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New York health care players brace for unknown effects of Trump's promised repeal

By Josefa Velasquez

ALBANY — If there's one thing the state officials, health care executives and industry lobbyists agree on as they brace for President-elect Donald Trump's follow-through on the promise to repeal and replace the Affordable Care Act, it's that there's only so much they can do without more information.

“There’s way, way, way too much that’s unknown,” said Bea Grause, president of the Healthcare Association of New York State, a trade group that represents hospitals. “We’re just going to have to wait until the dust settles a little bit.”

Republicans' recent comments on the Affordable Care Act provide some modicum of security. The law, which has been a boon to hospitals across the state because of all the newly insured patients, is expected to remain in place for at least two years while Republicans work on a replacement plan.

“I think [a repeal is] not going to be done in one fell swoop,” Grause said. “I think it’s going to be harder to do because it’s going to entail repealing coverage for 20 million Americans. ... I think they’re going to have to step back and take their time and figure out what their priorities are.”

Insurance coverage is only one aspect of the ACA. Other changes, specifically those that concern federal health spending and government's role in managing population health, loom large for New York.

U.S. Rep Tom Price, Trump's choice to head the Department of Health and Human Services, has spoken of converting Medicare from a defined benefit program into a defined contribution program. It will be a politically tough sell as Medicare is one of health care's most popular programs. But just the thought of changing how health insurance for seniors is funded has many hospital executives concerned over one of their primary sources of funding.

"If there's anything that would keep us up at night it's that there would be additional cuts in Medicare funding," said Terry Lynam, the senior vice president and chief public relations officer at Northwell Health.

The possible reduction in funding for Medicare, as well as block granting Medicaid, could mean billions in cuts for New York's hospitals and the state coffers.

"Taking massive reductions in federal Medicaid, keeping the Medicare cuts in place, and then having a tremendous destabilizing effect on what has been insurance expansion under the ACA ... is terrifically troubling to the hospital field," said Susan Van Meter, a senior vice president at HANYS who deals with federal relations.

Medicaid, which is more vulnerable to cuts, is another flash point, particularly for some of the state's safety net hospitals that rely on the insurance program as their largest payer.

"The ACA brought in more people with insurance than before. That was a good thing," said Gary Fitzgerald of the Iroquois Healthcare Alliance, a trade group that represents upstate hospitals. "In New York State, we expanded Medicaid. ... If Trump takes that away, that's a hole in the state budget. If he block grants Medicaid, like he's made some noises about, that usually is accompanied with a cut in the Medicaid amount that they give the state. [New York] gets more Medicaid dollars than most states."

Gov. Andrew Cuomo on Thursday said it is unlikely New York State could on its own make up for a significant loss in federal Medicaid dollars, and that it would be morally wrong for the federal government to impede access to health care for lower-income New Yorkers.

His Medicaid director, Jason Helgeson, said Republican plans could "create a major budgetary challenge for the state."

Paul Francis, Cuomo's deputy secretary for health said, block grants, a proposal favored by Price and House Speaker Paul Ryan, are "one of our largest concerns."

"I think the prospect for change that the Trump administration brings ... definitely creates some significant risks for the health care sector in New York," Francis said last week at a breakfast hosted by the Hospital Association of New York State. "Block grants tend to reduce funding over time."

Providers, in addition to worrying about federal cuts impacting the bottom line, are worried about the long-term consequences of a shift in philosophy. Throughout President Barack Obama's two terms, the federal government has prioritized

preventive medicine, going so far as to offer free wellness visits and other preventive care in the Affordable Care Act.

The idea being that earlier interventions reduce costly and avoidable complications further down the line.

If those rules are repealed, or the emphasis on how health care is delivered changed, it could lead to people avoiding primary and preventive care. That increases the likelihood that they will revert to a reliance on the emergency room, a far more costly way of treating people, particularly those on Medicaid, and particularly for hospitals that have invested in increasing access to primary and preventive care.

“Many of the newly insured people are starting to manage their care better under these plans,” said John Jurenko, vice president of intergovernmental relations and planning at New York City’s Health + Hospitals. “They may stop coming for preventative and maintenance care and start showing up again when they’re really sick in the emergency department and at that point we’ve lost control of their condition.”

Cuomo announces \$650M life-science research cluster initiative

By Miranda Neubauer

Gov. Andrew Cuomo on Monday announced a new \$650 million initiative aiming to establish a life-science research cluster in the state and expand the state's ability to commercialize research.

The effort includes \$250 million in tax incentives for new and existing life science companies, \$200 million in state capital grants to support investment in wet-lab and innovation space and \$100 million in investment capital for early stage life science initiatives, which are slated to receive an additional match of at least \$100 million for operating support from private sector partnerships.

"New York is uniquely positioned to become a global powerhouse in the life science sector and this groundbreaking initiative is making the investments and establishing the programs necessary for capitalizing on our tremendous potential," Cuomo said in a statement. "From providing the incentives to attract top talent and drive innovation, to providing the space that emerging life science companies need to grow, we are breaking down barriers and helping the industry gain momentum.

The initiative applies to biotechnology, pharmaceuticals, biomedical technologies and life systems technologies.

The tax incentives are aimed at competing with other states that are "poaching" New York-based by drawing more capital from early stage and angel investors and making the state more attractive life sciences firms, according to the administration. Existing businesses will be eligible for an annual allocation of \$10 million in Excelsior tax credits, new businesses will receive a 15 percent refundable tax credit on all new qualifying research and development expenditures, small businesses would be eligible for a 20 percent credit and angel investors would receive a credit of 25 percent of their investment, with a maximum of \$250,000 per investor.

The administration also plans to make more than 3.2 million square feet of space and 1,100 acres of developable land available tax free at 45 colleges and universities statewide. The institutions include Hofstra University, Stony Brook University, CUNY City College, Medgar Evers College, New York Medical College, SUNY Poly, SUNY Cortland, Binghamton University, the University of Rochester, Cornell University and the University of Buffalo.

Cuomo said he plans to announce additional public-private sector partnerships in next month's State of the State address. The governor also plans to announce the membership of a new Life Sciences Advisory Board, comprised of industry and academic leaders.

"The Governor's decision to build a state-wide life sciences industry cluster will be a catalyst for creation of more than 25,000 new jobs and over \$3 billion in additional economic activity according to our analysis, putting New York State on a par with California and Massachusetts as the nation's premiere centers of commercial life sciences," Kathryn Wylde, president of the Partnership for New York, said in a statement.

Court rules in favor of ABC, restricts use of NY Med video showing patient's death

By Dan Goldberg

The public won't be able to see unedited outtakes of NY Med, an ABC television program that filmed the death of a patient, according to a court ruling announced on Monday.

The case, *Chanko v. ABC*, centers on the case of Mark Chanko, who was brought to the emergency room at New York Presbyterian Hospital after being hit by a vehicle.

ABC was filming NY Med, a documentary about medical trauma, and recorded the last moments of Chanko's life without his consent.

New York Presbyterian would later agree to pay the federal government \$2.2 million for "blatantly" violating HIPAA, according to the U.S. Department of Health and Human Services.

Chanko's widow, Anita, discovered the privacy violation while watching NY Med 16 months after her husband died. She heard her husband's final words, his last gasps and watched him die, according to the complaint.

Her attorney, Mark Fox, argued that ABC created a medical record when it filmed inside the emergency room and that medical record belonged to Chanko and could be shared with whomever his wife wished.

ABC argued that it is protected by New York's shield law, a statute meant to protect journalists, and that disclosure by a news organization must be strictly limited to whatever is truly critical and necessary to the resolution of the case.

Supreme Court Justice Manuel Mendez said ABC's arguments "have merit," and ordered that the unedited film should be turned over to Fox but restricted public dissemination.

Fox said he was "not surprised by the decision."

Earlier this year, the state Court of Appeals dismissed ABC as a plaintiff, saying that most people would find the network's conduct "reprehensible" but it did not meet the high legal burden necessary to prove the intentional infliction of emotional distress.

New York Presbyterian remains a defendant.