

**ChristianaCare looking to  
acquire Crozer Health from  
Prospect Medical Holdings**

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**Disrupting Hospital Price  
Increases: Using Growth Caps  
in Insurance Rate Review**

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**Opportunities for Aligning  
Prescription Drug  
Affordability Boards and  
Cost-Growth Benchmarks**

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**Healthcare      Affordability**

# State Policy Scorecard

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## Spotlight on State: Delaware

*This is part of a [series of summaries](#) that highlight notable legislation and initiatives in health policy and reform of all 50 states. Check back on The Source as we roll out additional states each week.*

See [Delaware](#) page.

Delaware has a long legislative history in healthcare price transparency initiatives. Delaware legislators have authorized the Delaware Health Information Network to develop a centralized health care claims database since 2016. The Delaware Health Care Claims Database collects healthcare claims, enrollment, and provider data from Medicare, Medicaid, and the seven largest commercial health insurers in the state. To protect consumers against surprise billing, Delaware prohibits balance billing for medically necessary services through non-network providers that are not available in-network. Another law requires out-of-network facilities rendering nonemergency services to provide disclosure of any out-of-network charges not covered by the insurance.

To control the state's rising healthcare costs, Delaware passed legislation that gave the Delaware Health and Social Services (DHSS) authority to establish a [benchmark](#) that would link the growth rate of health-care spending to the state's rate of economic growth. Governor John Carney (D) also issued an [executive order](#) in 2018 that formed an advisory group to help set the benchmark. In 2021, the legislature passed a [sweeping healthcare bill](#) that would place rate caps on

hospital price growth to boost investment in primary care, compel certain payers to tie their business to alternative payment models by 2023, and create shared accountability for both the cost and quality of care.

In the provider market, the state has statutes that voids covenant not to compete provisions of an employment, partnership or corporate agreement between and/or among physicians. Delaware also conducts a Certificate of Public Review (analogous to a Certificate of Need) prior to the acquisition of nonprofit healthcare facilities. In the interest of controlling healthcare costs, the review is based on whether there is a public need for the proposed action, whether there are less costly alternatives to the proposed action, and on how the action would impact the cost and quality of healthcare.

Delaware also has robust laws that promote the use of telehealth services. The state mandates both coverage and payment parity, requiring health plans to cover telehealth services for members and pay providers on at least the same basis as in-person services. Since the coronavirus pandemic, the state further amended telemedicine laws to allow patients to access telemedicine services without an in-person visit.

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## **Delaware tries capping hospital price growth to fund more primary care**

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# New on The Source: Downloadable Chart of Merger Review Legal Authority for All 50 States

Newly available on the Source: our health policy research team compiled a user-friendly, [downloadable Excel spreadsheet](#) of all provider merger review authority for all 50 states, now on the [Market Consolidation](#) interactive key issue page. The detailed chart provides clickable citations of all statutes, regulations, and state authority for mergers, acquisitions, conversions, or changes in ownership of healthcare providers.

The comprehensive spreadsheet allows side-by-side comparisons of the level of legal authority for each state to receive notice of impending transactions, review those transactions, and approve, conditionally approve, or disapprove them. It is conveniently organized by each type of state entity:

- Attorney general notice, approval, and review criteria
- Court approval requirement and criteria
- State health agency notice, approval and review criteria
- Certificate of Need (CON) notice, approval, and review criteria

Click on each citation for a direct link to the statutory text and other detailed information as provided by the [Database of State Laws Impacting Healthcare Cost and Quality](#) (SLIHCQ). All laws and regulations are current as of July 2021.

Click [here](#) to download.

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# **SB 119**

This Act is a result of the 2019 report of the Joint Legislative Oversight and Sunset Committee's task force under Senate Resolution No. 9 of the 150th General Assembly, which recommended requiring dental insurers to report to the Delaware Health Care Claims Database ("Database"). When the Database was created in 2016, providers of dental insurance were exempted from the mandatory reporting requirements. Dental care, however, remains an important indicator of overall health, and claims information related to dental care will help the Database continue to provide value to the State and researchers to help advance the Triple Aim Plus One, the State's goal of better health, improved health care quality and patient experience, lower growth in per capita health care costs, and an enhanced provider experience.

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# **HB 39**

This bill requires that inadvertent out-of-network services be included in individual and group health insurance policies as well as group and blank health insurance policies. This bill defines inadvertent out-of-network services are those services that are covered under a policy or contract of health insurances, but are provided by an out-of-network provider in an in-network facility, or when in-network health care services are unavailable or not made available to the insured in the facility. Inadvertent out-of-network services also includes laboratory testing ordered by an in-network provider but performed by an out-of-network laboratory.

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# **Supporting States In Setting Health Care Cost Growth Targets To Improve Affordability**