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# C-10: Impact of the Affordable Care Act on MPL - An Update

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Audit • Tax • Consulting • Corporate Finance

**Seminar on  
Reinsurance**

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# Agenda

Opioids

Demographic Trends

New World of Large Deductibles

Other ACA Considerations

# Opioid Update



## The Opioid

## Abuse Epidemic

Turning the Tide

**BY KEVIN M. BINGHAM, ALEX MICHEL, DAVID WARD, AND BARBARA GORDON, MD**

**D**uring the past decade, the United States has witnessed an alarming increase in the use of opioids. David Ascherman, who co-chaired the 2012 National Academies of Sciences, Engineering, and Medicine report on the opioid crisis, estimates that the global opioid supply 70% of all is prescription pain relievers of which 80% are opioid drugs, most of which are hydrocodone/acetaminophen. According to the U.S. Centers for Disease Control and Prevention, deaths from an overdose of opioid pain relievers now exceed the number of deaths related to heart and cancer combined. In 2010, drug overdoses actually surpassed the number of deaths from cancer which occurred for the first time since the government began tracking drug-related deaths in 1999.

In the November 15, 2014, *CRJ* special "Call That The Prescription Drug Abuse Epidemic?" The Center for Health Equity Promotion and Research (CHERP) has published an editorial in the journal *CRJ* that offers a number of recommendations for the industry and the government to help reduce the number of deaths from opioid abuse. The editorial is available at [www.cjonline.com](http://www.cjonline.com).

There are a number of ways to reduce the number of deaths from opioid abuse. The editorial offers a number of recommendations for the industry and the government to help reduce the number of deaths from opioid abuse. The editorial is available at [www.cjonline.com](http://www.cjonline.com).

**Prescription drug diversion**  
 Prescription drug diversion is the unauthorized use of prescription drugs. It is a major problem in the United States and is a leading cause of opioid abuse. The editorial offers a number of recommendations for the industry and the government to help reduce the number of deaths from opioid abuse. The editorial is available at [www.cjonline.com](http://www.cjonline.com).

**How do prescription drugs get typically diverted?**  
 Prescription drugs are typically diverted through a number of ways. The editorial offers a number of recommendations for the industry and the government to help reduce the number of deaths from opioid abuse. The editorial is available at [www.cjonline.com](http://www.cjonline.com).

**What is a medication provider for another person?**  
 A medication provider for another person is a person who provides prescription drugs to another person. The editorial offers a number of recommendations for the industry and the government to help reduce the number of deaths from opioid abuse. The editorial is available at [www.cjonline.com](http://www.cjonline.com).

**What are some strategies for reducing the number of deaths from opioid abuse?**  
 There are a number of strategies for reducing the number of deaths from opioid abuse. The editorial offers a number of recommendations for the industry and the government to help reduce the number of deaths from opioid abuse. The editorial is available at [www.cjonline.com](http://www.cjonline.com).

From *CRJ* October 2014 • Prescription Review • 2



## Combating Rx Abuse — An Insurer's Perspective

**Examining FAH's Report and State-Specific Measures**

**T**he minimum and abuse of prescription drugs has taken a devastating toll on communities all across America. For insurance companies, the financial impact of rising opioid costs continues to cause concern, as medical payments around individual payments.

In 1995, medical losses represented only 40 percent of the dollar cost of a policy. Today, medical losses represent roughly 60 percent of the dollar cost of a policy. In the Wake, address of the NAAMC National Insurance Association, the article "Opioid Abuse: A Wake-Up Call" discusses the impact of opioid abuse on the insurance industry and offers a number of recommendations for the industry and the government to help reduce the number of deaths from opioid abuse. The article is available at [www.naamc.org](http://www.naamc.org).

**FEATURE STORY**

**BY KEVIN BINGHAM, ALEX MICHEL, DAVID WARD, AND BARBARA GORDON, MD**

## The Challenging Task of Stemming Opioid Abuse

In the first quarter 2013 issue of *Physician Leader*, our article, "The Opioid Abuse Epidemic—Turning the Tide" discussed what state and federal agencies have been doing to combat this epidemic, and related how various agencies have been taking action, too, through the efforts of Physicians for Responsible Opioid Prescribing (PRO-P) and the revocation of physicians' licenses.

Kevin M. Bingham is principal at Bingham Consulting LLP in Fairfax, VA and founder of Bingham Center Medicine, Health and Medical Professional Liability Practice, executive past chairperson of the American Academy of Accountants' Medical Malpractice Liability Committee, and a global advisory partner. Alex Michel and David Ward are partners at Bingham Center Medicine, Health and Medical Professional Liability Practice. Barbara Gordon, MD, is a professor at Eastern Kentucky University in the former Commonwealth of Virginia.

PHOTO COURTESY OF DAVID ROSS

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welcome to the conversation

ABOUT

## Winning the War Against Opioid Addiction and Abuse

by Kevin Bingham and Alex Michel and David Ward

**Summary:**  
 We have come a long way in the battle against opioid addiction in a relatively short time, and a better long-term solution could be just around the corner.

PHOTO COURTESY OF DAVID ROSS

# America's Challenges with Opioids – Hundreds of Stories

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## **Over 700 US doctors suspected of harmful excessive prescription practices**

Read more: <http://oig.hhs.gov/oei/reports/oei-02-09-00603.pdf>

## **US Becoming A 'Medication Nation' With Rampant Use Of Prescription Drugs**

Read more: <http://www.redorbit.com/news/health/1112878407/prescription-medication-nation-drugs-prescribed-061913/>

## **Expert details misuse of prescription drugs**

Read more: <http://www.post-gazette.com/stories/local/neighborhoods-south/expert-details-misuse-of-prescription-drugs-692419/>

## **Police: Suspected Drunk Driver Blames Crash On Prescription Meds**

Read more: <http://www.newschannel5.com/story/22652308/police-suspected-drunk-driver-blames-crash-on-prescription-meds>

## **Drug "Push Back" gaining momentum**

Read more: <http://wsau.com/news/articles/2013/jun/17/drug-push-back-gaining-momentum/>

## **DUI not just about alcohol, it's about medications too**

Read more: <http://nbclatino.com/2013/06/17/dui-not-just-about-alcohol-its-about-medications-too/>

## **Heroin use linked to prescription painkillers**

Read more: <http://shar.es/xqaUq> via [@sharethis](#)

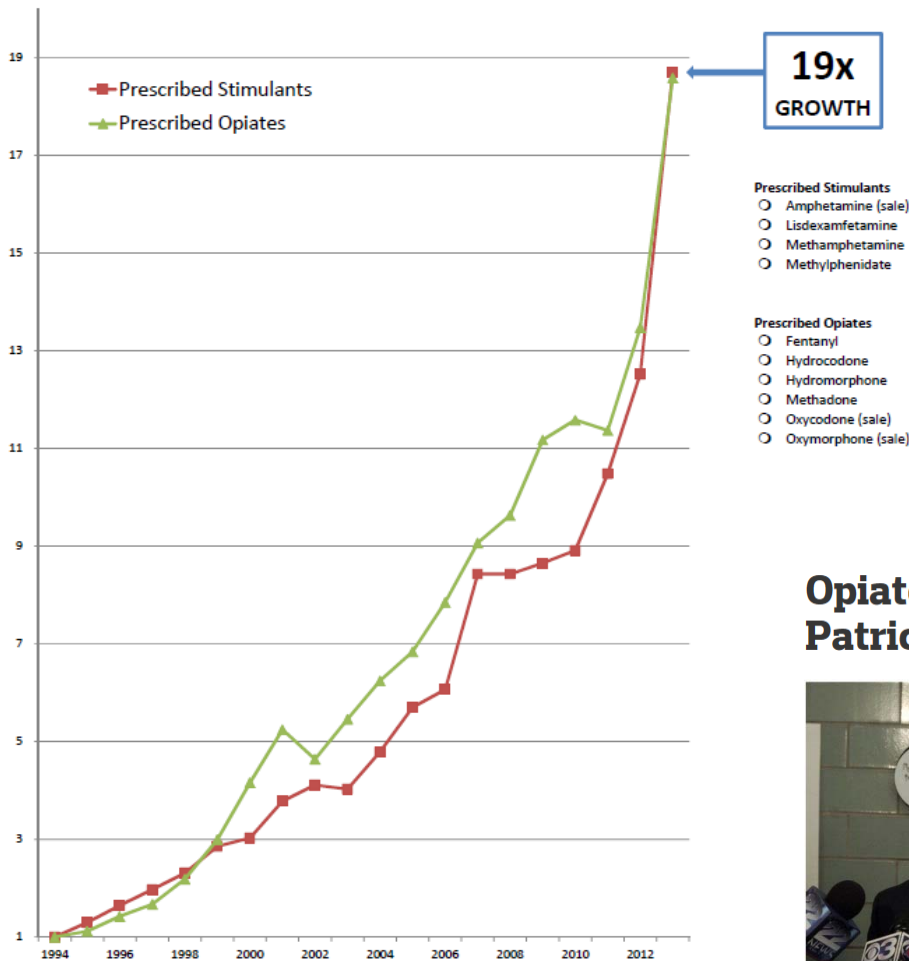
## **Health Department Asks Doctors To Help Fight Staten Island Rx Drug Abuse, physicians prescribing too many meds for too long**

Read more: <http://shar.es/xpByb> via [@sharethis](#)

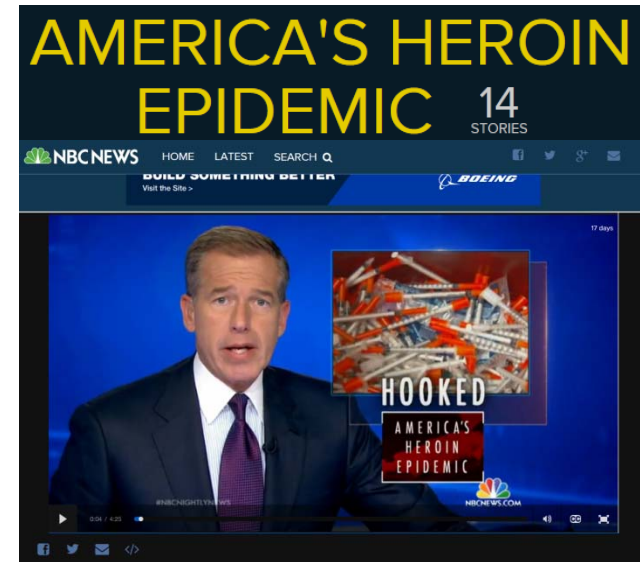
Source: Alix Michel and David Ward

# America's Challenges with Opioids - Graphic

UNITED STATES PRODUCTION NORMALIZED TO 1994



SOURCE: [www.epo.gov](http://www.epo.gov)  
James W. Harris, PhD, CSO VateX Explorations LLC



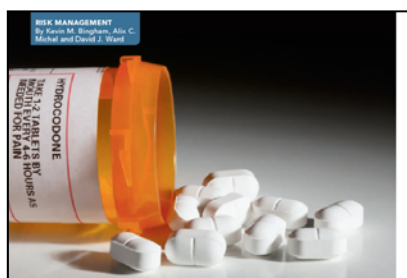
## Opiate epidemic leads Massachusetts Gov. Deval Patrick to declare public health emergency



Massachusetts Governor Deval Patrick on Thursday declared a public health emergency as the state, like much of the northeast U.S., is dealing with an epidemic of heroin and opiate-based prescription drug abuse. (Republican File Photo)

**“We have an epidemic of opiate abuse in Massachusetts, so we will treat it like the public health crisis it is.”**

# Opioid Epidemic



Combating Rx Abuse — An Insurer's Perspective  
Examining TFAH's Report and State-Specific Measures

“It will be important for insurers to **pay close attention to state specific efforts** to combat prescription abuse.”

Prescription drug monitoring programs  
Doctor shopping laws  
Support for substance abuse programs  
Prescriber education requirements

Support for Narcan use  
Physical exam requirement  
ID requirement  
Pharmacy lock-in program



The Challenging Task of Stemming Opioid Abuse

“To counter this rise in addiction, researchers will need to unravel the underlying causes of pain, to prevent it, rather than treating it with potentially addicting drugs. Also, we must **understand how to manage pain**, when necessary, with therapies that have less potential for addiction—alternative treatments.”



Winning the War Against Opioid Addiction and Abuse

Summary:  
We have come a long way in the battle against opioid addiction in a relatively short time, and a better long-term solution could be just around the corner.

“Insurance companies are doing a better job of **leveraging advanced analytics** to understand their opioid-exposed population and the prescribing habits of the physicians treating their injured workers.”

Source: Claims Magazine, January 2014, Inside Medical Liability Magazine, First Quarter 2014, Insurance Thought Leadership 2014

# Healthcare Provider Challenges with Opioids



## Doctors, medical staff on drugs put patients at risk

*A USA TODAY review shows more than 100,000 doctors, nurses, medical technicians and health care aides are abusing or dependent on prescription drugs in a given year, putting patients at risk.*

### Rose Medical Center (TX)

Surgery scrub technician Kristen Parker infected 18 patients at Rose Medical Center with hepatitis C due to her addiction to the painkiller fentanyl. Parker replaced painkiller with saline solution.

### Multiple Hospitals in Eight States

Itinerant hospital technician David Kwiatkowski infected at least 46 patients mostly in New Hampshire. Almost 8,000 people needed hepatitis C tests after he stole patients' pain medicine and refilled it with saline using dirty needles.

### Kristin Parker – My Space Page

“I have a crazy fascination with needles...I just like the way they feel”



ROSE  
Medical Center

Source: <http://www.usatoday.com/story/news/nation/2014/04/15/doctors-addicted-drugs-health-care-diversion/7588401/>



## The Balancing Act for Physicians

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medpageTODAY's

**KevinMD.com**

Social media's leading physician voice



### Caught between patient satisfaction and prescription drug abuse

KAREN S. SIBERT, MD | PHYSICIAN | APRIL 14, 2014

If a physician recommends conservative treatment measures for pain — such as ibuprofen and physical therapy — the patient may be unhappy with the treatment plan. If the physician prescribes controlled drugs too readily, he or she may come under fire for irresponsible prescription practices that addict patients to powerful pain medications such as Vicodin and Oxycontin.

But what happens to doctors who try *not* to prescribe narcotics for every complaint of pain, or antibiotics for every viral upper respiratory infection? They're likely to run afoul of patient satisfaction surveys. Many hospitals and clinics now send a satisfaction questionnaire to every patient who sees a doctor, visits an emergency room, or is admitted to a hospital. The results are often referred to as Press Ganey scores, named for the company that is the leading purveyor of patient satisfaction surveys. Today these scores wield alarming power over physician incentive pay, promotion, and contract renewal.

Source: <http://www.kevinmd.com/blog/2014/04/caught-patient-satisfaction-prescription-drug-abuse.html>

# Demographic Trends

## Demographic Trends

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- Aging population
  - Aging physicians
    - Physician shortages across the country when demand is on the rise
    - Long term shift away from solo and two-physician practices – 78% in 1975 to just over 30% today
    - Shift of younger physicians towards hospitalist type positions and a heavier focus on work life balance
  - Aging healthcare consumers
    - Physician panels are becoming more heavily weighted towards older Americans with more health problems
    - PPACA messaging has increased the expectations of healthcare consumers (i.e., patients have unrealistic expectations)

Sources: Center for Studying Health System Change's *2008 Health Tracking Physician Survey*

## Demographic Trends

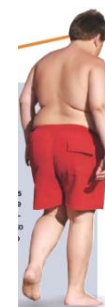
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- Dramatic increase in the use of hospitalists
  - Dr. Bob Wachter coined the term “hospitalist” in a 1996 New England Journal of Medicine article
  - Almost 40,000 hospitalists in the US today according to the Society of Hospital medicine
  - Hospitalists help reduce patient length of stay, treatment costs and efficiency
- Differences
  - Hospitalists are more focused on work life balance
  - Work for the hospital
  - Swaps panel size issues/office practice pressures for inpatient workloads
  - In-patient vs. out-patient focus and more focused risk management
  - More familiar with hospital’s policies, procedures, EHR and healthcare providers
- Challenges
  - Loss in the continuity of care
  - Hospital patients represent a sicker population than the office practice panel

## Demographic Trends

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- Obesity on the rise and now recognized as a disease
  - Centers for Disease Control (CDC) estimates 35.7% of Americans age 20 and over obese (2010)
  - Robert Wood Johnson Foundation F as in Fat Report
    - Obesity rates for adults could reach or exceed 44 percent in every state and exceed 60 percent in 13 states
    - The number of new cases of type 2 diabetes, coronary heart disease and stroke, hypertension and arthritis could increase 10 times between 2010 and 2020 — and then double again by 2030
- Challenges
  - Patients with high blood pressure, diabetes, heart disease, joint problems, sleep apnea, etc. impact recovery time and outcomes



Sources: <http://www.cdc.gov/>  
<http://www.rwjf.org/en/research-publications/find-rwjf-research/2012/09/f-as-in-fat--how-obesity-threatens-america-s-future-2012.html>

# New World of Large Deductibles

## New World of Large Deductible Health Plans

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- Rising healthcare costs driving a switch to large deductible plans
  - Healthcare is no longer “free”
  - As patients receive bills from emergency department visits and specialists in the mail, healthcare purchasing habits will change
- Warning for MPL insurers and reinsurers
  - When people pay out of their own pocket for care, their expectations about the quality of care increase
  - To the extent that patients are unhappy with their healthcare experience, AND they paid out of their own pocket, the incentive for getting back some money increases the likelihood of a lawsuit
  - As physician become “debt collectors”, patient relationships could become strained

Sources:

# Other ACA Considerations





## The Ability to Measure Quality is Increasing

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- Accountable Care Organizations (ACO) and measuring shared savings
- CMS is measuring quality of care using 33 measures in 4 key domains:
  - Patient/caregiver experience (7 measures)
  - Care coordination/patient safety (6 measures)
  - Preventive health (8 measures)
  - At-risk population (i.e., Diabetes (6 measures), Hypertension (1 measure), Ischemic Vascular Disease (2 measures), Heart Failure (1 measure), Coronary Artery Disease (2 measures))
- Challenge for insurers and reinsurers
  - Which plaintiff attorney will be the first to leverage CMS quality measures to illustrate where a physician is performing relative to his/her peers

## The Changing Healthcare Landscape

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- The shift from fee-for-service to value-based care
  - PPACA focus on Accountable Care Organizations (ACO) and shared savings
  - Increased care coordination driven by standardized protocols and information sharing
  - Heavier focus on maximizing “value” of healthcare delivered through alignment of incentives, preventative care, reducing defensive medicine, and risk management

BECKER'S  
**Hospital Review**

### 7 Forecasts on Hospital Inpatient, Outpatient Volumes

Written by Bob Herman (Twitter | Google+) | June 14, 2013

- Sg2 expects outpatient volumes to grow **17 percent** over the next five years, while inpatient discharges may decrease by 3 percent
- Outpatient cardiovascular services are expected to swell by **15 percent** over the next five years
- Outpatient bariatric surgery may increase by **75 percent** over the next five years

Source: <http://www.beckershospitalreview.com/racs/-/icd-9/-/icd-10/7-forecasts-on-hospital-inpatient-outpatient-volumes.html>  
[www.sg2.com](http://www.sg2.com)

# Shifting Focus from Inpatient to Outpatient

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## Capital Spending Reflects New Era in Healthcare

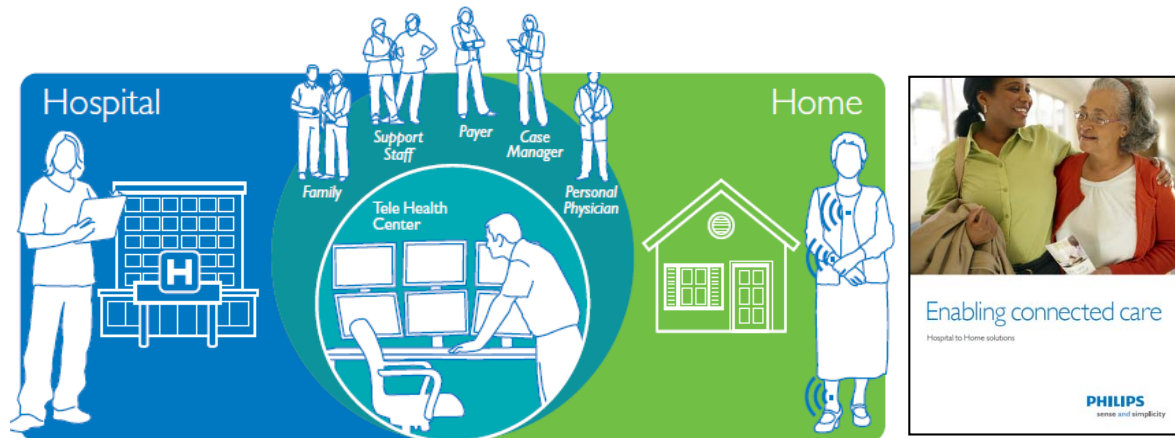
- The Patient Protection and Affordable Care Act (PPACA) is a game changer for hospitals and health systems, which are bracing for new reimbursement models based on value, the continued shift in patient volume from the inpatient to the outpatient setting, and the movement toward population health management.
- As a result, provider organizations are making major capital investments in their IT capabilities to increase their ability to manage patient records throughout the care continuum and reduce overutilization and duplication of services and in their ambulatory facilities to drive new levels of revenue and more inpatient referrals.
- Key changes
  - Hospitals are investing in large ambulatory care facilities
  - Most hospitals see growth opportunities in outpatient care
  - Increased referral opportunities and lower cost of care outside the hospital

Source: <http://www.healthleadersmedia.com/content/FIN-300783/Capital-Spending-Reflects-New-Era-in-Healthcare##>

# Innovative Approaches to Bringing Patients Home

## PHILIPS Hospital to Home

- Philip's Intensive Ambulatory Care (IAC) program targets the 5 percent of patients with multiple chronic conditions that drive over 50 percent of healthcare costs.
- The IAC program focuses on improving a patient's health status
- Patients are cared for by a dedicated team of healthcare providers
- Primary locus of care is in the home
- Remote patient monitoring through advanced Tele Health Center and in home devices
- Patient tablet
- Health coach



Sources: <http://www.hospitaltohome.philips.com>  
<http://www.hospitaltohome.philips.com/programs/eIAC>

## Nurse Practitioners and Physician Assistants

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- Rising role of NPs and PAs in the delivery of care driven by PPACA and physician shortages
  - A number of states are pushing legislation to permit nurse practitioners to order and interpret tests, prescribe medications, administer tests, etc.
  - Actuarial considerations
    - The shift from shared limits to separate limits... digging deep on real claims history
    - With increased responsibilities comes increased exposure (and premiums)
    - Review of rates relative to other industry leaders

Sources:

# PPACA Considerations



## Nurse Leader Insider

February 14, 2014

### The Week in Nursing

#### [FL House looks to give nurse practitioners more power](#)

In an issue that could spur a health-care industry fight, a House select committee Monday will take up a 155-page bill that would give nurse practitioners independence to provide medical services without physician supervision. House leaders say giving more authority to nurse practitioners, at least in part, could help address a shortage of primary-care physicians in Florida. The bill would apply to a group technically known as "advanced registered nurse practitioners," who have more education and training than registered nurses. Along with applying to nurse practitioners who provide primary care, it would apply to specialists such as nurse anesthetists.

#### [CT Governor: Let NPs work independently](#)

Nurse practitioners would be allowed to treat patients and prescribe medications independently under a proposal by Gov. Dannel P. Malloy's administration, a potentially significant — and controversial — change in the medical landscape aimed at expanding access to primary care. The ability of nurse practitioners to work independently of doctors has long been an issue of contention between the two professions, and states vary widely in how they allow nurse practitioners to practice. But the federal health law commonly known as Obamacare puts the debate in a new context: The expansion of insurance coverage to thousands more people is expected to raise the demand for primary care, at a time when the state already faces a shortage of primary care doctors and an aging physician population.

Sources: <http://www.hcpro.com/nursing>

## Other PPACA Considerations

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- Changing treatment options
  - “Group treatment” by physicians for diabetic and heart patients
  - Rising use of in store clinics
  - Rising use of telemedicine
- Innovative companies providing new options for taking care of patients



### What Services Can Be Provided By Telemedicine?

Sometimes telemedicine is best understood in terms of the services provided and the mechanisms used to provide those services. Here are some examples:



- **Primary care and specialist referral services** may involve a primary care or allied health professional providing a consultation with a patient or a specialist assisting the primary care physician in rendering a diagnosis. This may involve the use of live interactive video or the use of store and forward transmission of diagnostic images, vital signs and/or video clips along with patient data for later review.



- **Remote patient monitoring**, including home telehealth, uses devices to remotely collect and send data to a home health agency or a remote diagnostic testing facility (RDTF) for interpretation. Such applications might include a specific vital sign, such as blood glucose or heart ECG or a variety of indicators for homebound patients. Such services can be used to supplement the use of visiting nurses.



- **Consumer medical and health information** includes the use of the Internet and wireless devices for consumers to obtain specialized health information and on-line discussion groups to provide peer-to-peer support.

- **Medical education** provides continuing medical education credits for health professionals and special medical education seminars for targeted groups in remote locations.

[www.americantelemed.org](http://www.americantelemed.org)

# Speaker Bio



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- Advisory board member and chairman of the annual MPL ExecuSummit
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- Speaker, trainer and regular contributor to Contingencies Magazine, Physician Insurer Magazine and other publications on MPL and other industry issues
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