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C-1: Affordable Care Act Revisited

Kevin Bingham

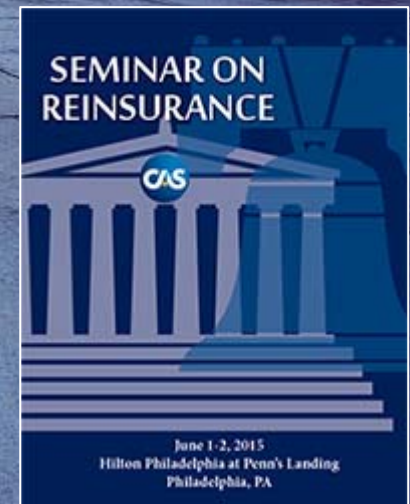
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2015 Seminar on Reinsurance

8:30 to 9:45 A.M.

May 18th and 19th

Accounting • Tax • Consulting • Corporate Finance





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Agenda

PPACA Goals Recap

Transparency

Nudges and Habits

Technology

Other Trends

Reserving and Pricing

PPACA Goals Recap

Health & Human Services (HHS)

“HHS is responsible for implementing many of the provisions included in the ACA that seek to expand coverage, emphasize prevention, improve the quality of health care and patient outcomes across health care settings, ensure patient safety, promote efficiency and accountability, and work toward high-value health care.”

Strategic Goal 1: Strengthen Health Care

Objective A: Make coverage more secure for those who have insurance, and extend affordable coverage to the uninsured

Objective B: Improve health care quality and patient safety

Objective C: Emphasize primary and preventive care, linked with community prevention services

Objective D: Reduce the growth of health care costs while promoting high-value, effective care

Objective E: Ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations

Objective F: Improve health care and population health through meaningful use of health information technology

Source: <http://www.hhs.gov/strategic-plan/goal1.html>

Health & Human Services (HHS)

“HHS is responsible for implementing many of the provisions included in the ACA that seek to expand coverage, emphasize prevention, improve the quality of health care and patient outcomes across health care settings, ensure patient safety, promote efficiency and accountability, and work toward high-value health care. ”

Strategic Goal 2: Advance Scientific Knowledge and Innovation

Objective A: Accelerate the process of scientific discovery to improve health

Objective B: Foster and apply innovative solutions to health, public health, and human services challenges

Objective C: Advance the regulatory sciences to enhance food safety, improve medical product development, and support tobacco regulation

Objective D: Increase our understanding of what works in public health and human services practice

Objective E: Improve laboratory, surveillance, and epidemiology capacity

Source: <http://www.hhs.gov/strategic-plan/goal1.html>

Health & Human Services (HHS)

“HHS is responsible for implementing many of the provisions included in the ACA that seek to expand coverage, emphasize prevention, improve the quality of health care and patient outcomes across health care settings, ensure patient safety, promote efficiency and accountability, and work toward high-value health care. ”

Strategic Goal 3: Advance the Health, Safety, and Well-Being of the American People

Objective A: Promote the safety, well-being, resilience, and healthy development of children and youth

Objective B: Promote economic and social well-being for individuals, families, and communities

Objective C: Improve the accessibility and quality of supportive services for people with disabilities and older adults

Objective D: Promote prevention and wellness across the life span

Objective E: Reduce the occurrence of infectious diseases

Objective F: Protect Americans' health and safety during emergencies, and foster resilience to withstand and respond to emergencies

Source: <http://www.hhs.gov/strategic-plan/goal1.html>

Health & Human Services (HHS)

“HHS is responsible for implementing many of the provisions included in the ACA that seek to expand coverage, emphasize prevention, improve the quality of health care and patient outcomes across health care settings, ensure patient safety, promote efficiency and accountability, and work toward high-value health care. ”

Strategic Goal 4: Ensure Efficiency, Transparency, Accountability, and Effectiveness of HHS Programs

Objective A: Strengthen program integrity and responsible stewardship by reducing improper payments, fighting fraud, and integrating financial, performance, and risk management

Objective B: Enhance access to and use of data to improve HHS programs and to support improvements in the health and well-being of the American people

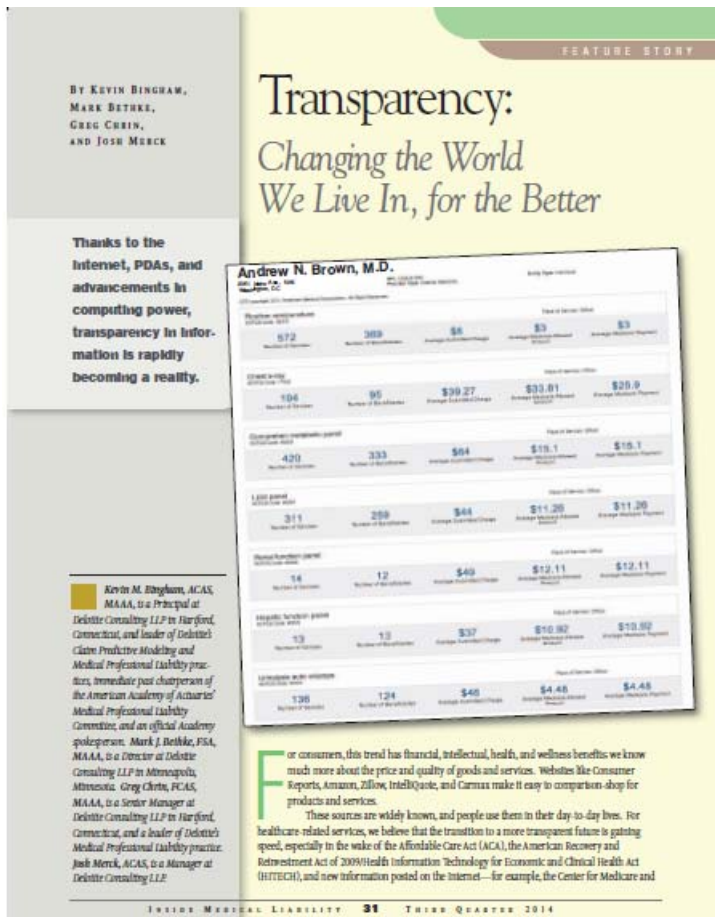
Objective C: Invest in the HHS workforce to help meet America’s health and human services needs

Objective D: Improve HHS environmental, energy, and economic performance to promote sustainability

Source: <http://www.hhs.gov/strategic-plan/goal1.html>

Transparency

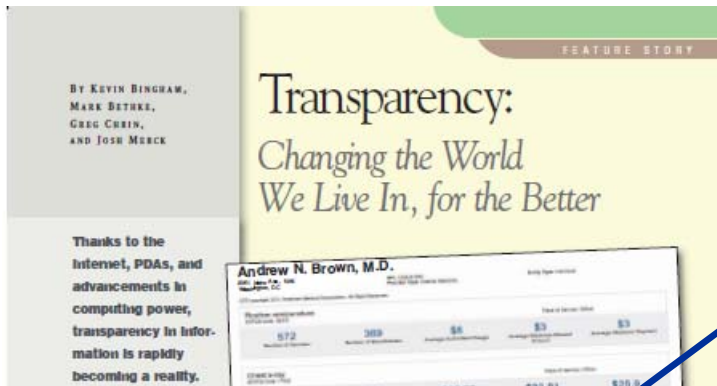
Transparency in Healthcare



- Surgery Center of Oklahoma’s posting of surgery prices online
- PPACA requires sharing of “Standard Hospital Charges”
- Evolution of quality metrics
 - CMS Medicare Shared Savings Program
 - Start quality rating system
- State efforts (NH, NC, MA, etc.)
- Increasing consumer involvement and high-deductible shift of costs

Source: Inside Medical Liability Magazine, 3rd Quarter 2014

Transparency in Healthcare



- Increasing consumer involvement and high-deductible shift of costs
- Surgery Center of Oklahoma's posting of surgery prices online

“When we first started we thought we were about half the price of the hospitals,” Dr. Lantier said. “Then we found out we’re less than half price. **Then we find out we’re a sixth to an eighth of what their prices are.** I can’t believe the average person can afford health care at these prices.”

“Hospitals are having to match our prices because patients are printing their prices and holding that in one hand and holding a ticket to Oklahoma City in the other hand and asking that hospital to step up,” Dr. Smith said. **“So we’re actually causing a deflationary effect on pricing all over the United States.”**

<http://www.theblaze.com/stories/2013/07/12/free-market-at-work-okla-city-hospital-causes-bidding-war-by-posting-surgery-prices-online/#>

Source: Inside Medical Liability magazine, 3rd Quarter 2014

Transparency in Healthcare



- Increasing consumer involvement and high-deductible shift of costs

Detailed estimates for Arthroscopic Knee Surgery (outpatient)

Procedure: [Arthroscopic Knee Surgery \(outpatient\)](#)
 Insurance Plan: Other Insurance, Health Maintenance Organization (HMO)
 Within: 1000 miles of 03302
 Deductible and Coinsurance Amount: \$0.00 / 0%

Lead Provider Name	Estimate of What you Will Pay	Estimate of What Insurance Will Pay	Estimate of Combined Payments	Precision of the Cost Estimate	Typical Patient Complexity	Contact Info
BEDFORD AMBULATORY SURGICAL C	\$0	\$7136	\$7136	HIGH	LOW	BEDFORD AMBULATORY SURGICAL C 603.622.3670

Lead Provider This is the single entity that all health care procedure costs are assigned to in HealthCost. Even when separate payments are made to a physician and a hospital, the estimated payment amount is the combined total amount paid. When a Lead Provider is not listed in the results, we do not have sufficient data to calculate an estimate.

Estimate of What You Will Pay - This figure represents out of pocket payments you may be required to pay based upon your health coverage, your deductible, and your coinsurance. Deductibles and co-insurance are paid after the service is provided.

■ State efforts (NH, NC, MA, etc.)

Source: Inside Medical Liability magazine, 3rd Quarter 2014

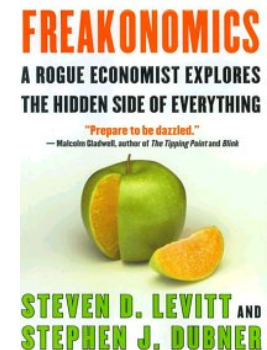
It Takes More Than What You Know

“In the past, one could get by on intuition and experience. Times have changed. Today, the name of the game is data.”



Steven Levitt
The University of Chicago

Author of “Freakonomics – A Rogue Economist Explores the Hidden Side of Everything.” With EHR, CMS and other big data efforts, the digital footprints we leave behind are exploding.

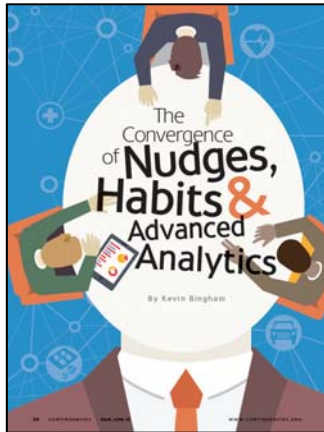


New World of Large Deductible Health Plans

- 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

Nudges and Habits

Nudges, Habits & Advanced Analytics



“The convergence of big data, advanced analytics, and a deepening understanding of habits and how to ALTER human behavior through data-enhanced “nudges” is rapidly changing the world we live in.”

Texas Mutual Insurance Company

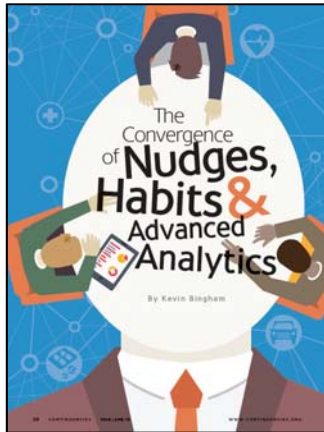
“The program, in effect from 2007 through 2013, focused on over 400 of TMIC’s most expensive workers’ compensation claims. Dr. Tsourmas focused on peer-to-peer contact, in which he invested the time to talk with each injured worker’s doctor about the purpose, goals, and expectations of the medications that were being prescribed. In what one might call the ultimate nudge, the final agreement between Tsourmas and each treating doctor was confirmed by fax and signed by both professionals.”

Screen Saver Focused on Hand Washing

“The hospital’s chief of staff created a screensaver that displayed a bacteria-laden palm print in a petri dish and placed it on every computer screen at the hospital. That simple nudge helped increase the number of physicians washing their hands from 65 percent to almost full compliance.”

Source: Contingencies Magazine, March/April 2015

Nudges, Habits & Advanced Analytics



“The convergence of big data, advanced analytics, and a deepening understanding of habits and how to ALTER human behavior through data-enhanced “nudges” is rapidly changing the world we live in.”

IBM Watson

“In 15 seconds, Watson analyzes 200 million pages of clinical data, cross-references the symptoms of 1 million cancer patients, and reads millions of current medical journals to test hypotheses. This is an unimaginable amount of information, analyzed in a way that helps nudge a physician in 15 seconds—amazing. Doctors using this type of natural-language-processing search could benefit from modifying their habits, perhaps delivering better care by leveraging evidence-based medicine to improve health outcomes for all.”

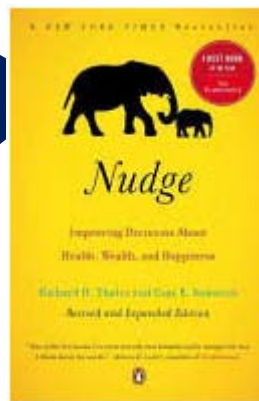
John Hopkins Five-Step Checklist

Reduced central line catheter infections by 66 percent at Michigan’s ICUs.

Source: Contingencies Magazine, March/April 2015

A Nudge is All it Takes

“The bottom line, from our point of view, is that people are, shall we say, nudge-able.”



Richard H. Thaler
Cass R. Sunstein

Considering the authors’ discussion of systematic biases in the way human beings think and the real-world examples shared in their publication, one quickly sees that human beings can be gently guided (i.e., “nudged”) on a path that improves their health, well-being, and decision-making.

The Power of Prevention

FierceHealthPayer

● **Anthem, Humana, UnitedHealth partner with grocery stores to keep members healthy**

February 10, 2015 | By [Dina Overland](#)

“Humana introduced its healthy food program three years ago and has continued to upgrade it. The insurer now offers 10 percent savings to its Humana Vitality members who use a card to buy certain qualifying foods at Wal-Mart stores. The program has been popular, as 40 percent of Humana's members are enrolled in it, the Kenosha News noted. The program is part of Humana's larger bet on **'lifestyle medicine,'** which includes healthy eating, as a way to treat chronic conditions.”

DailyMail.com

● **Buying pizza? Expect a healthy reminder from Tesco: Supermarket giant will use loyalty card data to see who is eating what**

Tesco,
Diabetes UK
and The British
Heart Foundation

Tesco, the U.K.'s largest retailer, has been leveraging loyalty card data to see what their customers are eating, offering healthier choices to customers who participate.

Source: <http://www.fiercehealthpayer.com/story/anthem-humana-unitedhealth-partner-grocery-stores-keep-members-healthy/2015-02-10>
<http://www.dailymail.co.uk/news/article-2331856/Tesco-use-Clubcard-data-eating-what.html>

Technology

The Future of Leveraging Fitness Data

- Can health companies enhance their models and pricing by leveraging data stored in Apps, wellness programs and fitness bands?



Wellness Programs

- Biometric screening
- Health assessments
- Fitness center discounts
- Fitness facility access
- Access to wellness experts
- Financial incentives



Workers compensation

Healthcare population Management

MPL

Life insurance

The Power of Prevention

Business Insider —● This Company Saved A Lot Of Money By Tracking Their Employees With Fitbits

“In fact, hot Valley startup Appirio did exactly that, reports Nancy Gohring at Citeworld. As part of a bigger corporate wellness program it calls CloudFit, Appirio handed out Fitbits to about 400 employees. And thanks to CloudFit, **Appirio convinced its insurance company to lower its rates by 5%**. That added up to a hefty \$280,000.”

Advisory.com —● Love your Fitbit? Be warned: **Fitness trackers could one day affect employer insurance negotiations**
Companies sell your data

Cigna spokesperson Joe Mondy says the test program led to double-digit improvement in users' risk profiles, moving some from classifications of "chronic" to "at risk." The insurer wants to expand to millions more employees in the coming years. Mondy predicts that the right "consumer-oriented product" **could result in a 13% year-over-year decline in the amount insurers charge employers based on their workers' risk profiles**. "We can literally bend the cost curve," he says.

Source: <http://finance.yahoo.com/news/company-saved-lot-money-tracking-005949318.html>
<http://www.advisory.com/daily-briefing/2014/04/23/love-your-fitbit-be-warned-companies-sell-your-data>

Innovative Technology

WiganToday

—● Hospital chiefs bid to end blight of bed sores

“WIGAN Infirmary is the first hospital in the UK to trial new technology designed to prevent bed sores. And as a result it has achieved the distinction of having zero hospital-acquired bed sores in the last three months. As well as the medical benefits of the state-of-the-art sensor, analysis carried out by the hospital shows **savings of up to £50,000 per month has been saved by avoiding treatment for the ulcers.**”

The SEM Scanner, created by international medical technology company Bruin Biometrics, uses sensors for the early detection of tissue damage, allowing staff to prevent the problem before it worsens.

National Library of Medicine

—● High Cost of Stage IV Pressure Ulcers

Pressure ulcers cost the U.S. health care system \$11 billion dollars a year in nursing care, medications, dressings, laboratory tests, radiology, malpractice lawsuits (\$279K/monetary settlement), etc.

Source: <http://www.wigantoday.net/news/local/hospital-chiefs-bid-to-end-blight-of-bed-sores-1-7170325>
<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2950802/http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2950802/>

Machine Learning in Action

VuCOMP M-Vu
CAD for
Mammography

● Breast Density Tool for Automated, Consistent Breast Density Assessment

“M-Vu Breast Density, the newest product in the VuCOMP portfolio, is designed to advance the science of breast density measurement. M-Vu Breast Density automatically and rapidly evaluates mammograms in much the same manner as experienced radiologists do: by analyzing the structure, texture, and dispersion of the tissue, rather than simply estimating total fibroglandular volume. M-Vu Breast Density equips physicians with another innovative tool to employ in mammography screening.”

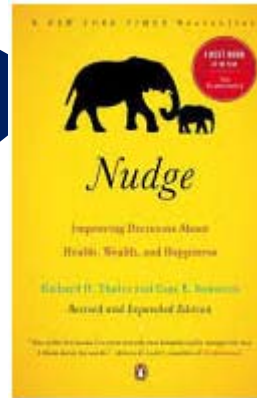
“In a side-by-side comparison with a leading competitor, at the same sensitivity, the false-positive rate per image for M-Vu CAD was 40 less than that of the competitor.”

- Much like IBM’s Watson leverages natural language processing to read and understand vast amounts of medical literature, VuComp is leveraging a proprietary computer vision algorithm to automate the analysis of mammograms to help enhance the capabilities of radiologist.

Source: <http://www.vucomp.com/products/breast-density>

Becoming a Choice Architect

“Doctors are crucial choice architects, and with an understanding of how humans think, they could do far more to improve people’s health and thus to lengthen their lives.”



Richard H. Thaler
Cass R. Sunstein

With the emergence of advanced analytical tools, physicians, insurers, hospitals and innovative companies are in a much better position to proactively impact their patients and change their lives for the better.

Nudges, Habits and Technology – MPL’s Future

- HHS PPACA goals:
 - Improve health care quality and safety
 - Increase preventative care
 - Accelerate the process of scientific discovery to improve health
- MPL benefit
 - New technology is reducing the incidence of bed sores, saving hospitals, nursing homes and care givers time, money and the cost/stress of medical malpractice claims
 - Cognitive analytics are helping physicians “see clearer,” reducing the probability of errors in diagnosis which are the second leading cause of MPL claims (avg. indemnity - \$243K, avg. expense - \$26K)
 - Wearable technology and coordinated health insurer efforts are improving the health of patients through preventative care → physicians seeing healthier patients



TOP CHIEF MEDICAL FACTORS

1. Improper performance
2. Errors in diagnosis
3. No medical misadventure
4. Failure to supervise or monitor case
5. Failure to recognize a complication of treatment

Source: 2011 edition of the PIAA Claim Trend Analysis, First Quarter 2015 Inside Medical Liability Magazine

Other Trends

Demographic Trends

- 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

- Younger health care consumers are changing the way physicians and hospitals do business

CNBC Health Care  **Want a clearer medical bill? Act like a millennial**

“It turns out millennials are twice as likely to challenge the cost of their medical care than the general population.”

“They are twice as likely to ask for cheaper treatment options and to seek help from providers to pay costly medical bills.”

- **Challenges**

- Younger patients spend more time on the internet, likely coming to the doctors office with higher expectations
- Younger patients are faced heavy financial burdens (e.g., student debt, lower incomes, tougher job market)... Will they be twice as likely to respond to an inquiry from a lawyer?

Source: <http://www.cnn.com/id/102658728>

Demographic Trends

- Opioid abuse continues to be a major challenge for patients, physicians, hospitals, insurance companies and law enforcement
 - PAINMEDICINENEWS – ***Opioid Use Common Among Reproductive-Aged Women***
 - “Taking opioid medications early in pregnancy can cause birth defects and serious problems for the infant and mother.” – Tom Frieden, Director of CDC
 - HUFFPOST – ***A New Approach That Unwinds the Drug War and Produces Dramatic Reductions in Recidivism***
 - “Under LEAD, police officers identify people committing low-level criminal offenses; but after arrest, instead of booking them into jail, the officer links the individual to a waiting case manager. The case manager then integrates the individual into a highly coordinated, harm-reduction focused continuum of human services -- including housing, counseling, job training, drug treatment, mental health services, and health care. There is no jail, no criminal prosecution, no courts.
 - PAINMEDICINENEWS – ***HHS to Combat Prescription Opioid Drug Overdose Epidemic***
 - “Opioid drug abuse is a devastating epidemic facing our nation. I have seen firsthand, in my home state of West Virginia, a state struggling with this very real crisis, the impact of opioid addiction. That’s why I’m taking a targeted approach to tackling this issue focused on prevention, treatment and intervention,” said Sylvia M. Burwell, HHS secretary, in a press release. “I also know we can’t do this alone. We need all stakeholders to come together to fight the opioid epidemic.”

Source: http://www.painmedicineneeds.com/ViewArticle.aspx?ses=ogst&d=Primary+Care&d_id=348&i=May+2015&i_id=1180&a_id=32290
http://www.huffingtonpost.com/gabriel-sayegh/a-new-approach-that-unwinds-the-drug-war_b_7029078.html
http://www.painmedicineneeds.com/ViewArticle.aspx?ses=ogst&d=Web+Exclusive&d_id=244&i=April+2015&i_id=1167&a_id=30896

Demographic Trends

- 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
 - Lawsuits involve more co-defendants and higher hospital limits

Demographic Trends

- 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>

The Changing Healthcare Landscape

- 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

Shifting Focus from Inpatient to Outpatient



Capital Spending Reflects New Era in Healthcare

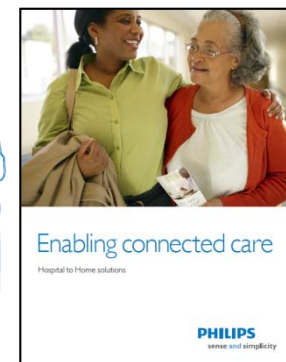
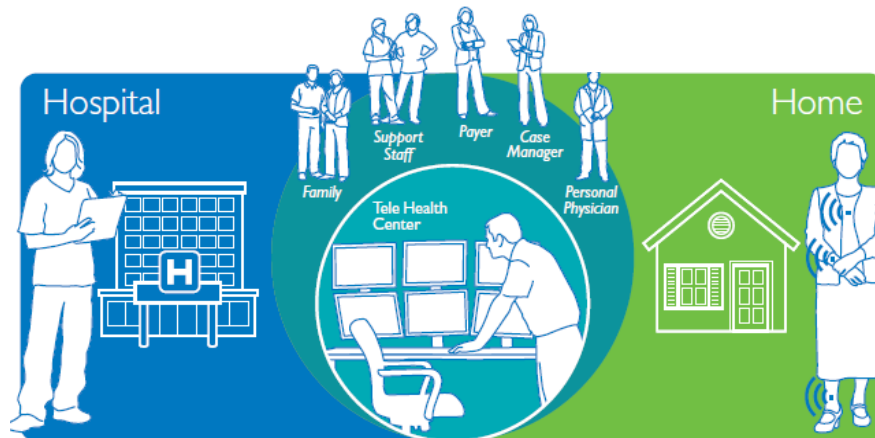
- The Patient Protection and Affordable Care Act (PPACA) is a game changer for hospitals and health systems, which are bracing for new reimbursement models based on value, the continued shift in patient volume from the inpatient to the outpatient setting, and the movement toward population health management.
- 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>

Other ACA Considerations

- 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

Pricing and Reserving

MPL Market

- Frequency is flat, but seeing slight increases in severity with an increase in the number of larger claims
- MPL market is stable
 - 91.8% calendar year combined ratio, 116.1% accident year combined ratio excluding Medpro LPT
 - Surplus at \$18.1B, up 45% in five years
- Market is soft, very competitive from a pricing perspective
- Hospitals are the biggest competitors of physician insurers
- \$2.5B of redundancy at year-end 2014 according to A.M. Best
- Brian Atchinson called it a “historical cycle”
 - Mary-Lou Misrahy, president and chief executive officer, Physicians Insurance a Mutual Company
 - Brian Atchinson, president and CEO, PIAA
 - Joseph Moody, president and chief executive officer, Healthcare Services Group
 - Charles Huber, managing senior financial analyst, A.M. Best Company

Source: AM Best “State of the MPL Insurance Market”

The Long Term Dream – Reducing Defensive Medicine

- Defensive medicine
 - The jury is still out on the benefits of shifting from “Volume to Value (V2V)” and the vision of increased care coordination, better preventative care, use of evidenced based medicine, focus on shared savings, etc.
 - Physicians have spent most of their life ordering extra tests (e.g., MRIs, CT Scans, etc.) to protect themselves from lawsuits... not a behavior that one can change overnight because of the passage of a law or direction from leadership
 - The 2013 Forbes article titled *Defensive Medicine: A Cure Worse than the Disease* ironically noted:
 - “The only way to eliminate defensive medicine is to make it impossible for doctors to be sued for medical errors.”

Source: <http://www.forbes.com/sites/realspin/2013/08/27/defensive-medicine-a-cure-worse-than-the-disease/>

Administrative Burdens and Patient Engagement

- The PPACA is impacting the ability of physicians to engage patients

NJBIZ
Health Care



Survey paints bleak picture for physicians amid health care changes

“The third annual NJ Health Care Monitor survey by the law firm Brach Eichler, found that nearly 90 percent of respondents believe the health care environment has negatively impacted their role as a physician. Of those, **more than 86 percent report increased administrative burdens**, while **more than 60 percent are spending less time with patients** and more money on technology.”

“The survey found that nearly 29 percent of respondents now belong to ACOs, which provide financial incentives to improve quality and lower costs. **Only 5 percent report any benefits from membership in an ACO.**

- The importance of patient engagement and the physician/practice relationship cannot be underestimated from an actuarial perspective.
 - Jim Saxton (Operation Five-Star), Gerald Hickson (Vanderbilt), Wendy Levinson (UofT), Huntington & Kuhn (Baylor UMC), etc.

Source: <http://www.njbiz.com/article/20150107/NJBIZ01/150109903/survey-paints-bleak-picture-for-physicians-amid-health-care-changes>



Nurse Practitioners and Physician Assistants

- The American Association of Nurse Practitioners (NP) defines full practice as the ability of NPs to "evaluate patients, diagnose, order and interpret diagnostic tests, initiate and manage treatments - including prescribe medications - under the exclusive licensure authority of the state board of nursing." **Stated another way, NP patient interaction doesn't require working with a physician.**
- Rising role of NPs and PAs in the delivery of care driven by PPACA and physician shortages
 - States continue to push legislation permitting 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

Source: <http://www.aanp.org/legislation-regulation/state-legislation-regulation/state-practice-environment>

Emergency Room Visits

- A foundation of the ACA was the expectation for lower ER visits

Wall Street
Journal



U.S. Emergency-Room Visits Keep Climbing

People on Medicaid turn to hospital care when doctor access is limited, new survey suggests

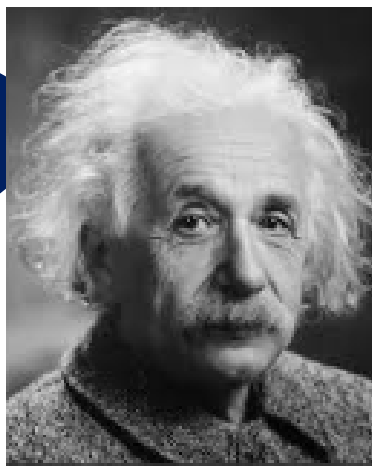
“Emergency-room visits continued to climb in the second year of the Affordable Care Act, contradicting the law’s supporters who had predicted a decline in traffic as more people gained access to doctors and other health-care providers.”

- 2006 Massachusetts Healthcare Reform
 - Angela Gardner, MD and president of the American College of Emergency Physicians
 - “Policymakers and the public also should have no illusions that the recently passed healthcare legislation is going to decrease ER use. **Massachusetts, which enacted healthcare reform in 2006, has seen an increase in emergency department visits, with no decrease in patient acuity. It proves that healthcare coverage is no guarantee of healthcare access.**”

Source: <http://www.cnbc.com/id/102658728>

Managing Expectations

“Insanity: doing the same thing over and over and expecting different results.”



Albert Einstien
Theoretical Physicist

Recent trends in ER visits shouldn't be that big of a surprise given the results we observed in Massachusetts.

Emergency Room Visits

- Actuarial Considerations

- The supply of emergency rooms has decreased over the past decade
- A number of studies have discussed the issues facing emergency departments across the country such as overcrowding, inpatient bed shortages, excess wait times, patient boarding, the diversion of ambulances, patients leaving the ER before being treated, and the shortages of on call specialists and primary care physicians.
- At the turn of the century, MPL insurers observing adverse experience in their ER book shifted ISO Code 80102 – Emergency Medicine, no major surgery and ISO Code 80157 – Emergency Medicine, including major surgery to classes with higher relativities
 - Impact of such changes exceeded 50 percent in some states
- Will the climb in ER visits post ACA lead to a rise in the number of lawsuits against ER physicians (e.g., misdiagnosis, delayed diagnosis, or failure to diagnose) driven by a more crowded and hectic ER environment?

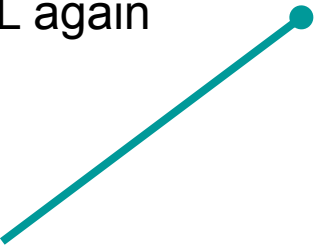
How Can MPL Insurers Leverage “Nudges” to Improve Results

- Underwriting
 - Knowledge of EMR systems and sharing of important features with physicians
 - Risk relativity information that highlights outlier physician behavior
- Claims handling and defense strategy
 - Early indications of claim severity at first report to the insurer
 - Case strategy based on initial event management information (e.g., case complexity, interaction with physician, medical expert discussions, etc.)
- Risk management and patient safety
 - Targeted office practice visits
 - Implementation of periodic live touch points with insured physicians
 - Sharing of patient safety alerts

Source: <http://www.forbes.com/sites/realspin/2013/08/27/defensive-medicine-a-cure-worse-than-the-disease/>

Frequency and Severity

- Jury still out on the ultimate impact of ACA on frequency and severity
 - Frequency
 - Flat, but days of declining frequency are past us
 - Concerned about the changing dynamic between doctors and patients (e.g., doctors as debt collectors, patients “learning more”, etc.)
 - EMR related claims under control as knowledge has grown
 - Settlement funding companies interested in MPL again
 - Severity
 - Relatively calm, with defense costs still rising
 - Increasing frequency of large awards (e.g., April saw largest MPL award in New Hampshire history at \$21.6M and Colorado at \$17.8M)
 - PIAA data sharing project has seen a 10% increase in > \$1M claims over past 5 years
 - Period of calm could be quickly interrupted if interest rates and inflation surge higher



PIAA Newsbrief
May 8, 2015

- \$35.4M MA
- \$21M MI

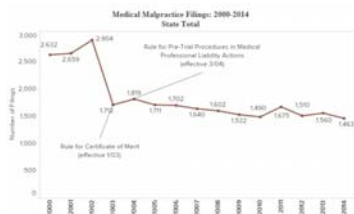
Pennsylvania Statistics – Rule Changes Matter

Philadelphia
Business Journal

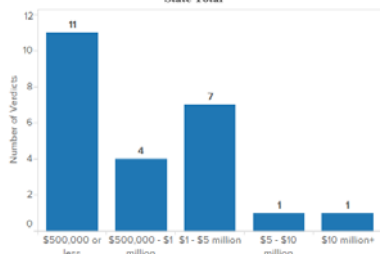


Pa. medical malpractice filings fall to 14-year low

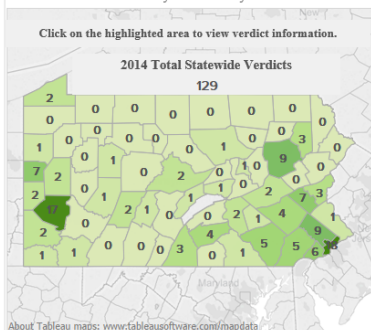
May 8, 2015, 11:15am EDT



2014 Plaintiff Awards Resulting from a Verdict
Includes Jury and Non-Jury Trials
State Total



2014 Medical Malpractice
Defendant and Plaintiff Verdicts
Includes Jury and Non-Jury Trials



“The number of medical malpractice case filings dipped last year to the lowest point since statewide tracking began in 2000, according to data compiled by the Administrative Office of Pennsylvania Courts (AOPC).”

1,463 new cases filed in 2014, a 46.5% drop since 2000-02
382 new Philadelphia cases filed in 2014, a 68.3% drop
127 jury verdicts in 2014, third lowest number in 14 years
81 percent of 2014 statewide verdicts were for the defense

Two major rule changes in 2003:

- Attorneys need to obtain a “certificate of merit” from a medical professional
- Actions must be brought in the county where the cause of action took place (i.e., ending “venue shopping”)

Source: http://www.bizjournals.com/philadelphia/morning_roundup/2015/05/pa-medical-malpractice-filings-fall-to-14-year-low.html?page=all
<http://www.pacourts.us/news-and-statistics/research-and-statistics/statewide-civil-cases>

Rand Study

RAND
Corporation

● How Will the PPACA Affect Liability Costs?

“**Medical malpractice volume effect** – whereby individuals with health insurance have more regular contact with the formal health care system and therefore may be more likely to make MPL claims.”

Table S.1 displays a range of estimated changes across state liability claim costs. **The 2016 medical malpractice impact is estimated to be \$120 million dollars, largely driven by the volume effect.**

Table 4.1
Estimated
State MPL
Cost Impact
Due to ACA

“These studies suggest that expanding coverage could lead to more claims but do not provide clear evidence as to the magnitude of potential effects.”

“**Collateral source effect** – whereby states that limit the collateral source rule allow for health insurance payments to be deducted from final liability awards.”

“We lack sufficient data on the nature of medical claims in malpractice cases to provide reasoned estimates of the magnitude of this effect for MPL, but it may not be unreasonable to imagine that these effects are largely offsetting.”

Source: http://www.rand.org/content/dam/rand/pubs/research_reports/RR400/RR493/RAND_RR493.pdf

A Win for Physicians, Hospitals, Insurers and Patients

RAND
Corporation

● How Will the PPACA Affect Liability Costs?

“**Less radical, but still potentially impactful, would be acceptance by the courts of new causes of action that have their origins in the ACA.** Some commentators have argued, for example, that the ACA contains provisions that could be used to argue for the existence of new standards of care and that failure to comply with these standards could be used as a basis for a negligence claim in a medical malpractice suit (Chirba-Martin and Noble, 2013). If courts widely accepted such reasoning, ultimately this could expand liability of physicians, mitigating or even reversing any costs savings from other features of the ACA. However, it remains unclear whether such reasoning will carry weight with the courts, and some jurisdictions, such as Georgia, have already passed legislation designed to limit the possibility of such changes to tort law.”

PIAA
Newsbrief

● PIAA-Backed Standard of Care Protection Provision Included in Legislation Passed by U.S. Senate

On April 13, the U.S. Senate passed bipartisan legislation that includes a **provision to ensure that federal healthcare metrics and reimbursement guidelines are not misused in claims of medical liability.** The bill was passed by a vote of 92-8, after having previously been approved by the House on a 392-37 vote. **The President signed the bill into law on April 15.**

Source: http://www.rand.org/content/dam/rand/pubs/research_reports/RR400/RR493/RAND_RR493.pdf

April 17, 2015 PIAA Newsbrief

Breaking News – WV Supreme Court and Prescription Meds

Charleston
Daily Mail

Thursday, May 14, 2015

WV Supreme Court: Mingo residents claiming pill addiction can sue doctors, pharmacies

“Mingo County residents alleging they were negligently prescribed pain medication, causing or enabling their addiction, **will be able to maintain their lawsuits against pharmacies and doctors that distributed them**, West Virginia supreme Court Justices decided.”

“In a 3-2 decision, written by Chief Justice Margaret Workman, justices decided if a person engaged in criminal activity, a jury will determine the nature, cause and extent that those actions contributed to an alleged injury.”

“Justices decided that **even if a person engages in wrongful conduct, that doesn’t prevent them from recovering from injuries by the illegal activity of another.**”

Source: <http://www.charlestondaily.com/article/20150514/DM02/150519562>

Closing Thought

“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it's the only thing that ever has.”



Margaret Mead
*American Cultural
Anthropologist*

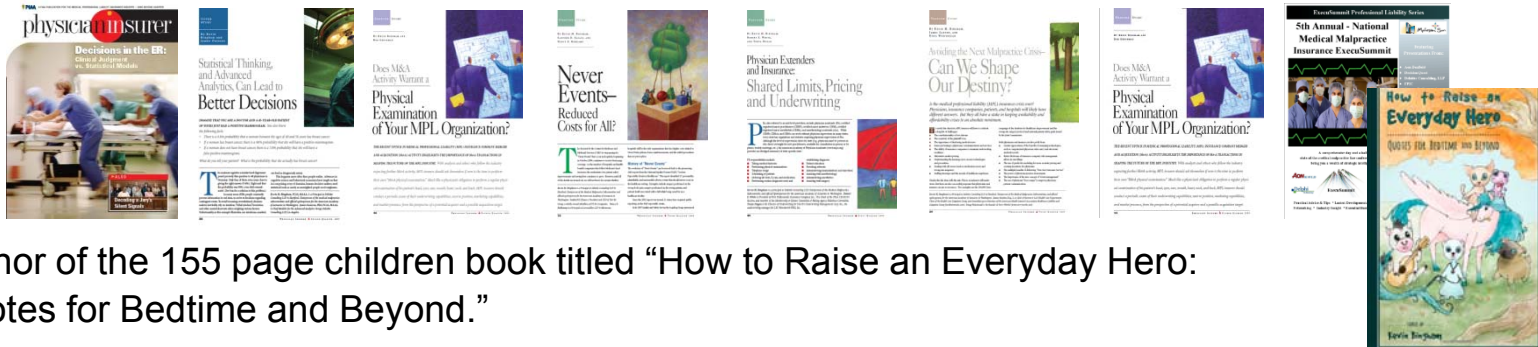
Efforts of the PIAA, MPL insurers and health care professionals help make a difference every day. Seize every opportunity to change the world for the better.

Speaker Bio



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- Leader of Deloitte Consulting’s MPL practice and claim predictive modeling practice
- Co chair, Casualty Actuarial Society Innovation Council
- Past chairperson, Casualty Practice Council Medical Professional Liability (MPL) Subcommittee
- Official spokesperson for the American Academy of Actuaries in Washington
- Advisory board member and chairman of the annual MPL ExecuSummit
- Expert witness support, rate hearing assistance and testimony for insurance departments and MPL insurers
- Speaker, trainer and regular contributor to Contingencies Magazine, Physician Insurer Magazine, Claims Magazine and other publications on MPL and other industry issues
 - To date, Mr. Bingham has published over 70 articles/papers and has spoken at more than 100 conferences/seminars/training events



- Author of the 155 page children book titled “How to Raise an Everyday Hero: Quotes for Bedtime and Beyond.”