


# Ranking and Tiering of Physicians - State Approaches & Federal Compare Website


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# Problems with Physician Designations

- Physician designation programs implemented by insurers deliver two messages:
    - Patients and employers should use the designation program to make decisions about who should be trusted to provide medical care; and
    - When making medical decisions, physicians should pay attention to what insurers deem important in the care of patients.
  - Despite the gravity of these messages and the goals of physician designation programs, insurers often did not take steps to make the programs meaningful and reliable.
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# Problems with Physician Designations

- Insurers do not:
    - Provide patients and physicians with adequate descriptions of the ratings program;
    - Describe the limited role such ratings should play in patient decision making;
    - Inform physicians of the fundamental aspects of the ratings system;
    - Provide processes to protect professional reputations from incorrect designations;
    - Undertake internal or external reviews to review the veracity of the data upon which designations are based; and
    - Execute a commitment to improve quality based on the review.
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# Legislator and Administrative Response

- Physician consternation with designation programs (introduced around 2003-2005) and the demonstrable insurer blunders in individual cases spurred regulatory responses in several states.
    - NY Attorney General, after an inquiry, executed an agreement with United Healthcare on its Premium Designation Program and investigated the Aetna Aexcel program (2007).
    - Colorado passed the Physician Designation Disclosure Act (2008).
    - Texas passed HB1888, a law to establish "standards required for certain rankings of physicians by health benefit plans."
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# Legislator and Administrative Response

- This is not to say insurer activity has improved in the seven or so years since the NY AG action.
  - Ohio is considering SB 40 which is intended to "establish standards for physician designations by health care insurers."
- As one can tell - the problems are common among the states and the solutions are either similar due to the nature of the problems or advocates build upon successes in other states.

# Similarities - Litany

## Colorado

Physician Designation means a grade, star, tier, rating, profile, or any other designation.

## Ohio

... characterize or represent the insurer's assessment or measurement of ... efficiency, quality of care, or clinical performance.


## NY AG

Premium Designation program or any other ... measurement, rating, ranking, or tiering.


## Texas

Rankings, tiers, ratings or other comparisons of performance against standards, measures, or other physicians.

# Similarities - Trusted Sources for Measurements


- NY AG & Texas
    - Prioritized List - National Quality Forum, then AQA Alliance, then National Committee on Quality Assurance or similar orgs (Texas only), then measures based in bone fide nationally recognized guidelines, expert-based physician consensus standards or leading objective clinical evidence and scholarship.
    - Colorado
      - NQF, AQA, their successors, specialty organizations, or the Colorado Clinical Guidelines Collaborative
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# Similarities - Validity & Transparent

- The company must use "accurate, reliable and valid measurements" of performance. The methodologies must be available to physicians. (NY)
  - A designation must use "statistical analyses that are accurate, valid, and reliable" and accurate attribution required. On request, the methodology must be disclosed (CO).
  - Duties of issuer - "shall ensure ... the measures and methodology are transparent and valid." "Before any evaluation period the standards and measures must be disclosed" (TX).
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# Similarities - Disputing a Designation

- Notice to Physician prior to publication
    - 45 days before publication notice is provided to physicians (NY, CO, TX).
  - Disclosure of data
    - Explanation and access to data (NY), obtain information (CO), and data and "all information utilized" (TX).
  - Appeal of Designation
    - Right to correct errors (NY).
    - Right to review with face to face meeting (CO, TX).
    - Right to have a representative (CO, TX).
    - Right to provide information (CO, TX).
    - Right to written decision (CO, TX).
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# Special Issues - Special Solutions

- Disclosure to Consumers (NY & CO)
  - Basis of intervention was consumer protection.
  - Disclaimer must accompany publication that explains the designation is only a guide, they should not be the sole factor in choosing a physician, designations have a risk of error, discussion with physicians is appropriate.
- Display of ratings - cost and quality measures must be utilized - (NY & CO).


# Basic Construction of a Designation law

- Selection of appropriate standards or guidelines.
    - Involvement of physicians is required in TX.
    - NQF is a preferred/trusted source.
  - Disclosure of standards to physicians.
    - Recommend disclosure prior to evaluation period.
    - This is supposed to be a way to improve care. What good is it to show up for the first day of class to discover you have already taken the final exam!
  - Disclosure of designation prior to publication.
  - Basic procedural due process is afforded to physicians.
    - This means physicians must engage in self-help. They must appeal and craft/develop data to counter the designation.
  - Insurers must have a duty to maintain a valid system.
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# Differences - Enforcement

- Summit meetings, monitor at AG, preservation of private causes of action (NY).
  - "This Article may be enforced in a civil action, and any remedies at law and in equity shall be available" (CO).
  - Sanctions available include cease and desist and administrative penalties (by statutory references that do not include DTPA & private enforcement) and Insurance Code provisions are enforceable by the Commissioner alone (by case law) - (TX)
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# Enforcement Challenges

- In Colorado, the private cause of action lessens the urgency of AG or state government intervention. The remedies are self-help.
  - In Texas, the only recourse is to file complaints with the Department of Insurance.
    - Any disciplinary action is ultimately at the Commissioner's discretion.
    - Not an activity an association can press because of the specific patient data that drives appeals and complaints. This is something a physician must undertake. The remedies are self-help.
    - One complaint is known to be pending against an insurer. The investigation and enforcement has been underway for over two years.
    - These designation programs are highly technical and complex. The department is attempting to cope with the lack of expertise/cost of engaging experts.
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# HB 1888 – Passed

- Competing ranking bills filed—TMA and TAHP
- Leading up to session—Texas AG investigated BCBSTX and entered into a settlement prohibiting certain ranking activities


## Committee challenges

- Ranking bills assigned to different committees-Public Health and Insurance;
- Public Health Chair held up TMA while the House Insurance bill progressed
- TMA forced to abandon its bill and ultimately hijacked the other

# HB 1888 - Basic Protections

- You are provided notice (45 days) prior to publication.
  - You must be provided access to the information you need to dispute a ranking.
  - You may request a face-to-face or telephone hearing
    - Must make the request in 30 days.
    - You are entitled to have someone represent you.
    - You are entitled to provide information to the decision maker
    - You are entitled to a written decision.
  - Physicians in active practice (USA) must participate in the standards creation.
  - The measures must be transparent and valid.
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# HB 1888 – Basic Steps for Reviewing and Disputing Ranking

- Collect and Review all letters and documentation from the health plan.
    - There are a number of deadlines that must be met in order to assert your right to a review.
  - Determine if this is a State Regulated Tiering.
    - Texas' physician ranking law, however, does not apply to Medicaid program, a Medicaid managed care program, CHIP, Medicare Advantage plans, or a Medicare supplemental benefit plan. Texas law does not apply to the Federal Physician Compare Website.
    - A review may still be possible, but all of the Texas protections may not be available.
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# HB 1888 – Basic Steps for Reviewing and Disputing Ranking

- Determine the basis for your appeal:
  - The ranking is based on inaccurate data (e.g., wrong patient)
  - The ranking is based solely on cost data
  - The standards were not disclosed prior to the evaluation period
  - The standards do not comply with the hierarchy of standards
  - The measures are not valid or transparent.
- Initiate the appeal process:
  - Request your data and any additional data you determine you need to adequately challenge your rank.
  - Remember, the plan is required to provide you will “all” the data used in the ranking decision.

# HB 1888 – Basic Steps for Reviewing and Disputing Ranking

- Initiate the appeal process:
  - Request a review/fair reconsideration hearing within 30 days of receiving notice of the ranking
    - 45 days prior to publication, you must be provided with written notice of the ranking decision.
    - You must request a review within 30 days of receiving that notice.
    - A review may be in person or by telephone. It will likely take place during business hours – but can be held at any agreed upon time.

# HB 1888 – Basic Steps for Reviewing and Disputing Ranking

- Complain, Complain, Complain
  - If you believe your rights have been violated OR
  - The Ranking/Tiering program violates the law
  - File a complaint.
    - Email: [consumerprotection@tdi.state.gov](mailto:consumerprotection@tdi.state.gov)
    - Fax: (512) 475-1771 (note – this may change as TDI is modifying its numbers)
    - Mail: Texas Department of Insurance – Consumer Protection (111-1A)  
PO Box 149091  
Austin, Texas 78714-9091

# Federal Physician Compare Website

- What is the Physician Compare Website?
  - Required by the ACA and established by CMS in 2011.
  - Displays rudimentary information on enrolled Medicare physician.
  - The information on Physician Compare comes primarily from the Provider Enrollment, Chain, and Ownership System (PECOS).
    - It is therefore dependent on self-reported information as provided in the PECOS system.


# Federal Physician Compare Website

- The following Physician Compare info comes from PECOS:
  - Name
  - Primary and Secondary Specialties
  - Group Practice Affiliation
  - Address(es)
  - Phone Number(s)
  - Gender
  - Education
- The Site itself collects the following (if you submit the information)
  - Hospital Affiliation
  - Residency
  - Foreign Language

# Federal Physician Compare Website

- Board Certification:
  - Board Certification information is obtained from a database compiled by Elsevier in cooperation with the American Board of Medical Specialties (ABMS).
  - Only certification information from approved Member Boards of the ABMS are displayed on Physician Compare at this time. Contact Elsevier at [abms.feedback@elsevier.com](mailto:abms.feedback@elsevier.com) for corrections.

# Federal Physician Compare Website

- **Other Reported Information -**
    - **The Physician Quality Reporting System (PQRS).** PQRS is a pay-for-reporting program that gives eligible professionals incentives and payment adjustments if they report quality measures satisfactorily.
    - **The Electronic Prescribing (eRx) Incentive Program.** eRx is a pay-for-reporting program that encourages physicians and other healthcare professionals to use electronic prescribing to improve communication, increase accuracy, and reduce errors.
    - **The Electronic Health Records (EHR) Incentive Program.** This program provides incentives and payment adjustments to eligible professionals who use certified EHR technology in ways that may improve healthcare.
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# Federal Physician Compare Website

- Eventually there is a plan to include “patient experience of care” measures for group practices.
- For individual physicians - 2014 PQRS individual measures collected through a Registry, EHR, or claims will be reported in 2015.
- Measures from the 2014 Cardiovascular Prevention measures group for individual professionals under the Million Hearts Initiative.
  - Seeks to prevent 1 million heart attacks and strokes by 2017.
  - "ABCS" of clinical prevention (Aspirin when appropriate, Blood pressure control, Cholesterol management, and Smoking cessation). A total of 7 measures.



# Federal Physician Compare Website

Domain	Measure	National Quality Forum (NQF)	CMS Physician Quality Reporting System (PQRS)	CMS Medicare EHR Incentive Program
Aspirin When Appropriate	<b>Ischemic Vascular Disease (IVD): Use of Aspirin or Another Antithrombotic</b> Percentage of patients aged 18 years and older with IVD with documented use of aspirin or other antithrombotic	#0068	#204	CMS164v2
Blood Pressure Screening	<b>Preventive Care and Screening: High Blood Pressure</b> Percentage of patients aged 18 years and older who are screened for high blood pressure AND a recommended follow-up plan is documented based on the current blood pressure readings as indicated	n/a	#317	CMS22v2
Blood Pressure Control	<b>Hypertension (HTN): Controlling High Blood Pressure</b> Percentage of patients aged 18 through 85 years who had a diagnosis of HTN and whose blood pressure was adequately controlled (<140/90) during the measurement year	#0018	#236	CMS165v2
Cholesterol Management	<b>Preventive Care and Screening: Cholesterol—Fasting Low Density Lipoprotein (LDL) Test Performed AND Risk-Stratified Fasting LDL</b> Percentage of patients aged 20 through 79 years who had a fasting LDL test performed and whose risk-stratified fasting LDL is at or below the recommended LDL goal.	n/a	#316	CMS61v3 CMS64v3
Cholesterol Management – Diabetes	<b>Diabetes Mellitus: Low Density Lipoprotein (LDL-C) Control in Diabetes Mellitus</b> Percentage of patients aged 18 through 75 years with diabetes mellitus who had most recent LDL-C level in control (less than 100 mg/dL)	#64	#2	CMS163v2
Cholesterol Management – Ischemic Vascular Disease	<b>Ischemic Vascular Disease (IVD): Complete Lipid Panel and Low Density Lipoprotein (LDL-C) Control</b> Percentage of patients aged 18 years and older with Ischemic Vascular Disease (IVD) who received at least one lipid profile within 12 months and who had most recent LDL-C level in control (less than 100 mg/dL)	#0075	#241	CMS182v3
Smoking Cessation	<b>Preventive Care and Screening: Tobacco Use</b> Percentage of patients aged 18 years and older who were screened about tobacco use one or more times within 24 months and who received cessation counseling intervention if identified as a tobacco user	#0028	#226	CMS138v2

# Federal Physician Compare Website

- ACO & Group Practice Quality Measures:
  - ACOs have their own site.
  - PQRS Group Practice Measures are reported (66 Groups total according to CMS public reporting website):
    - Controlling blood sugar levels in patients with diabetes.
    - Controlling blood pressure in patients with diabetes.
    - Prescribing aspirin to patients with diabetes and heart disease.
    - Patients with diabetes who do not use tobacco.
    - Prescribing medicine to improve the pumping action of the heart in patients who have both heart disease and certain other conditions.
  - Only groups that participated in PQRS via the GPRO web interface in 2012 and ACOs have measure data posted on the site. Also, a minimum threshold of 25 patients must be met in order for a group practice's measure performance rate to be reported on the website. Based on these criteria, CMS only posted the measures for the 66 GPROs and 141 ACOs that satisfactorily reported 2012 measure data.

# Federal Physician Compare Website

- Correcting Information:
  - Address information (including issues with suite numbers, practice locations, etc., education, phone number, Medicare Assignment status – is from PECOS – so a physician can edit or correct this information via PECOS (<https://pecos.cms.hhs.gov/pecos/login.do>)).
    - It can take up to **6 months** for the Compare website to update.
    - Training/residency, hospital affiliation, foreign language
    - Send an e-mail to Physician Compare at [PhysicianCompare@westat.com](mailto:PhysicianCompare@westat.com).
    - They ask that along with the correct information – include your name, specialty, the address(es) of your practice locations, your NPI number, and the best method to contact you – so they can ensure the corrections are made to the right entry.

# Federal Physician Compare Website

- The Compare Website data is available to the public!
  - A downloadable database of information currently on Physician Compare is now available on <https://data.medicare.gov/>.
  - There are limitations because of certain data use agreements.
  - For more information, see the supporting documentation available on the Physician Compare page of <https://data.medicare.gov/>.



Texas Medical Association  
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Physicians Caring for Texans