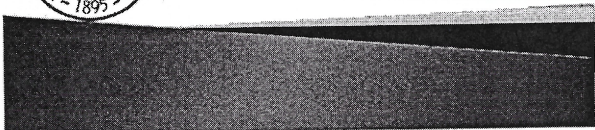


2018 Utah Legislative Session and Health Law Update:

Recent Health Law Legislation



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Overview

- › Medicaid
- › Prescribing; Dispensing
- › Licensing; Privileging, Credentialing
- › Insurance
- › Abortion
- › Medical Marijuana
- › Health Care Malpractice Act
- › Patient Brokering
- › Required Mammogram Notice
- › Debt Collection
- › Outpatient Anesthesia
- › Bills that Failed (but may return)



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Medicaid - I

- › HB 472, Medicaid Expansion Revisions (Spendlove R.)
 - Expansion to <95% FPL, if waiver for:
 - Full fed funding (90-10)
 - Work activity required
 - Sunset or limit if state doesn't fund it
- › Utah Decides Healthcare Act - ballot initiative
 - Full Medicaid expansion
 - Still short in 10 districts (max 3)



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Medicaid – II

- › HB 12, Family Planning Services Amdts (Ward, R.)
 - Medicaid to pay separately for implantation for long-acting reversible contraceptives immediately after childbirth
 - Directs Medicaid to apply for a waiver to provide family planning services to individuals <95% FPL who do not qualify for Medicaid



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Prescribing

- › HB 127, Controlled Substance Database Act Amdts (Fawson, J.)
 - For Schedule II and III opioids
 - Check the Controlled Substance Database for patient's first Rx, repeated Rxing, unless:
 - Emergency situation
 - CSD down
 - Internet inoperative
 - No more substantial compliance
 - No DOPL enforcement until earlier of Jan 2019 or a CSD-EMR connection possible



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Dispensing

- › SB 184, Pharmacist Dispensing Authority Amdts (Weiler, T.)
 - Standing order by physician (DOH)
 - Self-administered contraceptives
 - Self-screening questionnaire
 - Primary care consult within 24 months
 - (No prescribing)
- › HB 399, Opioid Abuse Prevention and Treatment Amdts (Eliason, S.)
 - Requires warning label on opioids, pamphlet



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Licensing - I

- ▶ HB 382, Radiology Practitioner Amendments (Spendlove, R.)
 - PTs can order x-rays, MRIs
 - Physician must agree to receive the results
- ▶ SB 68, Physician Assistant Vital Statistics Act Amdts (Bramble, C.)
 - Clarifies that PAs can sign death certificates



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Licensing - II

- ▶ HB 448, Podiatric Physician Practice Amdts (Fawson, J.)
 - Rewrite of the changes three years ago
 - No change; clarification of expanded scope for podiatrists with post-grad training
- ▶ SB 229, Chiropractic Physician Scope of Practice Amdts, (Vickers, E.) - failed
 - Would have allowed chiropractors to prescribe
 - Claimed no longer had access to certain homeopathic substances



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Privileging, Credentialing - I

- ▶ SB 217, Physician Testing Amdts (Hillyard, L.)
 - For employment, privileges, reimbursement, licensing
 - Hospitals, insurers, DOPL
 - May not require cognitive testing of physicians at a set age unless the test reflects nationally recognized standards adopted by AMA for ability to provide safe and effective care
 - Effective earlier of Sep 1, 2018 or AMA adopts standards



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Privileging, Credentialing - II

- › HB 425, Physician Certification (McKell, M.) - failed
 - For employment, privileges, reimbursement, licensing
 - Hospitals, insurers, DOPL
 - Would have been prohibited from requiring maintenance of board certification



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Insurance - I

- › SB 135, Insurance Contracts Amdts (Fillmore, L.)
 - For life insurance or accident and health insurance
 - Prohibits reserving discretionary authority =
 - "Has the effect of conferring discretion on an insurer, or other claim administrator, to:
 - "determine eligibility for benefits; or
 - "interpret the terms or provisions of the policy, contract, certificate, or agreement; and
 - "could lead to a deferential standard of review by reviewing court."



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Insurance - II

- › HB 409, Utah Life and Health Insurance Guaranty Association Amdts (Dunnigan, J.)
 - 67pp, 1856 lines
 - Among other things, brings HMO insurers into same insurance guarantee pool as PPO insurers (E.g., Arches bankruptcy)
 - Addresses treatment of long-term care rider to a life insurance policy...



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Abortion

- › SB 118, Abortion Law Amendments (Weiler, T.)
 - Website and info module replace brochure and video
 - Tightens penalties
- › HB 205, Down Syndrome Nondiscrimination Abortion Act (Lisonbee, K.) - failed
 - Would have prohibited abortion if solely because of Down Syndrome



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Medical Marijuana – I

- › HB 195, Medical Cannabis Policy (Daw, B.)
 - Adds cannabis to Right to Try
 - For terminally ill patients
 - Any cannabis in medical dosage form
 - Must be from state-approved source
 - Special informed consent (poss. +/- outcomes)
- › HB 197, Cannabis Cultivation Amendments (Daw, B.)
 - Dept of Ag: grow, process, sell >0.3% THC
 - State dispensary: research inst., patients
 - Dept of Fin Inst: can. payment processor licenses



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Medical Marijuana – II

- › SB 130, Cannabidiol Product Act (Vickers, E.)
 - Dept of Ag: regulate CBD and hemp; licenses
 - Special tax, in lieu of sales tax
 - Info into Controlled Substances Database
 - Apply for DEA waiver for pharmacy distribution
- › HB 302, Cannabis Cultivation Amendments (Daw, B.)
 - Dept of Ag: regulate industrial hemp (<0.3% THC)
 - Research pilot program: license to grow, process, market



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Medical Marijuana – III

- ▶ HB 25, Cannabinoid Product Board Membership Amdts (Daw, B.)
 - Review research on expanded cannabinoid products
 - I.e., >0.3% THC
- ▶ Utah Medical Cannabis Act – ballot initiative
 - Whole plant; possess 4 oz max, but...
 - Can't "smoke," but ...
 - No info to CSD; DOH records destroyed 60 days+
 - Debilitating or chronic pain, etc.
 - Liquid assets: \$500k, \$100k, \$250k
 - Infractions and \$100 fines



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Health Care Malpractice Act

- ▶ SB 223, Health Care Malpractice Act Amdts (Hemmert, D.)
 - Requires DOPL to collect respondent data on prelitigation process:
 - Specialty of signer of affidavit of merit
 - Disposition
 - If action is filed in court
 - Clarifies 78B-3-426 (Nonpatient plaintiffs, 2016)
 - Nonpatient plaintiff must show a duty owed
 - Foreseeable injury



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Patient Brokering

- ▶ SB 222, Toxicology Amdts (Davis, G.)
 - Prohibits payments for referrals for substance use disorder treatment
 - Includes referrals to facilities if referrer has ownership interest (including referrals to in-office labs owned by treating healthcare providers)
 - Reportedly, intended to prohibit only referrals that are illegal under federal law (Anti-kickback Statute. Stark? False Claims Act?)



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Required Mammogram Notice

› HB 258, Women's Cancer Screening Notification Amdts (Christensen, L.)

- Mammography results to a patient with dense breast tissue must include:
- "...dense breast tissue can make it more difficult to fully and accurately evaluate your mammogram and detect early signs of possible cancer in the breast. This information is being provided to inform and encourage you to discuss your dense breast tissue and other breast cancer risk factors with your health care provider. ... Please contact them if you have any questions or concerns about this notice."



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Debt Collection, Revised

› HB 204, Health Care Debt Collection (Webb, C.)

- Requires the 2017 HB 128 notification before a "collection action" = any action to recover funds that are past due or in default "that directly results in an adverse report to a credit bureau"
- Includes using a collection agency to engage in collection action
- Enables use of collection agency for billing, etc.
- Healthcare provider is liable



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Outpatient Anesthesia, Revisited

› 2017: HB 142, Administration of Anesthesia Amdts (Kennedy, M.)

- Outpatient IV anesthesia or sedation
 - Excludes Emergency Department
- Have an Am Heart Assn crash cart
- Get specific informed consent
 - Name and license type of person do the procedure
 - Type of sedation or anesthesia administered
 - Name and license type of person administering
 - What's monitored: O₂, breathing, circulation ...
- Report adverse events to DOH



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Bills that Failed (but may return) I

- › HB 184, Driver License Form Amdts (Ward, R.)
 - Would have required publishing a key:
 - Severity of illness; required follow up; next review
 - Would have allowed provider to specify next review
- › SB 224, Medical Treatment Prior Authorization (Vickers, E.)
 - Would have required making requirements public
 - Deadlines for decision; deemed granted
 - Continuity of care
 - Electronic submission
 - Step therapy



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Bills that Failed (but may return) II

- › HB 76, End of Life Options Act (Chavez-Houck, R.)
 - 4th annual effort to bring to UT, laws of WA, OR, other states
 - Would have allowed physician-assisted, self-administered suicide.
 - Would have required 2 physicians to opine patient will die within 6 months
 - Many other details
 - Rep. Chavez-Houck is retiring



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Bills that Failed (but may return) III

- › HB 296, Tobacco Age Amdts (Eliason, S.)
 - At least 3rd year
 - Would raise min age from 19 to 21 for cigarettes, in two steps
- › HB 88, Electronic Cigarette and Other Nicotine Product Amdts (Ray, P.)
 - 2016 bill failed
 - Basically same tax as on other tobacco products



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Bonus I: Healthcare Legislators

- › Resigned:
 - Sen. Shiozawa > Sen. Zehnder
 - Rep. Sanpei
- › Retiring:
 - Rep. Redd, Rep. Kennedy (US Senate run)
- › Running:
 - Jennifer Dailey-Provost (Chavez-Houck)
 - Suzanne Harrison (L. Christensen)
 - David Sundwall (C. Moss)
 - Mike Hales (McKay)
 - Jennifer Plumb (Dabakis)
 - Eileen Gallagher (Van Tassell)



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Bonus II: Vehicle Law Update

- › HB 369, Auto Dealership License Amdts (Coleman, K.)
 - Allows direct-sale manufacturers to sell in UT
- › HB 58, Traffic Control Signs for Bicycles (Moss, C.) - failed
 - Would have allowed cyclists to go slow through stop signs and proceed at a red light
- › HB 416, Traffic Flow Amdts (Ivory, K.) - failed
 - Would have allowed proceeding on red after full stop if no other traffic



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Effective date of statutory changes passed in the 2018 General Session is May 8, 2018, unless otherwise provided in the bill.

See le.utah.gov for full text of bills

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