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## Capital Minute

Happy New Year! Check out the latest version of ACEP's Capital Minute to hear about the top legislative and regulatory issues that we're keeping an eye on for the coming year.

[Click here](#) to view the Capital Minute or click on the blue box below.



## Federal Surprise Billing Update

Congressional efforts to address surprise billing continue into early 2020, as legislators were [unable to come to an agreement](#) on a solution to be included in the year-end spending package.

### [December Activity](#)

House Energy and Commerce Chairman Frank Pallone (D-NJ) and Ranking Member Greg Walden (R-OR) and Senate Health, Education, Labor, and Pensions (HELP) Chairman Lamar Alexander (R-TN) had worked to include their [compromise solution](#) in the year-end deal, which would have established a de facto payment rate at median in-network for out-of-network care, among numerous other provisions. ACEP expressed [strong concerns](#) with the proposal, despite the adjustments that had been made to the two committees' previous proposals. However, a [bipartisan agreement](#) announced shortly thereafter by the House Ways and Means Committee provided a new approach to surprise billing, signaling that significant differences remained, pushing congressional leaders to shift the issue into early 2020.

Additionally, shortly before recessing for the year, Energy & Commerce and Senate HELP announced an expanded [surprise billing investigation](#) into large insurers and physician staffing groups, the next phase in an investigation launched in September regarding private equity firm ownership and investment in physician staffing and emergency transport companies.

#### Next Steps

Congressional leadership stated at year's end that a surprise billing fix will be included in a larger health care package that includes the so-called "health extenders" that were temporarily funded until May 22, 2020.

Though the Ways and Means proposal is only a broad outline at the moment, the Committee has signaled they are expecting to mark up their own legislation in early February. ACEP continues to have conversations with offices on the Committee to ensure they are informed of our specific policy priorities on surprise billing, and we remain hopeful that the Ways & Means legislation will align more closely with them.

ACEP is preparing a new phase of targeted ads to advance our position inside the Beltway, as well as messaging for our 911 Network advocates so that we can be ready to take action once the full Ways & Means details are released. In the meantime, the [ACEP Surprise Billing Advocacy Toolkit](#) has been updated and is available for use. We also continue to work with our specialty partners in the [Out of the Middle](#) coalition to help amplify our positions, and will be engaging in joint lobbying and communication with key Congressional offices over the coming weeks.

#### **Congress Examines State Opioid Efforts**

On Tuesday, the House Energy and Commerce Oversight and Investigations Subcommittee held a hearing entitled, "A Public Health Emergency: State Efforts to Curb the Opioid Crisis." The hearing reviewed how states are using federal opioid funds, what is being done to ensure those funds reach the hardest hit regions, and how that money may have helped transform state treatment systems. Witnesses included Nicole Alexander-Scott, MD, Director of the Rhode Island Department of Health; Monica Bharel, MD, Commission of the Public Health Department of Massachusetts; Kody Kinsley, Deputy Secretary, North Carolina Department of Health and Human Services; Christina Mullins, Commissioner of the West Virginia Bureau for Behavioral Health; Jennifer Smith, Secretary of the Pennsylvania Department of Drug and Alcohol Programs.

To view the hearing, [click here](#).

#### **House Committee Reviews Bills Related to Cannabis**

On Wednesday, the House Energy and Commerce Health Subcommittee held a legislative hearing entitled, "Cannabis Policies for the New Decade." The subcommittee reviewed six bills that proposed various policy changes, such as rescheduling/descheduling marijuana, providing a safe harbor for patients and veterans who use medical marijuana, and streamlining cannabis research processes, among other things.

To view the subcommittee hearing, [click here](#).

#### **ACEP Participates in Forum on Workplace Violence**

On Tuesday, ACEP participated in a forum on workplace violence in health care sponsored by the National Quality Forum (NQF). NQF has convened an action team focused on providing practical guidance to prevent healthcare workplace violence, identifying barriers to preventing healthcare workplace violence and corresponding solutions, collecting tools and sharing related resources to support innovative workplace violence prevention programs, and discussing alignment and action to advance measurement, reporting, and policy. There are approximately thirty organizations that are actively part of the action team, including ACEP. During the forum, ACEP's Director of Regulatory Affairs, Jeffrey Davis, spoke on a panel about the advocacy actions ACEP has taken to address this critical issue in emergency departments (EDs). He specifically highlighted ACEP's partnership with the Emergency Nurses Association (ENA) on the ["No Silence on ED Violence"](#) campaign. This joint effort aims to equip and empower emergency physicians and nurses to effect needed safety improvements at their hospitals, while engaging state and federal policymakers, stakeholder organizations and the

public at large to generate action to address this crisis. A central part of the campaign involves sharing stories to put a face on this crisis, so ACEP and ENA are encouraging healthcare workers to share their stories and join in the discussion on social media using [#StopEDViolence](#).



From left to right:

- Terry Kowalenko MD FACEP: Emergency Medicine Department Chair at the Medical University of South Carolina
- Shantanu Agrawal, MD, MPhil: ACEP Member and President and Chief Executive Officer of the NQF
- Jeffrey Davis: ACEP's Director of Regulatory Affairs

### **ACEP Signs onto AMA Letter Opposing Potential Changes to Non-Physician Supervision and Reimbursement Policies under Medicare**

On Thursday, the AMA sent a [letter](#) to the Centers for Medicare & Medicaid Services (CMS) opposing potential regulatory changes to supervision requirements and reimbursement for nonphysician professionals. ACEP along with dozens of other specialty societies and organizations signed onto the letter. The letter specifically requests that CMS not make any regulatory changes until it carefully reviews and considers fact-based resources that highlight the vast differences in education and training of physicians compared to nonphysician health care professionals and the impact of any potential changes on the overall cost of care.

As background, CMS had sought feedback on one aspect of President Trump's [Executive Order \(EO\)](#) on Protecting and Improving Medicare for Our Nation's Seniors. The EO directs HHS to propose a number of reforms to the Medicare program, including ones that eliminate supervision and licensure requirements that are more stringent than other applicable federal or state laws. CMS has already made a number of regulatory changes in several payment rules related to nonphysician supervision requirements, but requested additional help identifying other Medicare regulations that contain more restrictive supervision requirements than existing state scope of practice laws or that limit health professionals from practicing at the top of their license.

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