

# Ask An Attorney

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## What are recent legislative and other developments affecting the practice environment?

Medical professionals may want to take note of three recent changes that affect the practice environment. Two stem from new legislation regarding telehealth services and opioid prescriptions. The third pertains to new technology applications which have legal implications.

**New York's new Telehealth Law and proposed legislation for payment parity.** New York's new telehealth coverage law, which went into effect on January 1, 2016, provides for innovation in care delivery methods. Under the amended law, telehealth services are eligible for reimbursement under New York Medicaid. Telehealth is broadly defined as the use of electronic information and communication by providers, for delivery of health care services including but not limited to diagnosis, treatment, care management and education. Under the new law, commercial health insurers are required to cover telehealth; insurers are barred from excluding from coverage services which are "otherwise covered under a policy that provides comprehensive coverage for hospital, medical or surgical care because the service is delivered via telehealth..." The Department of Health is expected to issue telehealth regulations in the coming months.

The law gives patients the choice of receiving services in-person or by telehealth technologies. However, the statute does not, in its current form, include a payment parity provision, which would require insurers to "reimburse the telehealth provider for covered [telehealth] services on the same basis and at the same rates as [in-person services]." Recently, in response to decisions by certain insurers to pay providers for telehealth services at a rate significantly lower than reimbursement rates for in-person services, a new bill was introduced to ensure commercial health plans will pay the same rate for telehealth services as for in-person services. Bill SB 7953 was introduced on May 31, 2016. It seeks to extend payment parity for telehealth services to NY Medicaid, as well as to private health insurers.

**New Opioid Legislation - State and Federal.** In June, Governor Cuomo signed a new law to address the heroin and opioid addiction crisis. The new law is intended to increase access to treatment, limit over-prescription and expand community addiction prevention strategies. The legislation reduces prescription limits for opioids from 30 days to 7 days, mandates that physicians and opioid prescribers complete ongoing education (three hours of education every three years on addiction, pain management, and palliative care), and requires hospital medical staff to provide discharge planning services to

connect patients with treatment options to better combat substance abuse disorders. The new law also authorized trained professionals to administer overdose-reversal medication such as naloxone in emergency situations, without putting their professional credentialing at risk.

Congress, in response to record numbers of U.S. deaths from drug overdoses in the last couple years, has passed the Comprehensive Addiction and Recovery Act of 2016 (CARA). The legislation, which is seen as a significant step forward in addressing addiction as a health problem, authorizes \$181 million a year in spending for a new program to reduce opioid overdose and support education and training to reverse addiction trends.

Overdose death rates have been the subject of national attention in recent years. The Department of Health & Human Services Secretary has reported that each day, an average 129 Americans die from opioid overdoses. As of the time of this writing, President Obama is expected to sign the bill.

**Patient-Facing Smartphone Apps.** Earlier this year, two New York City health systems launched mobile apps for patients. In June, Mount Sinai Health System launched MountSinaiNY, an umbrella app with features that allow patients to pay bills online, search physicians and facility locations, schedule appointments, access medical records and exchange secure messages with providers. In January 2016, New York-Presbyterian (NYP) launched a mobile app for patients. The app is designed to improve patients' access to services from the convenience of their smartphones. NYP is working on a telehealth platform that will feature remote patient monitoring.

According to a recent Pew Research Center study, 68% of Americans own a smartphone (up from 35% four years ago). Although umbrella apps may work well for large systems with thousands of affiliated physicians, different patient groups have different mobile needs. Indeed, few, if any, all-in-one apps are likely to meet patient expectations. As physician groups incorporate practice management software and utilize new tools to optimize revenue cycles and streamline billing, more providers are discussing specific mobile health apps with their patients. These new apps, which include tracking and reminder or 'nudging' functions, may be relevant in the context of chronic care or routine care (either for diet, exercise, or improved self-management). Notwithstanding possible data privacy concerns, providers are also investing in simplified apps to improve the patient experience as it relates to bill payment, requesting appointments or adding medication reminders.

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