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States Drive Change in Licensure, Transparency, Exemption; 'Ideas Spread Like Infections'

By Nina Youngstrom

Some state legislatures are starting to leverage licensure statutes to make health policy changes without burdensome regulatory and enforcement additions. For example, Florida is considering whether to require hospitals—as a condition of licensure—to refer patients to urgent care, medical homes or elsewhere when they come to the emergency room with nonemergency conditions in a way that would still comply with the Emergency Medical Treatment and Labor Act.

“They’re not creating a separate enforcement requirement,” said Martie Ross, a consulting principal at PYA. “They’re proposing to amend the licensure statute to say hospitals have to help frequent fliers in the emergency room find a landing path to a primary care physician.” She said other legislatures are starting to consider ways to use licensure requirements to regulate hospitals. That’s one example of the flurry of activity happening in states across the country. It’s affecting Medicaid, price transparency, no surprises laws and other state laws and regulations. “Legislative ideas spread like infections, from one statehouse to another,” Ross said. They also foreshadow federal action. The laws that became HIPAA and the No Surprises Act (NSA) started as privacy and surprise billing laws at the state level, but they’re just two examples, she noted.

Medicaid is a hub in many states in various ways. Ten states still haven’t expanded Medicaid under the Affordable Care Act, but some of them are considering ways to increase access, Ross said. Arkansas, for example, is looking at a private-insurance version of Medicaid. Meanwhile, CMS has extended Medicaid coverage of postpartum coverage to 12 months and only eight states have said no. CMS’s Innovation Center in December also announced the Transforming Maternal Health Model, a 10-year payment and care-delivery model that “will support participating state Medicaid agencies (SMAs) in developing and implementing a whole-person approach to pregnancy, childbirth and postpartum care for women with Medicaid and Children’s Health Insurance Program (CHIP) coverage.”^[1] There are other programs that allow states to use Medicaid funds for social services with the idea they improve health, including state homelessness programs. Seven states, including Colorado, Maryland and Illinois, are using federal Medicaid dollars for gun violence initiatives, Ross said.

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