



ZUCKERMAN  
SPAEDER

# Shifting the Balance of Power

Health Care Provider Insurance Practice

ZUCKERMAN SPAEDER LLP | WASHINGTON, DC | NEW YORK | TAMPA | BALTIMORE

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# Hospitals, doctors, ambulatory surgical centers, and other health care providers can face an uphill battle when fighting for their rights against insurance companies.

Insurers often take advantage of the fact that health care providers are busy providing life-saving medical care and simply do not have the time, resources, or experience to challenge improper claim denials, underpayments, repayment demands, offsets, discriminatory limits on mental health and substance use coverage, and other questionable practices.

Zuckerman Spaeder has helped shift the balance of power between health care providers and commercial insurers. By leveraging client data and our deep understanding of often-overlooked legal rights, we develop strategies that increase insurer reimbursements. These strategies are designed to avoid litigation. However, if litigation becomes necessary, our attorneys have a track record of winning cases that expand provider rights, delivering unprecedented monetary wins for our clients, and forcing insurers to reform their practices.

Taking on the world's largest insurers demands a sophisticated approach and mastery of the interrelationship between a complex web of state and federal laws.

Our attorneys not only developed the legal concepts that are central to this fight, they have spent years refining their strategies and building strong relationships with federal and state regulators.

## LEADERSHIP AND INNOVATION

Our success is the result of a groundbreaking legal approach developed by partners D. Brian Hufford and Jason S. Cowart, and further advanced by partners Caroline E. Reynolds and Andrew N. Goldfarb.

In the two decades since they first began challenging health insurer practices—primarily through ERISA, the federal statute that governs employer-sponsored benefit plans—they have been at the vanguard of an entirely new insurance recovery legal practice, securing numerous precedent—setting decisions.

*Law360* has twice listed Zuckerman Spaeder among its Health Care and Benefits "Practice Groups of the Year," most recently in 2019. Mr. Hufford is a *Law360* "MVP" for Health Care (2015, 2016, and 2017) and Benefits (2019). William B. Schultz, former General Counsel of U.S. Department of Health and Human Services, is also recognized as an "MVP" in Health Care (2019).

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Zuckerman Spaeder's efforts led to "one of the most important and most thorough rulings ever issued against an insurance company, at the federal level, on mental health issues."

Coverage of *Wit v. United Behavioral Health* | Wayne Drash, CNN



# \$600+ MILLION

recovered from health insurers



## WE'RE IN YOUR CORNER

We can help you understand and challenge questionable insurer practices, including those related to:

### Wrongful denial of claims

Insurers often deny claims based on criteria that are more restrictive than those found in the terms of patient health insurance plans. For example, most plans cover services that are consistent with generally accepted standards of care, yet insurers routinely deny claims for lack of medical necessity or based on an “experimental or investigational” exclusion, even when the treatment at issue is consistent with generally recognized medical standards.

### Insurer misrepresentations

Providers often contact insurance companies—before providing medical services to a patient—to confirm that the patient is covered by an insurance plan and obtain information about the scope of coverage. Patients and providers rely on this information to determine whether to go forward with the treatment. Unfortunately, the information provided by insurers is often wrong or inconsistent with the insurer’s ultimate benefit decision, causing hardship for providers and patients.

### Recoupments and offsets

A common—and highly lucrative—insurer practice is to demand money back from providers, asserting that a prior claim was overpaid.

If the provider doesn’t immediately pay up, insurers often refuse to pay any new and unrelated claims, giving the provider no meaningful opportunity to challenge the take-back.

### Mental health and addiction coverage limits

Insurers frequently seek ways to limit coverage for behavioral care, and often develop more restrictive internal coverage guidelines for mental health and substance abuse claims than those applied to medical or surgical care. In doing so, they almost certainly violate plan terms as well as the Mental Health Parity Act and Addiction Equity Act.

### Attacks on out-of-network services

Insurers have increasingly taken steps to discourage out-of-network care. They do so by unilaterally reducing out-of-network reimbursement rates, even when those reductions are inconsistent with the terms of a particular patient’s insurance plan. Another insurer tactic is to accuse a provider of failing to collect patient co-insurance, and then use that accusation as the basis for refusing to pay the provider’s new claims, seeking repayment of previously paid claims, and even bringing charges of fraud against the provider.

### Licensing requirements

Insurers often demand that medical facilities obtain specific accreditation or licensing before they are eligible to receive certain types of fees, even though no such requirement exists in the relevant health insurance plan or in state law.

## "Top notch litigators for complex matters."

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## About Zuckerman Spaeder LLP

Zuckerman Spaeder is consistently recognized as a leading litigation boutique—and for good reason. For more than 40 years, the firm has attracted extraordinarily talented and experienced attorneys—who never shy away from the most complex and high-stakes cases and who consistently deliver positive results for clients.

With an approach that is both aggressive and savvy, Zuckerman Spaeder seeks to resolve matters before they get to trial—often saving clients from considerable expense and unwanted attention. And when needed, the firm's focused trial teams know how to go toe-to-toe with government regulators, leading businesses, and the largest law firms.



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