

Impact of Healthcare Reform on Specialty Hospitals

The proposed healthcare reform bills, titled the Patient Protection and Affordable Care Act (H.R. 3590), and the Health Care and Education Reconciliation Act of 2010 (H.R. 4872), were recently enacted amid heated political debate. An issue of contention, particularly for medical societies opposed to this legislation is the effect it could ultimately have on physician-owned specialty hospitals. Specifically, H.R. 3590 Section 6001 and H.R. 4872 Section 1106 outline new requirements for specialty hospitals, stating that those under development must obtain Medicare Certification by December 31, 2010 (amended from H.R. 3590, which set the certification deadline to August 1, 2010).¹ Existing physician-owned hospitals would be eligible for some “grandfathering” benefits. However, they would still be restricted from increasing physician ownership or expanding services. New physician-owned hospitals now being built could also be adversely affected.²

One of those groups opposed to the legislation, the Physician Hospitals of America (PHA), had lobbied to remove the provision from various healthcare proposals, asserting that the bill would limit or deny access to care for patients.³ Molly Sandvig, Executive Director of PHA, states that “*the legislation virtually destroys over 60 hospitals that are currently under development, and leaves little room for the future growth of the industry*”.⁴

The American Hospital Association (AHA), meanwhile, has fully supported the provision throughout the debate, arguing that physician-owned specialty hospitals drive up health costs and impede access to high-quality care.⁵ Other proponents of the restrictive measures for physician-owned hospitals claim that these hospitals are “*cherry pickers*” of services yielding higher profits and better-paying patients.⁶ Critics have also alleged that physicians profit from referring patients to physician-owned hospitals, creating a conflict of interest.⁷

The reform provisions could have significant effects on physician investment time horizons and the valuation of surgical and specialty hospital enterprises. Specifically, the provisions may obviate the economic ownership interests of physicians in legally held property under the

valuation standard of *Fair Market Value* and the valuation premise of *value-in-use as a going concern*, resulting instead in lower values under the premise of *value-in-exchange* through *forced liquidation* (in contrast to orderly disposition) because of the insufficient exposure to market due to the eighteen (18) month compliance period. For further information on this, see “*The Valuation of Physician-Owned Hospitals in a Changing Reimbursement and Regulatory Environment*,” authored by Robert James Cimasi in the Winter 2007/2008 edition of *PHA Pulse*.

¹ “Affordable Health Care for America: Section-by-Section Analysis”, Committees on Ways & Means, Energy & Commerce, and Education & Labor, March 18, 2010, <http://stabenow.senate.gov/healthcare/Recon.pdf> (Accessed March 23, 2010)

² “Bill to Affect Physician-Owned Hospitals” by April Wilkerson, *The Journal Record*, (March 23, 2010), p. 3.

³ “Legislative Action Center” Physician Hospitals of America, <http://www.capwiz.com/physicianhospitals/home/> (Accessed March 23, 2010)

⁴ “Physician Owned Hospitals React to the Passage of Healthcare Reform: Quality Hospitals Being Destroyed, Thousands of Healthcare Jobs at Risk, Rural and Inner City Patients to Lose Access to Local Care” by Molly Sandvig, PR Newswire, March 24, 2010, <http://www.printthis.clickability.com/pt/cpt?action=cpt&title=Physician+Owned+Hospitals+React+to+the+Passage+of+Healthcare+Reform++WASHINGTON%2C+March+24+%2FPRNewswire-USNewswire%2F+&expire=&urlID=423363302&fb=Y&url=http%3A%2F%2Fwww.prnewswire.com%2Fnews-releases%2Fphysician-owned-hospitals-react-to-the-passage-of-healthcare-reform-88994452.html&partnerID=506122&cid=88994452> (Accessed March 24, 2010)

⁵ “AHA and Congress to Physicians: You Can’t Own a Hospital”, *Healthcare Journal of Northern California*, January 11, 2010, <http://healthcarejournalnorcal.com/index.php/component/content/article/48-breaking-news/378-aha-and-congress-to-physicians-you-cant-own-a-hospital.pdf> (Accessed March 23, 2010)

⁶ “Bill to Affect Physician-Owned Hospitals” by April Wilkerson, *The Journal Record*, (March 23, 2010), p. 3.

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