugs for off-label uses)
 - Bryan Cohen, *Depakote settlement finalized with Abbott Laboratories*, Legal Newsline (Oct. 3, 2012), <http://legalnewsline.com/big-pharma/237439-depakote-settlement-finalized-with-abbott-laboratories> (article describing \$1.5 billion settlement—involving 49 states—with

Abbott Laboratories over its marketing of drug Depakote for off-label uses under state Medicaid programs)

- South Dakota Office of the Attorney General, *New Medicare Telemarketing Scam Targets South Dakota Seniors* (Oct. 19, 2012), <http://atg.sd.gov/Consumers/ConsumerAlerts/AlertView/tabid/263/itemID/2996/moduleID/720/view/595/Default.aspx> (South Dakota Office of the Attorney General press release alerting consumers to a telephone scam in which callers falsely claiming to be telemarketers hired by Medicare aggressively attempt to obtain personal identifying information from Medicare recipients)

CHARITY CARE AND NONPROFIT HEALTH ENTITIES

- Charity Care
 - Stacey Chazin et al., *The Future of U.S. Charity Care Programs: Implications of Health Care Reform*, Ctr. For Health Care Strategies / Academy Health (Aug. 2010), <http://www.academyhealth.org/files/publications/FutureofCharityCarePrograms.pdf> (report funded by Kaiser Permanente Health Plan on the implications of health care reform on charity care programs)
- Community Benefits
 - Montana Dept. of Justice, *Montana's Hospitals: Annual Attorney General Report*, <https://doj.mt.gov/consumer/for-consumers/montana-hospitals/> (Montana Office of the Attorney General annual report assessing the charitable purpose and charity care delivery of nonprofit hospitals in the state)
 - Illinois Attorney General, *Annual Non Profit Hospital Community Benefits Plan Report* (form), <http://www.illinoisattorneygeneral.gov/charities/CBP-1.pdf> (Illinois Office of the Attorney General Nonprofit Hospitals form for reporting annual community benefits plan and delivery of community benefits and charity care)
 - Office of Attorney General Martha Coakley, *The Attorney General's Community Benefits Guidelines for Non Profit Hospitals*, <http://www.mass.gov/ago/docs/healthcare/hospital-guidelines.pdf> (Massachusetts Office of the Attorney General guidelines detailing state community benefit obligations for nonprofit hospitals and Health

Maintenance Organizations (HMOs) and setting out principles for developing, implementing and reporting on these activities)

- Conversions and other transactions
 - Beth Potter, *Attorney general OKs SCL's hospital deal*, Boulder County Business Report (Oct. 3, 2012), <http://www.bcbr.com/article/20121003/NEWS/121009956> (news story describing Colorado Attorney General Office approval of healthcare governance change transaction in which faith-based nonprofit health-care group acquired operational control of three hospitals and a network of physician clinics)
 - Bob Herman, *Non-Profit Hospitals Taking More Aggressive Stance Toward M&A, But Deals Aren't Always Easy*, *Becker's Hospital Review* (Aug. 30, 2011), <http://www.beckershospitalreview.com/hospital-transactions-and-valuation/non-profit-hospitals-taking-more-aggressive-stance-toward-maa-but-deals-arent-always-easy.html> (story describing accelerated rate at which health systems and physician's practices are forming partnerships, including the impact of health care reform, the motivations driving this trend and the obstacles to such mergers and acquisitions)
 - Bob Graham, *Delaware AG: Blues must create foundation to protect assets in state*, IFAWebnews.com, <http://ifawebnews.com/2011/06/02/delaware-ag-blues-must-create-foundation-to-protect-assets-in-state/> (news story detailing Maryland Office of the Attorney General ruling determining that proposed affiliation of BlueCross BlueShield of Delaware's (BCBSD) with Highmark Inc. is a "not-for-profit conversion" and therefore requires the establishment of a foundation to protect members in the state)
 - State of California Department of Justice, Office of the Attorney General, *Nonprofit Hospital Transaction Notices*, <http://oag.ca.gov/charities/nonprofithosp> (California Office of the Attorney General webpage detailing the Attorney General's jurisdiction over nonprofit hospital transactions and notice of such transactions, including an archive of such transactions since 2010)

- Massachusetts Office of the Attorney General, *Attorney General's Guidelines for Transfers of Nonprofit Acute Care Hospitals and HMOs*, <http://www.mass.gov/ago/docs/nonprofit/nashoba/ags-guide-for-transfers-of-non-profit-acute-care-hospitals-and-hmos.pdf> (Massachusetts Office of the Attorney General guidelines for reviewing the proposed sales, leases, exchanges or other dispositions of a substantial amount of the assets or operations of nonprofit acute-care hospitals and health maintenance organizations ("HMOs"))
- Massachusetts Attorney General Martha Coakley, *Caritas Christi Health Care System Transaction*, www.mass.gov/ago/caritas (Massachusetts Office of the Attorney General webpage detailing the Attorney General's review of proposed sale of nonprofit, charitable health care system Caritas Christi to for-profit Steward Health Care system LLC)