Spotlight on State: Texas

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.

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For several legislative terms, Texas has enacted legislation to explore the desirability and feasibility of mandating an all-payer claims database (APCD), while the state ran a voluntary claims data collection effort through the University of Texas Center for Healthcare Data. The medical and pharmacy claims collected from the voluntary effort account for 65% of the Texas population. In the 2021 session, the state finally passed a law to establish a statewide APCD and require health care cost disclosures by health benefit plan issuers and third-party administrators. Texas lawmakers have also enacted some surprise billing protections for consumers, requiring a hold harmless provision and no liability notice for patients that incur a balance bill from out-of-network emergency services and a hold harmless provisions for non-emergency services.

In addition to exploring pay-for-performance models in tandem with its existing rate review processes, Texas maintains a number of consumer resources for finding and using health insurance. The Lone Star state also mandates parity in telemedicine to promote the use of telehealth services. Specifically, Texas statutes require that an insurance provider or issuer cannot exclude coverage for a service provided by a healthcare provider solely because that service is provided via telemedicine and not in person. The statutes further provide parity for reimbursement and cost-sharing of telehealth services.

In provider market competition, the state limits non-compete agreement for physicians, but does not provide statutory authority for notice or review of mergers and acquisitions involving healthcare entities. Notable antitrust cases in Texas involved federal enforcement agencies, including the DOJ action against United Regional Health Care System of Wichita Falls for contracts that improperly inhibited commercial health insurers from contracting with its competitors and the FTC post-

merger investigation of King's Daughters Hospital that was joined by the Texas AG.

Texas is also the site of the latest legal challenge against the Affordable Care Act, in which 20 state attorneys general filed suit in the Northern District of Texas against the Department of Health and Human Services and the Internal Revenue Service (*Texas v. U.S.)* claiming that the elimination of the tax penalty voids the constitutionality of the individual mandate and the entirety of the ACA. The case was appealed to the Fifth Circuit and granted for Supreme Court review.