

Capitalizing on Healthcare Reform: Providing Value to Your Clients in a Time of Change

A PNC Business Banking whitepaper exploring emerging opportunities for legal and accounting professionals using the current version of the Patient Protection and Affordable Care Act.

The massive Patient Protection and Affordable Care Act (PPACA) will no doubt be a game changer for the healthcare industry. The rules are different, the oversight is more encompassing, and an incredibly complex system has gotten ever more complex.

But out of the turmoil of change comes incredible opportunity for attorneys and accounting professionals.

As trusted advisors to physicians, hospitals and other providers, attorneys and CPAs are in a unique position to assist their clients in navigating the complexities of healthcare reform.

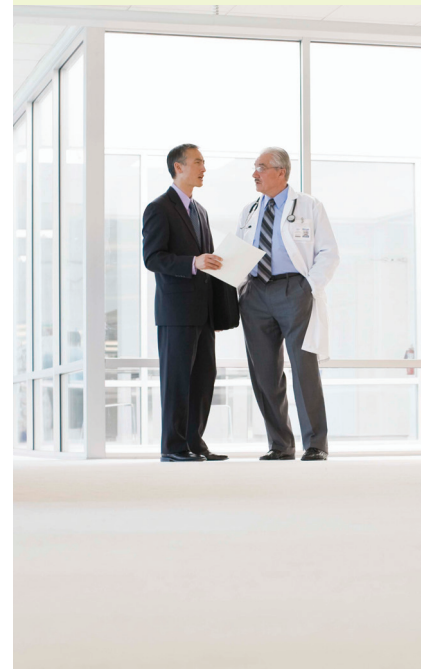
“There’s a sense among providers right now that they should be doing something, but they aren’t exactly sure what that is,” notes William H. Thompson, President and Managing Partner of Hall, Render, Killian, Heath & Lyman, P.C., an Indianapolis-based health law firm. “It’s our job to help them set the course.”

Of course, it’s not possible to summarize every element of healthcare reform here, but it may be helpful to highlight the major provisions of this sweeping legislation and the resulting opportunities for legal and accounting professionals.

OPPORTUNITY CROSSES PRACTICE LINES

At first glance, it would appear that attorneys specializing in healthcare law have the upper hand. But opportunity actually abounds in numerous areas of legal practice — from mergers and acquisitions (M&A) and transactional work, to compliance and employment law. Likewise, accounting professionals can apply their financial acumen to any number of reform-related endeavors — from performing reimbursement impact studies for physician practices, to providing tax and operational guidance to health systems. Still other opportunities exist for assisting ambulatory surgery centers, specialty providers and home health agencies struggling to understand the implications of business in a post-reform world.

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And both professions can benefit from joining forces on matters requiring a multidisciplinary approach. CPAs, for example, are in the unique position to recommend competent healthcare legal counsel to guide clients through the maze of laws and regulations. Likewise, savvy attorneys will turn to experienced accounting professionals for help “running the numbers” on purchase agreements, valuations, employment agreements and more. CPAs with experience in the healthcare practice area can also provide valuable guidance on financial and operational matters.

A NEW PROPOSITION: THE VIEW FROM ON HIGH

With its focus on clinical effectiveness, healthcare reform represents a wholesale shift by the federal government from paying for procedures and volume to paying for outcomes and value. Healthcare providers will increasingly be incentivized to track outcomes and metrics and, at some point, will be penalized for not participating in quality reporting programs.

“The new proposition is less about volume and more about value,” notes Thompson. “Quality, cost effectiveness and a positive patient experience all add up to real value.”

Healthcare reform places an emphasis on primary care and chronic care management, with providers seeing incentives to provide basic care and follow evidence-based protocols. Clinical data that supports the effectiveness and value of services will increasingly be linked to payment. Indeed, pilot programs are already underway to measure the effectiveness of bundled payments and accountable care organizations.

REFORM OR NOT, THE MARKET IS MOVING

A major challenge is that healthcare reform comes with a timetable that stretches out through 2015 and beyond. The IRS and other federal agencies will be filling in the details as they go, and what ends up being standard practice may look nothing like what’s on the table now.

Of course, clients will require substantial guidance in sorting through the confusion, and now is the time for them to act. Implementing strategic plans and operational changes will require significant lead time.

“The worst thing providers could do would be to buy into the political rhetoric and delay their response,” notes Thompson. “Regardless of where we end up on PPACA — whether it stays completely intact or not — integrated delivery and evidence-based care are sustainable practices that the market is moving toward.”

Currently, there are a lot of big ideas being discussed, but when it comes to getting into trenches and operationalizing them; everyone is struggling to see exactly how these concepts apply. “We have providers coming to us and saying, ‘We want to figure out how to be a medical home’ or ‘We want to be an accountable care organization ... how do we apply some of these new ideas?’” says Mark W. Browne, MD, Principal, Pershing Yoakley & Associates, a Knoxville, Tenn., based healthcare consulting group.

KEY CONCEPTS OF REFORM

By understanding the core goals of healthcare reform, legal and accounting professionals will be better prepared to help clients develop strategic responses.

- 1. Coordination of care across the continuum** — Healthcare reform recognizes the importance of care coordination among hospitals, physicians, nurses, social workers and pharmacies in improving care outcomes — especially for patients with multiple, complex chronic conditions, who are healthcare’s highest-cost and fastest-growing service group.
- 2. Cost reduction through efficiencies** — Under reform legislation, so-called “comparative effectiveness research” will look at which drugs, devices and medical treatments work best, scrutinizing everything from cholesterol drugs and heart stents to hospital procedures. This statistics-driven research combined with new payment systems that incentivize positive outcomes should move toward a higher-quality, lower-cost system over time.



3. Deployment of information technology — The federal government envisions a nationwide network of interconnected electronic health records (EHR) that seamlessly cross the continuum of care. The feds hope to tap into a wealth of information about the sickness and health of large groups of people — and what’s succeeding or failing in efforts to deliver care more effectively. The government is willing to pay generously — almost \$40 billion in payments — to Medicare and Medicaid providers who can demonstrate “meaningful use” of EHR.

4. Ferreting out fraud and abuse — Wide-reaching fraud and abuse provisions touch on nearly every aspect of providing healthcare — from enrolling as a provider, to receiving payment for services. Strict enforcement and penalty provisions will raise the compliance bar to new heights. The Department of Health and Human Services (HHS) estimates that \$17 will be returned for every \$1 invested in oversight initiatives.

GET READY FOR THE CLASH

The goal of post-reform healthcare is spurring competition and driving down costs. Unfortunately, getting from point A to point B is not going to be without its challenges. Providers will face a number of legal and regulatory hurdles as they design strategies around these key concepts.

“Particularly in the area of coordinated care, there will be some degree of tension,” Thompson predicts. As providers and payers explore new reimbursement models and cost-containment strategies, they may very well run smack against the state and federal regulations surrounding the practice of healthcare.

“It’s certainly going to be problematic when looking to align incentives around improving quality, particularly efficiencies,” says Thompson. “These new models of care will probably result in new payment models and financial arrangements that will cause a lot of issues under kickbacks and Stark regulations, too.”

To address these fears, the Department of Health and Human Services, the Federal Trade Commission, and the Department of Justice, under the direction of the White House, are collaborating to provide waivers, safety zones and guidance to providers. Federal Trade Commission Chair Jon Leibowitz recently said that his agency was considering new safe harbors and expedited reviews for organizations wishing to qualify as Accountable Care Organizations (ACOs).

“I’m afraid that the solution is still a long way off,” shares Thompson. “We’re going to have to navigate in the uncertainty for a while.”

The key to mitigating legal risks in this uncertain regulatory environment will lie in making sure that the underlying principles of any venture are consistent with established standards. “The key will be to create ‘purpose-driven’ deals,” Thompson says. “If you’re a hospital and you’re paying a doctor, make sure it’s going to improve access, care and outcomes ... not just get a bunch of business in the door.”

Ultimately, actions that show some alignment with healthcare reform’s mandate for efficiency, savings, and documented results are more likely to pass legal scrutiny.

WHERE THE OPPORTUNITIES WILL BE: ATTORNEYS

As reform shifts the way healthcare is delivered in profound ways, legal professionals can expect a number of new opportunities for client engagements to emerge. Based on data from the American Health Lawyers Association, here are some of the trends expected to drive change and opportunity:

Trend: More physicians will join hospitals. Healthcare reform’s focus on quality, efficiency and accountability make alignment with hospitals more appealing to physicians. Evidence suggests that physicians will be aligned with a health system in the next decade. In some cases, this will entail outright hospital employment; in others, it means providers and health systems finding a way to work together to take advantage of changes in healthcare laws.

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Opportunity: Craft employment agreements, compensation arrangements, joint ventures, etc. Assist with the sale/dissolution of practices as physicians transition to other opportunities.

Trend: New payment methodologies spur care coordination. Reform legislation seeks to incentivize coordination of care by focusing on new payment methodologies, such as bundled payments. For example, a cardiology group may find it more profitable to partner with its local hospital to ensure coordinated care for patients admitted for cardiac care. The relationship might involve the hospital, the hospitalist, the discharge nurse, the cardiologist and the primary care physician. A single payment is divided up among the providers, with positive outcomes rewarded and negative ones penalized.

Opportunity: Plan and review business structures and transactions to ensure compliance with regulations such as the Stark law and federal anti-kickback regulations.

Trend: Increasing healthcare mergers and acquisitions. M&A activity among healthcare providers is on the uptick in the wake of alignment initiatives. In some states, hospitals and insurance companies are buying physician practices. In other areas, hospitals and physicians are forming joint ventures. And physicians who don't want to be tied to a hospital are forming group practices or independent practice associations. Alignment will only increase as providers begin to understand the value of market share in determining how physician practices and hospitals are paid.

Opportunity: Manage transactional matters involving the sale or purchase of hospitals, outpatient facilities and senior living facilities, as well as structuring joint ventures and syndications.

Trend: Increased fraud and abuse enforcement. Enhanced regulatory compliance under healthcare reform includes expanding the National Practitioner Data Bank and expanding and mandating data sharing to help root out fraud and abuse. There will also be an expansion of the Recovery Audit Contractors (RACs)

program to identify and correct underpayments and overpayments. Healthcare providers will need to have audit processes in place so that any compliance issues are identified and quickly corrected.

Opportunity: Help clients remain up-to-date and fully compliant with the challenging regulatory demands of Medicare payment issues, Stark II, and state and federal anti-kickback compliance. Additional compliance matters include adherence to the Emergency Medical Treatment and Active Labor Act, Joint Commission standards and health information privacy rules.

Trend: Closer review of nonprofits. State attorney generals are intervening in nonprofit healthcare transactions, particularly those where a nonprofit entity sells some or all of its businesses to a for-profit enterprise. Of additional concern, states that have historically recognized nonprofit healthcare facilities as exempt from property taxes have started to scrutinize, and in some cases revoke, that status upon a change of ownership or control of the property.

Opportunity: Ensure that nonprofit healthcare business entities maintain their tax-exempt status through full IRS compliance.

WHERE THE OPPORTUNITIES WILL BE: CPAs

Accounting professionals can certainly provide value when it comes to addressing the financial impact of healthcare reform.

"We have an incredible opportunity to use these changes in the law to provide value-added services for our clients," notes Gregory D. Anderson, partner at Horne, LLP, a top 10 southeastern accounting firm. "As we help our clients plan for these changes, they will think of us as their trusted advisors as they face the future with less uncertainty."

A variety of opportunities exist for new engagements in areas of consulting, tax work and compliance.



Technical consulting — Clients will undoubtedly require technical consulting help, whether it's how to select and implement a qualified EHR system or how to best offer mandated health insurance to employees. Another core area of opportunity revolves around cost reductions through improved efficiencies. In the brave new world of healthcare reform, providers will have to operate on Medicare margins. For most, that may mean removing 15% – 20% of costs out of the system.

Tax work — From the tax credits and subsidies used to expand health coverage, to the many penalties, fees and surtaxes designed to pay for it, the Tax Code is front and center in healthcare reform. Tanning salons, for example, will need to deal with the new excise tax. Pharmaceutical companies and makers of medical devices will likewise be impacted.

Compliance — As a range of new anti-fraud measures kick in, Medicare/Medicaid compliance will be an ongoing concern. Provisions have a wide reach and touch on nearly every aspect of providing healthcare — from enrolling as a provider, to payment for services. Strict enforcement and penalty provisions will raise the compliance bar to new heights. Not only will clients need to develop systems and ensure ongoing monitoring, but they will need guidance on how to develop a culture of awareness and compliance throughout their organization.

Impact studies — In addition to hospitals and health systems, various “other” providers will need help understanding the bottom-line impact of changes in reimbursement. This includes ambulatory surgery centers, specialty hospitals, diagnostic imaging centers and home health agencies.

WHO'S A POTENTIAL CLIENT?

The universe of healthcare providers is a vast and broad one. It may be beneficial to strategically segment clients into three broad overlapping sectors:

Providers — As providers, healthcare clients will be struggling to understand the impact of changes in reimbursement and the challenges of adapting to a new environment that calls for cost containment and increased collaboration.

Employers — As employers, healthcare clients will be facing some serious decisions about providing health insurance for their employees. Depending on their size, they could see new tax credits — or potential penalties — beginning in 2014.

Taxpayers — Successful practice owners are prime candidates for individual income tax planning — planning income and deductions, planning around the investment income tax, and estate planning — to name a few. Clients may also have questions about opportunities to provide insurance coverage for their dependent children.

In addition, insurance companies seem to be a growing new source of consulting business for CPAs with healthcare expertise. For example, Aetna has a pilot program in Atlanta in which it is buying physician practices and setting up its own primary care businesses.

WORKING WITH HOSPITALS AND HEALTH SYSTEMS

Hospitals and health systems — particularly those with complex, multi-state operations and multiple alliances — represent a prime opportunity for new engagements. By evaluating quality initiatives and bundled payment programs, CPAs can help hospitals and health systems understand the financial implications of these changes and budget for them accordingly.

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Working with hospital and health system CFOs, accounting professionals can crunch the numbers, prepare pro-forma financial analyses and help evaluate the impact of changes to key reimbursement areas such as:

- Medicare and Medicaid Disproportionate Share Hospital (DSH) cuts and reallocation based on uncompensated care
- Market basket updates
- Medicare value-based purchasing
- Hospital-acquired conditions and readmission data
- Projection of Emergency Department (ED) volume and impact of increased Medicaid eligibility

Cost reductions — Healthcare reform is all about reducing the cost of care through increased efficiencies. Hospitals and health systems will need to evaluate areas in which costs can be reduced, including 340B reforms.

Efficiencies — Likewise, hospitals will need to determine which service lines they excel in, and evaluate how they can maximize strong-performing services and improve or eliminate poor performers. Ultimately, operational efficiency under healthcare will mean fewer providers doing fewer things. For example, not every hospital is going to be doing cardiothoracic surgery.

Quality measures — Most organizations have learned to measure their finances and their volume-based metrics very well. In the post-reform world, they will also need to institute quality measurement systems and align physician interaction and behavior to improve quality. These quality metrics will need to measure not whether the patient got the aspirin, but whether the patient lived or died after receiving the aspirin. Finally, relative quality will become increasingly important. Under the new payment models, it's not going to be enough to simply do well — hospitals will have to outperform their peers on a local, regional and national level in order to draw top reimbursement.

EHR use — With reimbursement hinging on documented quality metrics, providers can't wind up behind the technology eight ball. Developing a common platform across the whole continuum of care is going to be key. At the same time, the accompanying privacy and security regulations will need to be scrupulously adhered to.

Nonprofit systems — Nonprofit hospitals and health systems will need guidance in such critical areas as:

- Community health needs assessments
- Financial assistance policy
- Limitation on charges, billing and collection requirements
- 990 disclosures

PARTNERING WITH PHYSICIANS

CPAs also have a unique opportunity to make recommendations to physician clients. In particular, they can assist with projecting the reimbursement impact of a variety of changes under healthcare reform, including:

Sustainable Growth Rate legislation — Prepare clients for a potential 21% cut in the Medicare physician's fee schedule. Likewise, prepare them for changes in professional and ancillary reimbursement (MRI, CT and PET services in particular).

10% Medicare bonus — Evaluate whether primary care and general surgery providers are eligible for additional reimbursement when practicing in a Healthcare Professional Shortage Area.

Feasibility of non-physician providers — Help clients understand the benefits of leverage and using physician assistants and nurse practitioners.

Meaningful use requirements — Help ensure that physicians are utilizing EHR in accordance with meaningful use requirements to qualify for stimulus money.



Quality initiatives and bundled payment programs —

Evaluate whether physicians are best served by participating in bundled payments and/or becoming part of an accountable care organization.

Integration and collaborative options — Help clients understand their options and weigh the benefits of integration and collaboration. This may include negotiating the sale of a practice, or future employment with a hospital. Here, timing of the sale of ownership interests as it relates to changes in the tax rates will be critical.

ADVISING CLIENTS AS EMPLOYERS

Just as healthcare reform has profoundly changed the way Americans access healthcare, so it will profoundly impact the way that small businesses — including healthcare providers — provide health insurance for their employees.

It's safe to say that clients will be facing some tough decisions involving complex calculations — areas where CPAs with a current knowledge of employer-sponsored health insurance under the Affordable Care Act can provide meaningful assistance. Here, accounting professionals can be valuable resources in helping employers address these fundamental questions:

Do I have to offer health insurance to my employees?

Beginning January 1, 2014, “applicable large employers,” defined as a business that employed an average of at least 50 full time equivalent (FTE) employees during the preceding calendar year, will be penalized for not offering coverage to their employees. Running the numbers multiple ways will be the only way a client can make an informed decision on whether to “pay” or “play.”

What about our existing plan? Retaining grandfathered status will be an issue with some clients. Unfortunately, the grandfathering rules are complex. Any change by the employer that increases participant costs, significantly reduces benefits or changes insurance carriers for fully insured plans can result in a plan losing its grandfathered status.

What are our alternatives? CPA consultants can serve as guides to help clients navigate the options offered by the state-based insurance exchanges — Small Business Health Options Program (SHOP) — which offers a choice of four standardized benefit packages based on the specified percentage of costs the plan will cover.

How small is small? Calculating a client's FTEs in light of eligibility thresholds can be a delicate matter. Providers who are on the cusp of large/small status may benefit from unwinding or spinning off departments, or otherwise adjusting staffing levels.

Can I get help paying for insurance for my employees? The most immediate benefit to small businesses is the Small Business Health Care Tax Credit, of which an estimated 4 million small businesses may qualify according to the U.S. Small Business Administration. Accounting professionals are well positioned to advise clients on how to best meet the requirements for taking advantage of this dollar-for-dollar reduction in tax.

Source: American Health Lawyers Association

IN CONCLUSION

The passage of healthcare reform legislation entailed a long, contentious debate on public policy as well as a number of bruising political battles.

But for healthcare providers affected by the measure — and the accounting and tax professionals they rely upon for guidance — healthcare reform has just begun. CPAs and attorneys now have an incredible opportunity to be the eyes and the ears for their clients as they guide them through the maze of healthcare reform.

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The content of this whitepaper was taken from the November 9, 2010 webinar entitled “*Providing Value to Your Clients on the Issue of Healthcare Reform.*” The webinar was prepared with the assistance of the American Health Lawyers Association. The speakers from the webinar were William H. Thompson, Esquire, President and Managing Partner, Hall, Render, Killian, Heath & Lyman, P.C.; Gregory D. Anderson, CPA/ABV, CVA, Partner, HORNE, LLP; and Mark W. Browne, MD, MMM, CPE, FAAP, FACPE, Principal, Pershing Yoakley & Associates, P.C. This whitepaper provides an overview of their presentations.

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