



Policy Brief

June 19, 2020



A Busy Summer Ahead for the Supreme Court

The summer months are traditionally some of the busiest times for the Supreme Court. This year, the Supreme Court is considering a myriad of issue areas that will influence the health and prosperity of our communities. Topics being considered by the Court include antidiscrimination, access to abortion care and immigration. With COVID-19-related safeguards in place, the Court has already begun tackling these critical cases. Just this week, it [issued a decision](#) protecting LGBTQ+ persons from workplace discrimination and [another](#) on the Deferred Action for Childhood Arrivals (DACA) program. Below is more on these decisions and other issues still under consideration.

What's the latest Supreme Court ruling on LGBTQ+ workplace protections?

On Monday, the Supreme Court ruled against discriminatory practices based on sexual orientation or gender identity. In a 6-3 decision, the Court decided that the 1964 Civil Rights Act's sex discrimination provisions *do* apply to members of the LGBTQ+ community. Conservative Justice Neil Gorsuch penned the [majority opinion](#), saying, "An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex, [...] exactly what Title VII forbids."

What else has the Court decided this week?

Yesterday, the Court released its decision on the fate of the [DACA](#) program. While lower courts agreed that the Trump Administration has the authority to end DACA, questions arose on

whether it appropriately completed the paperwork required to do so. The final [decision](#) impacts the lives of nearly 700,000 undocumented immigrants who were brought to the U.S. as children.

What is still on the agenda for the summer?

The Supreme Court still needs to weigh in on the viability of Roe v. Wade, which protects access to abortion care across the country. One aspect of this debate is whether hospitals can withhold [admitting privileges](#) to local physicians who perform abortions in their women's health clinics. Some patient advocates worry that an acceptance of these restrictions could amount to a country-wide ban on abortion services.



Racial Disparities in Health Care and Resources to Reduce Them

As the nation continues to wrestle with how to root out racism in America, it begs the question—what steps can the health care industry take to help achieve racial justice? As recently demonstrated by the [disparities](#) in COVID-19 cases, data suggest that people of color, particularly black and African-American persons, carry a [disproportionate burden](#) of illness. As underlying causes for these differences are continuing to be researched, organizations in health care have begun to make recommendations and create resources on how the industry can start addressing the gap.

Disparities Within Health Care

Differences in access to care and health outcomes have existed before COVID-19; studies have found these gaps throughout health care. For example, a study from the Centers for Disease Control (CDC) found that the rate of minority women with pregnancy-related deaths is [three times higher](#) than their white peers. Many researchers and public health officials have found that socioeconomic factors, such as stress, residential segregation and income, have contributed [to these differences](#).

More recent research has identified [implicit bias](#) as another contributor to these disparities. Implicit bias is caused when even well-intentioned people [subconsciously harbor assumptions](#) about others that can reflect social norms. These include negative assumptions and generalizations that can, unfortunately, lead to differences in care among different groups. For example, [one study](#) looked at how often prescriptions were given out for pain complaints in the

emergency room. It found that white patients were much more likely to receive a pain prescription than black patients because black patients were more likely to be labeled as “drug seeking.”

Abuses like the [Tuskegee experiment](#) have deepened the black community’s [mistrust](#) of the U.S. health care system. Diversifying the [health care work force](#), including [leadership](#), could help to reassure these communities, increase cultural competency and improve quality in health care. This helps health systems to deliver optimal care when treating people with different belief systems, languages or family structures.

Resources and Recommendations

Health Equity in the Health Care Workforce

- Race Forward is an organization that has built [recommendations and strategies](#) for workforce equity in health care and IT.
- The American College of Health Care Executives [provides recommendations](#) on diversifying individuals in leadership.

Health Equity in Care Delivery

- The American Hospital Association’s Institute for Diversity and Health Equity has [developed resources](#) on how to start identifying and addressing health inequities.
- The 2016 CDC [strategies on reducing health disparities](#) list many interventions that organizations have taken to advance health equity.



Updates on COVID-19 Regulations

AHPA continues to follow new COVID-19 regulations, guidance and other government actions. The updates below are the latest guidance and other developments since June 6th to help mitigate the impacts of COVID-19. For earlier COVID-19 regulations and guidance, visit the last [Policy Brief](#).

CDC Updates Contact Tracing Guidelines

- The CDC has updated its guidelines on contact tracing. Additional guidance has been added on the following topics:
[Health Department Checklist: Developing a Contact Tracing Plan](#)

[Daily Temperature/Symptom Log for Close Contacts](#)

[Self-Isolation and Self-Quarantine Home Assessment Checklist](#)

FDA Revokes Emergency Use Authorization for Hydroxychloroquine

- The FDA has [revoked](#) the Emergency Use Authorization that allowed both chloroquine and hydroxychloroquine to be used in treatment of COVID-19 patients.

Trump Administration Encourages Reopening of Health Care Facilities

- Last week, CMS released [recommendations](#) for health providers in areas with no evidence of a COVID-19 rebound on how to reopen safely..

HHS Announces Fund Distribution Methodology

- HHS has published the [methodology](#) that will be used to distribute funds to hospitals serving high numbers of Medicaid beneficiaries and uninsured patients with COVID-19.

FDA Revises Emergency Use Authorizations for Respirators

- The FDA has released updated [guidance](#) on the decontamination of select respirators.

OIG Strategic Plan: Oversight of COVID-19 Response and Recovery

- The OIG has released a [plan](#) outlining its principles of COVID-19 oversight, along with actions to advance these principles.



A Look at the Federal Register

Request for Information: Long-Term Monitoring of Health Care System Resilience

HHS has released a [request for information](#), seeking comments on how health care providers and other stakeholders have used data to quantify the impact of crises like COVID-19 on health care access, timeliness and quality. The Agency is interested in how organizations have operationally defined “resilience.” **Comments are due on July 8th.**

Establishing Minimum Standards in Medicaid State Drug Utilization Review and Supporting Value-Based Purchasing for Drugs

CMS has released a [proposed rule](#) revising regulations on calculating drugs’ average manufacturer price, value-based purchasing arrangements with drug manufacturers and

minimum standards for state Medicaid Drug Utilization review programs. **Comments are due on July 17th.**

Tax on Excess Tax-Exempt Organization Executive Compensation

The IRS has released a [proposed rule](#) that impacts compensation for not-for-profit hospitals. Under the proposal, deferred compensation or bonuses not vested before a certain point will face a 21% excise tax for top executives. **Comments are due on August 10th.**

Home Visits in Program of Comprehensive Assistance for Family Caregivers During COVID-19 National Emergency

The VA has released a [final rule](#) that temporarily allows eligible veterans' home visits to be completed through videoconference or other available telehealth modalities for the duration of the COVID-19 public health emergency.



AHPA Resources

- CMS [Open Door Forum presentation](#) on the FY 2020 OPPS prior authorization requirements, which become effective July 1st.
- [Outline of FY 2021 IPPS Proposed Rule](#)
- [AHPA FY 2021 IPPS Webinar Slides](#)

IN OTHER NEWS

[The Pandemic Hunger Crisis is Only Just Getting Started](#) – The Atlantic

[Coronavirus Has Come to Trump Country](#) – The Washington Post

Op-Ed: [There Isn't a Coronavirus "Second Wave"](#) – Vice President Pence, WSJ

[Trump Administration Faces Bipartisan Calls to End Citizenship Delays](#) – NY Times

[How States Are Facilitating Medicaid Enrollment During COVID-19](#) – Health Affairs