

Healthcare Industry - Significant State and Federal Policy Changes on the Horizon

35th Annual Health Law Conference

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Topics

- Healthcare Industry - Significant State and Federal Policy Changes on the Horizon

Hospitals and Pharmacy Benefit Managers (PBMs) have been under increased scrutiny from policymakers in Austin and D.C.

- Other healthcare industries and policymakers on both sides of the aisles are targeting hospitals and PBMs for the perceived lack of transparency and the perceived role in increasing healthcare costs.
- These efforts could be significant changes to the marketplace — including potential price controls, government mandated contracts, and changes to operations.

1. Numbers & Context

2. PBMs Perspective

3. Hospitals – Non-Profit and Hospital District Perspective

4. What's Next?

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Federal Legislation

- **Consolidated Appropriations Act – 2021 (CAA)**
 - Raising Fiduciary Bar for Health Plans
 - Plan Sponsor's to receive reporting on: i) 50 most frequently dispensed brand prescription drugs; cost prescriptions; greatest increase in expenditure, and ii) the ave. monthly premiums paid by participants, beneficiaries and enrollees and paid by employers.
 - Plans & Issuers to report the impact on premiums of rebates, fees, and any other remuneration paid by drug manufactures to plan or coverage or its administrators of serve providers.
 - ID brokers/consultants who are subject to CAA – i) require info on services/compensation, ii) new disclosure requirements and iii) formal process to determine is info is complete, relevant and reasonable in terms of total compensation.



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Federal Legislation – Continued

- **Prescription Drug Provisions in the Inflation Reduction Act (IRA) of 2022**
 - Federal government to negotiate prices
 - Requires pharma to pay rebates if prices rise faster than inflation
 - Cap out of pocket spending for Med-D enrollees at \$2,000
 - Limits annual increases in Part D Premiums for 2024-30
 - Limits monthly cost sharing for insulin products to \$35
 - Eliminates cost sharing for vaccines and improves access to vaccines

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Texas Pharmaceutical Initiative (TPI)

- Created by Texas Legislature in 2023 - \$150M
- Tasked to develop business plan to submit to 2025 Legislature to determine if they should establish:
 - Statewide PBM,
 - Distribution network for drugs and supplies,
 - Provide advanced pharmaceutical preparation services,
 - Conditions for Agency Participation, and
 - Identify cost savings and funding sources.

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PBM State Regulation Timeline

- 2020
 - US Supreme Court decided *Rutledge v. PCMA*
- 2021
 - 18 states enact PBM Laws; *PCMA v. Wehbi* decided (8th Cir.)
- 2022
 - 16 states enact PBM Laws; *PCMA v. Mulready* decided (W.D. OK)
- 2023
 - 24 states enact PBM laws; *PCMA v. Mulready* appeal (10th Cir.)
- 2024
 - US Supreme Court considers *PCMA v. Mulready* appeal

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"Significant Federal and State Policy Disruptors: Impacts on the Private Healthcare Marketplace"