2025 Health Law Update for Alabama Physician Practices

BIRMINGHAM HLA
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Federal Health Law Update

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"One Big Beautiful Bill" Act: Impact on Physicians

- More than $1 trillion in cuts to healthcare, of which the vast majority comes from the Medicaid program.
- New work requirements for Medicaid eligibility, co-pay requirements and restricts how much federal support that states receive for Medicaid, shifting more of the burden of paying for Medicaid to the states and hospitals.
  - Starting in December 2026, adults under the age of 65, including low-income parents of children older than 14, will need to prove that they work, volunteer or attend school for at least 80 hours a month to qualify. Pregnant women, the disabled and those in prison or rehab centers are exempt from the requirements.
  - Those with income above the poverty line may now have to pay co-pays for Medicaid services out of pocket up to a certain % of their income per year. This will depend on the service, with some exemptions for primary care, mental health and substance abuse.
- The Bill includes a (one year) 2.5% increase to the Medicare Physician Fee Schedule for 2026.
- $50 billion in funding for rural hospitals. However, many physician, hospital and healthcare advocacy organizations have indicated that this payment will not be sufficient to make up for the cuts to Medicaid and other health programs.

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ACA Federal Subsidies at Risk

- Supplemental Affordable Care Act ("ACA") subsidies put in place during the pandemic run through December 31, 2025. Without enhanced subsidies, ACA insurance premiums would rise more than 75% on average, with bills for people in some states more than doubling, according to estimates from KFF Health News.
- Without an extension of the subsidies, the CBO projects up to 4 million people may lose coverage, increasing uninsured rates, especially in non-Medicaid expansion states.
- 477,838 Alabamians are enrolled in the ACA marketplace as of May 2025. About 98% of those enrolled receive subsidies.
- According to the Kaiser Family Foundation, without federal subsidies ACA marketplace premiums for Alabama residents could increase by about 93%. This could lead to an estimated 130,000 Alabamians losing coverage.
  - The loss of health coverage would cost Alabama $1.4B in economic activity and 10,000 jobs in 2026, according to the Commonwealth Fund.
  - According to the Center on Budget and Policy Priorities, a 60-year old Alabama couple making $82,000 would see their annual premium for a benchmark plan increase from $6,970 to $27,267.

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Fraud and Abuse Recoveries Increase

- OIG Efforts Yield $7.1B in Expected Recoveries/Receivables in FY24
- Recoveries up from $3.16B in FY23
- OIG brought 1,548 civil and criminal enforcement actions
- OIG excluded 3,234 individuals and entities from participation in federal health care programs

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Enforcement Trends: COVID-19

- Since its creation in 2021, the *COVID Fraud Enforcement Task Force* has seized over $1.4B in COVID-19 relief funds
  - Charged over 3,500 defendants with crimes
  - Secured over 650 civil settlements totaling more than $500M in recoveries
- Key Areas of Enforcement:
  - Improper sale or distribution of Covid 19 Over the Counter (OTC) Kit Products
  - Pathogen Panel Testing
  - Improper use of Paycheck Protection Program (PPP) funds
  - Improper use of CARES Act funds

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Telehealth Flexibilities

- During the public health emergency (PHE), the DEA adopted policies to allow DEA-registered practitioners to prescribe controlled substances to patients using telehealth without first conducting an in-person interaction. The flexibilities are set to expire at the end of 2025, but on November 10, 2025, the DEA indicated it will extend the flexibilities, although the length of the extension is currently unknown.
- Effective October 1, 2025, many of the prior Medicare telehealth flexibilities under the pandemic ended. As of October 1, 2025:
  - Except for behavioral health services, beneficiaries will generally need to be in a medical facility or in a rural area to receive Medicare telehealth services.
  - Physical therapists, occupational therapists, speech-language pathologists and audiologists can no longer furnish Medicare telehealth services.
  - Physicians and practitioners may use two-way, real-time audio-only communication technology for any telehealth service furnished to a patient in their home, provided that the furnishing physician or practitioner is technically capable of using audio-video communication technology and that the beneficiary is not capable of or does not consent to using audio-video communication technology. Audio-only can be used for both new and established patients.

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Alabama Doctor Pleads Guilty to Telemedicine Fraud

- In August of 2025, Dr. Tommie Robinson plead guilty to one count of health care fraud involving a $6M telemedicine fraud scheme for medically unnecessary DME and genetic testing.
- According to the charging documents, between December 2018 and March 2021, Dr. Robinson worked with telemedicine companies to sign medical documentation, including doctors' orders, for medically unnecessary durable medical equipment and genetic testing. It is alleged that these orders signed by Dr. Robinson were pre-populated based on telemarketing calls made to Medicare beneficiaries, and that Dr. Robinson never had any contact with and had no medical relationship with the patients.
- The charge of health care fraud provides for a sentence of up to 10 years in prison, supervised release for up to three years, and a fine of up to $250,000 or twice the gross pecuniary gain or loss, whichever is greater.

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FCA 60-Day Rule

- Providers that receive an overpayment from the government must report and return the payment to the applicable agency or appropriate contractor.
- Deadline for Reporting & Returning:
  - 60 days after the overpayment is identified.

Effective January 1, 2025:

- An overpayment is identified if a provider has actual knowledge, acts in deliberate ignorance or acts in reckless disregard of the overpayment.
- Thus, a failure to actively identify overpayments (including credit balances) could trigger a finding that the provider acted in deliberate ignorance or acted in reckless disregard of the overpayment.

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FCA 60-Day Rule (CONT'D)

- Previously, an overpayment was considered "identified" when a provider determined, or should have determined through reasonable diligence, that an overpayment was received, and the amount was quantified.
- Under the updated rule, the obligation to report and return an overpayment begins upon identification, even if the exact amount is undetermined. In other words, the 60-day clock to report and return overpayments begins immediately, despite incomplete quantification.
- The updated rule does allow a 180-day suspension of the reporting obligation if a provider identifies an overpayment and conducts a timely, good faith investigation.
- The result is a maximum 180 days to investigate and quantify in good faith any overpayment with the clock starting when the provider has actual knowledge of the first overpayment or acts in deliberate ignorance or reckless disregard of the first overpayment plus another 60 days to return the overpayment, which runs from the earlier of the date the investigation is concluded or 180 days after the initial overpayment was identified.
- If a provider does not undertake a "timely-good faith investigation" with respect to a possible overpayment, the provider has 60 days to return the overpayment.

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Medicare Makes Final Changes to Physician Direct Supervision

- Effective January 1, 2026, for services that are required to be performed under the "direct supervision" of a physician or other appropriate practitioner, CMS is permanently adopting a definition of direct supervision that allows the physician or practitioner to provide direct supervision through real-time audio and visual interactive telecommunications. Audio-only communication is insufficient.
- Historically, Medicare direct supervision required a physician or appropriate practitioner to be physically present in the office suite (though not in the same room) and immediately available to provide assistance and direction throughout the applicable test or service. During the COVID-19 public health emergency, CMS allowed virtual presence via real-time two-way audio/video to meet this requirement, a policy extended through December 31, 2025.
- The permanent direct supervision rules are applicable to incident-to services, diagnostic tests, pulmonary rehabilitation services, and cardiac rehabilitation and intensive cardiac rehabilitation services.

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Act No. 2025-452 (SB 43)

Disclosure of Information by Health Care Providers. This act: (1) authorizes health care providers to provide patients with certain information regarding the costs of treatments and drugs, related insurance coverage, alternative and off-label options, and comparative effectives thereof; (2) prohibits health insurers from taking adverse action against health care providers for providing this information; and (3) bars enforcement of any contract provision between a health insurer and a health care provider which forbids or penalizes disclosure of this information by the providers.

EFFECTIVE DATE: October 1, 2025

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Act No. 2025-455 (SB 101)

Consent for Medical Treatment – Minor Children. This act:

- raises the age at which a minor may consent to medical, dental and mental health services from 14 to 16, with exceptions for certain classes of minors and certain types of treatment;
- prohibits health care providers or governmental entities from denying a parent or legal guardian access to their minor child's health information, with exceptions; and
- establishes the fundamental right and duty of parents to make decisions concerning furnishing health care services to their minor child.

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Act No. 2025-455 (SB 101) cont'd

The following medical consent requirements apply:

- General Consent (Ala. Code § 22-8-4): the following individuals may consent to any legally authorized medical, dental or mental health services for themselves without the consent of any other individual:
  - individual who is 16 years old or older
  - minor who has graduated high school
  - a minor meeting any of the criteria set forth in Ala. Code § 22-8-5 (discussed below)
  - a minor who is pregnant
  - a minor who is emancipated
  - a minor who is: (i) not dependent on a parent or legal guardian for support; and (ii) living apart from his or her parents or legal guardian

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Act No. 2025-455 (SB 101) cont'd

- Clinical Trials (Ala. Code § 22-8-4A(b)): a minor 18 years old or older may consent to participate in a clinical trial without the consent of any other person.
- Consent to Services for Child (Ala. Code § 22-8-4(c)): a minor who is the parent of a child or who is pregnant may consent to any legally authorized medical, dental or mental health services for his or her own child without the consent of any other person.
- Consent of Minor for Self and Child (Ala. Code § 22-8-5): a minor who is married or divorced (having been married), or who has borne a child, may give effective consent to any legally authorized medical, dental or mental health services for himself/herself or his/her child.

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Act No. 2025-455 (SB 101) cont'd

- STIs, Reportable Diseases and Pregnancy (Ala. Code § 22-8-6): any minor may give consent for any legally authorized medical or mental health services related to any of the following:
  - Determining the presence of, or treating, STIs, drug dependency or alcohol toxicity.
  - Determining the presence of any reportable disease.
  - Preventing or determining the presence of pregnancy

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Act No. 2025-455 (SB 101) cont'd

- Mental Health Services (Ala. Code § 22-8-10): a parent or legal guardian of a minor who is at least 16 years old, but less than 19 years old, may authorize any medical treatment or mental health services even if the minor expressly refuses if the parent or legal guardian and a mental health professional determine that clinical intervention is necessary and appropriate.

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Act No. 2025-455 (SB 101) cont'd

- COVID-19 Vaccine (Ala. Code § 22-8-11): a minor of any age may not receive a COVID-19 vaccination without the written consent of a parent or legal guardian.
- Exigent Circumstances (Ala. Code § 22-8-14): a health care provider can provide health care services to a minor if the health care provider has a good faith belief that one of the following conditions exists with respect to the minor:
  - an imminent threat (a known or foreseeable danger that could occur in the immediate or near future)
  - Suspected abuse, neglect, or exploitations

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Act No. 2025-455 (SB 101) cont'd

- Parents and legal guardians have the right to access a minor's medical information, unless the provider suspects abuse or neglect of the minor child or the release of information is prohibited by a court order, a law enforcement investigation of the parent or guardian related to a crime against the minor, or federal law regarding confidentiality of substance abuse treatment records applies. This access right runs until the minor reaches the age of 19, even if the minor properly consented to the treatment.

EFFECTIVE DATE: October 1, 2025

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Changing Alabama Hospital Landscape

- Effective November 1, 2024, UAB Health System purchased the Ascension St. Vincent's Health System for $450M and rebranded the system "UAB St. Vincent's."
  - Five Hospitals: UAB St. Vincent's Birmingham, UAB St. Vincent's Blount, UAB St. Vincent's Chilton, UAB St. Vincent's East and UAB St. Vincent's St. Clair.
  - Reported that UAB has pledged $180M for capital infrastructure improvements.
  - Added 872 hospital licensed beds and more than 5,200 employees to the UAB Health System.
- Effective October 1, 2024, Orlando Health purchased a 70% majority and controlling interest in Brookwood Baptist Health for $910M and rebranded the system "Baptist Health."
  - Five Hospitals: Brookwood Baptist Medical Center, Citizens Baptist Medical Center, Princeton Baptist Medical Center, Shelby Baptist Medical Center and Walker Baptist Medical Center.
  - Reported that Orlando Health has pledged $73M for renovations and capital improvements.

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Physician Practice Acquisitions Trends

- Private Equity transactions involving physician practices have cooled a little, but there are a reported 130 deals announced in Q3 for 2025.
- Optum, a subsidiary of UnitedHealth, acquired Holston Medical in August of 2025. Holston is a 200-provider multi-specialty physician practice with more than 70 locations throughout Northeast Tennessee and Southwest Virginia.
  - Optum employs or is affiliated with more than 90,000 physicians, making it the largest employer of physicians in the United States.
- Cardinal Health announced the purchase of Solaris Health for a reported $1.9B. Solaris is a large practice management company in the urology space.
  - Cardinal manages upwards of 7,000 physicians.
- Not to be outdone, health systems in Alabama are "again" buying physician practices, including Orlando Health, UAB, Huntsville Hospital and USA Health System.

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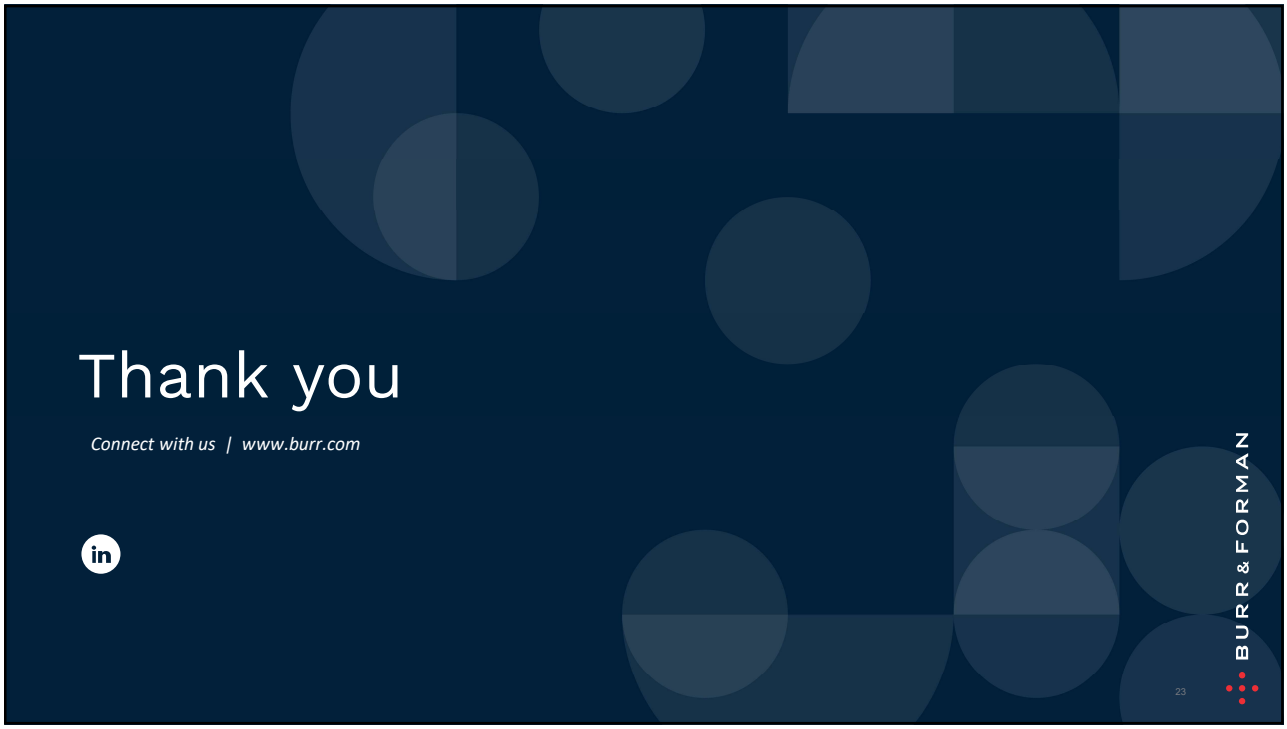

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