

Katz to Focus on Primary Care

Katz told The New York Times he wants to focus on primary care and eConsult, an electronic health management system to streamline care and reduce wait times for specialty appointments.

CBC Report Says New H+H Leader Has Tough Road Ahead

Dr. Mitchell Katz is slated to begin his role at NYC Health + Hospitals today. He is the fourth CEO in the last five years, a New York native who is credited with turning around the Los Angeles Department of Health Services, the nation's second-largest municipal system.

... He comes to the de Blasio administration at a perilous time for Health + Hospitals. The system is facing a multi-billion dollar deficit, cuts in revenue from the Disproportionate Share Hospital program and a growing reliance on city funds.

... City subsidies grew from \$607 million in Fiscal Year 2011 to \$1.8 billion in Fiscal Year 2016, according to a report from the Citizens Budget Commission released today, which explains why Katz's success in Los Angeles won't easily be replicated in New York.

... The largest difference is that the Affordable Care Act, a boon for revenue in Los Angeles when the law took effect in 2014, has already been implemented in New York. The city system can't capitalize much more on that program. Further, Republican policies are likely to increase the number of uninsured, according to the Congressional Budget Office. "Currently, and in the foreseeable future, federal policy is more problematic," the CBC report said.

... There are other important differences between the two municipal systems as well, according to the report. The Los Angeles system accounts for 5 percent of the county's staffed beds and 6 percent of the county's discharges. The 11 acute hospitals that are in New York City's system account for 20 percent of staffed beds and 17 percent of discharges. The discrepancy is even larger when it comes to psychiatric discharges where Health + Hospitals accounts for 35 percent of all city discharges. The Los Angeles public system accounts for 3 percent. Were the

voluntary hospitals to pick up 97 percent of psychiatric cases in New York City, the public system's bottom line would almost certainly improve.

... Finally, New York has a unique problem for any leader of Health + Hospitals: Albany. "New York State policy has historically been more favorable to voluntary hospitals than municipal hospitals in the distribution of state-controlled funds, a contrast to the political dynamic in California," the report said. "Further complicating the situation in New York is the much publicized tension between the Mayor and the Governor."

This Week in Health

Jan. 8 — The Regulatory Modernization Initiative - Long Term Care Need Methodologies and Innovative Models Work Group will hold its third meeting at 1 p.m. in Albany.

Jan. 8 — The Senate health and judiciary committees will hold a hearing at 11 a.m. on how to improve New York State's Article 81 Guardianship System.

Jan. 9 — The Senate health committee meets at noon. This is the first session of 2018. Bills on the docket include a sexual assault survivor bill of rights.

Jan. 9 — The State Emergency Medical Advisory Committee, which recommends to the State Emergency Medical Services Council statewide minimum standards for medical control; treatment, transportation and triage protocols, including protocols for invasive procedures and infection control; and the use of regulated medical devices and drugs by emergency medical services personnel, meets at 1:30 p.m.

Jan. 10 — The State Emergency Medical Services Council, which sets minimum standards for ambulance services, ambulance service certification, advanced life support first response services, the provision of prehospital emergency medical care, public education, the development of a statewide emergency medical services system, the provision of ambulance services outside the primary territory specified in the ambulance services' certificate, and the training, examination, and certification of certified first responders, emergency medical technicians, and advanced emergency medical technicians, meets at 12:30 p.m.

Jan. 11 — NYC Health + Hospitals finance committee meets at 9 a.m.

Jan. 11 — The Assembly Committees on Codes, Health and Alcoholism and Drug Abuse will hold a hearing at 10:30 a.m. on marijuana decriminalization and regulation.

Opioid distributors unbowed by Cuomo's threatened lawsuit

By NICK NIEDZWIADK

ALBANY — Pharmaceutical distributors say Gov. Andrew Cuomo's promised lawsuit to hold them responsible for the opioid crisis would be a misguided effort they would vigorously oppose.

"Given our role, the idea that distributors are solely responsible for the number of opioid prescriptions written defies common sense and lacks understanding of how the pharmaceutical supply chain actually works and how it is regulated," said John Parker, senior vice president of the Healthcare Distribution Alliance, the industry's national trade group, in a statement.

"We aren't willing to be scapegoats," he said.

Cuomo, in his State of the State address on Wednesday, laid blame for the nationwide epidemic squarely at the feet of the three largest distributors — McKesson, Cardinal Health and AmerisourceBergen — who command roughly 85 percent of the drug supply in the United States.

"The opioid crisis was manufactured, literally and figuratively," Cuomo said. "We will make them pay for their illegal and reprehensible conduct. We will sue them, and we will stop the spread of opioids because too many innocent lives have been lost and the time for action is now before we lose another single life."

Any money received as a result of the yet-to-be-filed litigation would be directed to support opioid treatment and prevention efforts, according to the 361-page policy book accompanying the speech.

A spokeswoman for McKesson said the distribution industry should not be singled out as driving the opioid problem.

"McKesson delivers life-saving medicines to millions of Americans each day and is committed to maintaining — and continuously enhancing — strong programs designed to detect and prevent opioid diversion within the pharmaceutical supply chain," Kristin Hunter Chasen said in a statement. "We remain committed to engaging with all who share our dedication to acting with urgency to address this epidemic and working together to end this national crisis."

A spokeswoman for Cardinal Health declined to comment, and AmerisourceBergen did not respond to a request to comment.

Blame for the opioid crisis had largely been focused on drug manufacturers like Purdue Pharma, the maker of OxyContin, but recent investigations by The Washington Post and others have begun to put distributors in the crosshairs as well.

“Much has been said about manufacturers, but not as much has been said about distributors, who are really the 800-pound-gorilla here,” said Stephen Acquario, executive director of the New York State Association of Counties, in an interview.

Cuomo’s speech did not specify when, or on what legal basis, a lawsuit would be brought. A spokeswoman for Attorney General Eric Schneiderman, whose office would handle any such litigation, said it is continuing to investigate the opioid industry.

“Working with the Governor, we will take enforcement actions against opioid distributors that breached their legal duties to monitor, detect, and report suspicious orders of prescription opioids,” spokeswoman Amy Spitalnick said in a statement.

Other states and counties, including a dozen in New York, have filed lawsuits in state and federal court against pharmaceutical manufacturers and distributors. The crux of their arguments, reminiscent of those against tobacco companies, allege the companies used coordinated and sophisticated marketing campaigns to downplay the hazard they knew their products posed to the public.

Albany County on Friday filed a federal lawsuit against a number of pharmaceutical companies. The suit will be consolidated into one set to be heard in Ohio. The federal case levies allegations of racketeering activity against the drug industry, while the pending litigation in New York’s state court system focus on deceptive marketing and consumer protection issues.

State Week: What's ahead in 2018

By RACHANA PRADHAN

It might be an election year, when policy often takes a back seat to politics, but 2018 is still set to be a busy time in the state health care world. Here are some of the top issues confronting policymakers:

PRICE TRANSPARENCY AND DRUG COSTS — With states continuing to fret over rising health care prices — especially for prescription drugs — several experts surveyed by POLITICO believe governors and legislators will make an even greater attempt to control spending after some notable efforts in 2017. PricewaterhouseCoopers’ Health Research Institute found that 21 health care pricing

bills passed at the state level in 2017 out of 75 that were introduced, up from 15 such bills approved in 2016.

Nevada and California last year passed drug price transparency laws, and Maryland passed a law targeting price gouging by generic drug makers. Separately, other states are trying to limit drug spending in Medicaid through waiver proposals. “The pressure’s just getting so intense for states,” said Darin Gordon, a health consultant and former Tennessee Medicaid director.

MEDICAID — Talk is ranging from Medicaid buy-ins in blue states to proposed work requirements and other eligibility limits in red states. Expanding Medicaid under Obamacare, while unlikely to see traction in most of the 19 holdout states, will be the subject of fierce debates in at least Virginia and Maine. And states are likely to push more enrollees into managed care as they try new cost-containment strategies.

... Finally, state waiver requests have also been piling up at HHS, and the federal government has yet to approve plans that would set new precedents for eligibility, employment and drug testing (more on that later).

PRIVATE INSURANCE — With Congress repealing the Affordable Care Act’s individual mandate and the Trump administration moving to expand association health plans, state regulators will have to confront new practical and political challenges to keep markets stable, National Academy for State Health Policy Executive Director Trish Riley said in an interview. The Trump administration is also expected to issue separate rules allowing for short-term health plans. “It’s like a perfect storm. The mandate’s [elimination] and new market offerings don’t bode well for the individual market,” Riley said.

Look for reinsurance programs, state-level individual mandates and other stabilization ideas to also stay center stage as many states were already dealing with skyrocketing premiums and market instability.

OPIOIDS — Rising death rates stemming from opioid abuse will keep the issue at the forefront for states this year. Last year saw widespread activity on opioid prescribing limits, and states are likely to do more in that area, the National Governors Association’s Hemi Tewarson said. States are also still trying to get better data on drug-related deaths and expand access to medication-assisted treatment. Those efforts include exploring whether Medicaid can help cover those treatments for populations in the criminal justice system, Tewarson added.

THEN AGAIN ... Predictions are a tricky thing, especially in a major election year when there are governors races in 36 states. For a recap of surprises and things that

didn't happen on health care in 2017, POLITICO's Adam Cancryn has a great rundown here.

Welcome to our souped-up State Week, where every Friday, POLITICO reporters bring you health news from around the country. I'm your host this week. What do we need to keep an eye on for the upcoming year? Send tips and story ideas to rpradhan@politico.com and [@rachanadixit](https://twitter.com/rachanadixit).

MEDICAID

Medicaid expansion proves popular in Utah. Fifty-nine percent of Utahns support Obamacare's Medicaid expansion, according to a poll conducted for UtahPolicy.com. More than a third said they opposed the coverage expansion.

Following the success of a similar tactic in Maine, Obamacare supporters are trying to get Medicaid expansion on the Utah ballot this year after several failed attempts to get a bill through the GOP-controlled state Legislature. Utah is one of 19 states that have not adopted the program.

Ballots sent for Oregon Medicaid referendum. The state this week started mailing ballots for Measure 101, which asks Oregon voters to decide whether to uphold or reject taxes that would help cover the state's costs for Medicaid. The measure, which is spearheaded by three Republican state lawmakers, asks Oregonians to affirm or overturn a plan by the state Legislature to impose more than \$300 million in temporary taxes on hospitals and other providers over the next two years. Oregon's Medicaid rolls grew by 350,000 people after the state expanded Medicaid under the ACA. The ballots are due Jan. 23. More from [The Daily Astorian](http://TheDailyAstorian.com).

Delaware to cover obesity treatment for Medicaid enrollees. The new benefit, designed to help curb the state's high obesity rates, will take effect in 2019. The effort is a part of the My Healthy Weight initiative, a public-private partnership created by the Alliance for a Healthier Generation and the Bipartisan Policy Center with support from the Robert Wood Johnson Foundation. Delaware will provide Medicaid beneficiaries with a body mass index of 30 or higher at least 12 doctors' visits a year. For people with a BMI of 25 or higher, Medicaid will cover at least six hours of doctors' visits each year, and children with high BMIs will have access to regular doctors' visits. More from [Delaware Online](http://DelawareOnline.com).

EYE ON INSURANCE

Connecticut delays CHIP terminations. The Children's Health Insurance Program money Congress included in the latest government funding bill will extend the state's program through February, stalling coverage terminations for roughly 17,000

enrollees. Connecticut had previously sent notices to enrollees warning that the program would shut down in January.

... But that CHIP money won't last long, with state experts and Democratic congressional aides saying the \$2.85 billion Congress provided last month isn't enough to last until March 31. The next opportunity to attach a longer-term CHIP extension will come in a spending bill to keep the federal government open beyond Jan. 19.

Maryland Obamacare enrollment dips. The state-run exchange saw nearly 154,000 people sign up for coverage during the 2018 enrollment season, slightly less than the 158,000 who enrolled last year. Maryland's 2018 sign-up season was a week longer than the HealthCare.gov enrollment window, but still a month shorter than last year's.

... The enrollment numbers come as Maryland advocates prepare a proposal aimed at preserving the state's health coverage gains since Congress repealed Obamacare's individual mandate in its sweeping tax overhaul, H.R. 1 (115). Obamacare supporters are set to unveil a plan next week, hoping it gains traction during the legislative session that begins Jan. 10.

PUBLIC HEALTH

New York governor goes strong against opioid distributors. In his State of the State address this week, Gov. Andrew Cuomo promised to make opioid distributors "pay for their illegal and reprehensible conduct." Several states and counties across the country have already sued pharmaceutical manufacturers and distributors for their role in the opioid epidemic, likening their conduct to that of tobacco companies. New York has so far held back, but the governor sounds as if he is ready to join the legal fight.

PROVIDERS

In Texas, next steps in a health center lawsuit. On Monday, a federal judge will hear arguments in a suit filed against HHS by a network of Houston health centers for cutting off grant funding, according to the Houston Chronicle. Central Care, which received \$5.4 million from the federal Health Resources and Services Administration in 2017, said it will be forced to shutter its six clinics without the funding. HRSA said that it instead gave the grant money to a group known as Houston Area Community Services because it received a higher score on its grant application, according to the Chronicle.

WAIVER WATCH

Mississippi nabs a decade-long approval. CMS for the first time granted a 10-year extension of a Medicaid waiver, allowing Mississippi to continue a family planning program until 2028. The longer timeframe is a victory for state officials who have criticized the process for waiver renewals. The Mississippi waiver provides family planning services to men and women between 13 and 44 years old who earn up to almost twice the federal poverty level and do not have another source of health coverage.

New Mexico seeks extension for managed care waiver. CMS is accepting public comment until Jan. 30 on the proposal to continue a waiver that provides statewide managed care and home and community-based services to most of New Mexico's Medicaid enrollees. See the application [here](#).

What we're still waiting for: CMS went all of 2017 without approving a single Medicaid waiver to let states impose work requirements, despite encouragement from the Trump administration and widespread interest from red states. Those seeking approval include: Arkansas, Arizona, Indiana, Kansas, Kentucky, Maine, Mississippi, New Hampshire, Utah and Wisconsin.

NAMES IN THE NEWS

New Jersey Gov.-elect Phil Murphy has nominated Carole Johnson, a former White House Domestic Policy Council aide under President Barack Obama, as the next commissioner of the Department of Human Services.

Darian Dernovish will become the interim head of the Kansas Department of Health and Environment on Jan. 8, KCUR reports. Dernovish is a department attorney who helped spearhead Gov. Sam Brownback's push to halt Medicaid payments to Planned Parenthood.

The Oregon Health Authority has appointed Dana Hargunani as the agency's new chief medical officer. She starts Jan. 16.

STATE HIGHLIGHTS OF THE WEEK

Virginia set for Medicaid expansion showdown after statehouse drawing

Trump administration rolls out insurance rules that could weaken Obamacare

High-stakes fight over dialysis centers looms over California health agenda

The Obamacare co-op that came back from the dead

Sessions announces end to policy that allowed legal pot to flourish

Judge clears way for new medical marijuana providers

By NICK NIEDZWIADK

ALBANY — The five new medical marijuana companies awarded licenses last year will be allowed to enter the market, joining existing providers, following a state Supreme Court judge's ruling issued late last month.

A trade group representing the existing providers — the New York Medical Cannabis Industry Association — sought to invalidate the Department of Health's August decision to double the number of authorized marijuana manufacturers, called registered organizations. They alleged that the state and DOH Commissioner Howard Zucker exceeded their authority under the Compassionate Care Act.

At issue were two provisions that appeared to contradict one another: One stated the commissioner of health "shall register no more than five registered organizations that manufacture medical marijuana," but the other states "the commission [sic] may register additional registered organizations."

Justice W. Brooks DeBow, in his 11-page decision dated Dec. 28, made note of the "clearly contradictory language" and wrote that the legislative history of the law "provide little guidance."

But DeBow ruled that the trade group "has not demonstrated that the plain language of that provision or the provisions of the CCA as a whole, or other legislative history demonstrates a legislative intent to permanently cap the number of medical marijuana ROs at five."

DeBow in October denied the trade group's arguments that the state violated proper administrative procedure in granting the new licenses, that the due process rights of the original companies were violated, and that expanding the number of providers was an unconstitutional "taking without compensation."

A spokesman for the Medical Cannabis Industry Association said they are reviewing the decision, but declined to comment further.

The court ruling lifts one cloud of uncertainty for the new entrants, who have been coy with public details about exactly where and when they will set up their operations, but others remain.

For one, Attorney General Jeff Sessions on Thursday rescinded Obama-era guidance limiting federal prosecutions of businesses and people who sell marijuana legally under state law, even though the drug remains illegal under federal law.

Zucker said DOH remains committed to continuing its medical marijuana program despite Sessions' action. And neighboring Massachusetts, Vermont and New Jersey have all taken steps toward legalizing recreational use of marijuana, although New York's medical marijuana providers insist it will have little effect on their businesses.

The state has taken a number of steps over the past year or so, including the aforementioned expansion of licensees, to increase the number of people eligible to use the program, improve the system's user-friendliness and make the program more appealing by allowing more types of marijuana products. The changes come after the system got off to a rocky start in its inaugural year.

In November, Gov. Andrew Cuomo signed a bill adding post-traumatic stress disorder to the list of conditions that qualify for treatment under the medical marijuana program.

There are signs of improvement for the program: Excise tax revenue for the fiscal year has exceeded the budget office's \$1 million projection with three months to spare, and more than 40,000 people have signed up since the program began.

Allure Group settles with Schneiderman, promises new health care facilities

By DAN GOLDBERG

Allure Group, the infamous company behind the sale of Rivington House, has agreed to pay \$2 million in penalties and spend up to \$10 million more to create new health care facilities in Brooklyn and Manhattan, according to the state attorney general's office, which had been investigating the company since last April.

The settlement, announced Friday, also requires Allure to revitalize the Greater Harlem Nursing Home, a 200-bed facility on West 138th Street. Allure cannot sell or close the facility for nine years.

Attorney General Eric Schneiderman's investigation followed the closure of two health care facilities that had been purchased by the Allure Group: Rivington House in Manhattan and CABS Nursing Home in Brooklyn. In each case, the facility was closed soon after it was purchased.

The Allure Group bought the Rivington property, an AIDS residence, from nonprofit VillageCare for \$28 million in 2015. It sold it in 2016 to real estate developer Slate

Property Group for \$116 million, after receiving permission from the city to lift a deed restriction that required the building be used as a nonprofit health care facility. How and why the deed was lifted became the subject of a long-running investigation into what Mayor Bill de Blasio's administration knew and when it was known.

The city's Department of Investigation portrayed City Hall's handling of the Rivington House sale as disorganized at best and disingenuous at worst, and called into question the role of First Deputy Mayor Tony Shorris, who the report said was informed repeatedly about activity related to the property.

As is common in settlements, the Allure Group did not admit any wrongdoing.

The settlement requires Allure Group to use "reasonable efforts" to create the new health care facilities. Reasonable, according to the settlement means "expending or encumbering \$10 million on a single facility in either the Brooklyn Project or the [Lower East Side] healthcare project." Those facilities cannot be sold or closed for eight years, according to the terms of the settlement.

Allure will also pay \$750,000 in penalties and costs to the state, in addition to \$1.25 million to Lower East Side health care nonprofits.