Eye on the Law: The Rise and Fall of Health Insurance Consolidation

In 2015, while the healthcare industry was already struggling with the impact of health insurance market consolidations in Connecticut, two blockbuster mergers were announced: Anthem’s proposal to purchase Cigna, and Aetna’s proposal to purchase Humana. Successful completion of these mergers would condense the national landscape to three major health insurers. The resulting bargaining power would have enabled the three to dictate even lower reimbursement rates to physicians, and could have been the proverbial nail in the coffin for independent practice in Connecticut.

Recognizing the potential for significant harm to Connecticut physicians and patients, CSMS immediately began active opposition to both proposed mergers.

CSMS, together with the Universal Health Care Foundation of Connecticut and Connecticut Citizen Action Group, established the Connecticut Campaign for Consumer Choice as a vehicle to oppose the mergers at the state level. CSMS also worked with the state Attorney General’s office and the Connecticut Insurance Department.

CSMS Opioid Prescribing and Addiction Efforts: Legislative, Regulatory, Educational

For decades, CSMS has been working to address issues of safe and appropriate prescribing, as well as supporting appropriate resources for addiction treatment. As controls over opioid prescribing have tightened, our opportunities to identify people with substance abuse problems increase. Yet our work will not be complete unless there are adequate mechanisms and resources in place to treat those we have identified.

Throughout our years of advocacy on substance abuse issues, CSMS has been clear and consistent that resources for the treatment of all addiction must be increased.

In the 1990s, CSMS supported the establishment of the state’s Alcohol and Drug Dependency Council. In 2000 and 2001, CSMS began discussions with the State Attorney General and Department of Consumer Protection (DCP) in support of a federal grant to establish a Prescription Monitoring Program (PMP). In the years that followed, CSMS formally testified before the General Assembly on a bill that would establish statutes necessary for the implementation of the PMP.

In recent years, CSMS worked with state legislators and the DCP to craft and pass legislation requiring all healthcare professionals who prescribe narcotics to register for use of the PMP (2013). In 2014, CSMS supported and lobbied for the passage of Public Act 14-61, which expanded civil immunity for the use of an opioid antagonist. This legislation allowed first responders to carry and administer naloxone. It also allowed family, friends and loved ones the same civil immunity protections when assisting addicts during an overdose.

(continues on page 6)
At this time of year, I often write about legislative advocacy efforts and the need for physicians to speak up and out through CSMS, your statewide professional medical association. I encourage you to email, call, or visit your state legislators about specific bills of interest to physicians. While this is still of critical importance, this year I also want to highlight the concern I have about repealing the Affordable Care Act (ACA) without a viable replacement, its proposed replacement, the American Health Care Act (AHCA), and the resulting potential for medical practice losses.

We all know of the problems that the ACA has caused for physicians. These include being on the hook for months without guarantees of payments from patients who have not paid their health insurance premiums. Another physician concern is the increased levels of bad patient debt resulting from the explosion of high-deductible health plans. In-network patient responsibility can exceed $5,000 for individuals; out-of-network rates can exceed $10,000 for individuals, and close to $20,000 for family coverage in some plans. This is unsustainable, and a growing concern given that tiered and narrow networks often force patients to seek more and more care out-of-network. This is a result of the health insurers that have dramatically reduced their networks or failed to provide clear information about the levels of in-network access, especially tied to the exchange plans.

Connecticut has seen a dramatic increase in the number of patients covered through the HUSKY program, to the tune of close to 200,000 more Medicaid recipients. This is due largely to the fact that Connecticut agreed to the Medicaid expansion offered through the ACA. Unfortunately, we know that even if the ACA isn’t repealed this year, the level of federal support for the Medicaid expansion was scheduled to be reduced, with states taking on increased proportion of payments.

At the same time, there has not been a great expansion of the HUSKY network. In fact, CSMS believes there has been a truncation of the network: physicians are not only leaving as Medicaid providers, but those who remain have full Medicaid panels and are no longer providing slots for new patients. We are also seeing this occur with the exchange products. Both the State of Connecticut Department of Social Services (DSS), through its administrative service organization (ASO) Community Health Network (CHN), and commercial health insurers have been slow to use technology to provide transparent and real-time network access information for patients.

If we simply repeal the ACA without a replacement for it, as written, AHCA could cause hundreds of thousands of currently-covered patients in Connecticut, both on-exchange and HUSKY patients, to lose that coverage. We must encourage our legislators, especially at the national level, to not simply take something away. We need a replacement that provides patient protections and coverage, while at the same time fixes the problems we have experienced with the ACA that have helped lead to a gradual, but increasing, deterioration of the health care delivery system in this state. We need not throw out the baby with the bathwater and we need to make sure we don’t further damage the complex health care delivery system that exists today in Connecticut. We are not going to solve this problem through health insurer mergers, or state or federal control of the delivery system. We need a balanced approach that reduces the burdens that existed well before the ACA, like the tattered medical liability system, the increasing consolidation of colossal health insurers, and the limited ability of physicians to collectively negotiate on quality and cost of health care services.

More than anything, we need legislators to listen to the physicians of Connecticut, who see the impact of the frayed health care delivery system every day. Let’s not continue to restrict technological advances in medicine, or tax health care facilities or providers to pay for the budget shortfall. This will only lead to fewer institutions and fewer physicians providing medical services in Connecticut.

Lend your voice to the voice of CSMS. Together, we can educate the General Assembly and Congress about what is needed now: not repeal without replacement, but fixing the very real and longstanding problems of the healthcare delivery system in Connecticut and this nation. Let physicians be the voice of reason and of reform when it comes to health insurance and health care delivery reform.
CSMS Councilor Deborah Desir, MD has been appointed to serve as the American College of Rheumatology representative to the AMA/Specialty Society RVS Update Committee (RUC). The RUC is a unique multispecialty committee which provides medicine a voice in shaping Medicare relative values.

CSMS Opioid Task Force member Gail D’Onofrio, MD co-authored a study for the CDC’s Morbidity and Mortality Weekly Report (MMWR) on multiple fentanyl overdoses in New Haven.

The American College of Gastroenterology (ACG) presented its Community Service Award to CSMS Vice Speaker David Hass, MD at the ACG Annual Meeting. The award is given to an ACG Member who has initiated or has been involved in numerous volunteer programs/activities.

CSMS member Velandy Manohar, MD has been named to the State Innovation Model (SIM) Consumer Advisory Board (CAB). The CAB mission is to advocate for consumers and provide for strong public and consumer input in healthcare reform policies in Connecticut.

Congratulations to CSMS member Jerome Schnitt, MD on receiving the Outstanding Clinical Faculty Member Award for the Yale University School of Medicine’s Department of Psychiatry.

Prasad Srinivasan, MD is a candidate for Governor in 2018. Learn more about Dr. Srinivasan’s campaign of “Revive and Prosper” at www.SrinivasanForGovernor.com.

Congratulations to CSMS member Hugh Taylor, MD on being elected to the Connecticut Academy of Science & Engineering. Dr. Taylor chairs the Department of Obstetrics, Gynecology, and Reproductive Sciences at the Yale School of Medicine/YNHH.

Are You Plugged In?
Connect with CSMS.
Do we have your email?
Go to www.csms.org and sign up for our e-newsletter. It’s time to be well-informed on all the latest medical news and events.

New Affinity Partner

US Fleet Associates works with local dealers to arrange corporate fleet pricing for purchase or lease on all makes and models – with typical savings of over $1000. As a CSMS Affinity Partner, USFA offers significant savings to our physician members and their families.

www.csms.org/affinity
2017 Legislative Update

2017 has brought significant changes to the State Capitol. Last November, Republicans gained seats in both the House and Senate. In the House, Republicans narrowed the gap to just seven seats (from 86-64 to 79-72), increasing their ability to influence votes.

On the Senate side, the 36-member chamber now has 18 Democrats and 18 Republicans. As a result, the Republican and Democratic caucuses have equal control over agenda-setting; it also provides an increased role for Lieutenant Governor Nancy Wyman, who is responsible for casting the tie-breaking vote on controversial issues. Additionally, this has presented some challenges in the operations of the General Assembly. The State Constitution does not address leadership of the Senate Chamber, so it took several weeks of negotiations at the start of the session to determine the format of Joint Committee chairmanship. The Committees are now tri-chaired by one Democratic Senator, one Republican Senator, and one House Democrat (due to the fact that in the Democrats continue to hold a slight advantage in the House).

This new structure is important, because chairmanship offers significant ability to influence committee activities. Three chairs now have equal power to determine bills that will be given a public hearing, as well as the ability to alter or amend bills throughout the legislative process.

With no clear majority in Hartford, the outcome of the 2017 “long session” (January 4 – June 5) is uncertain. The session is also a busy one: CSMS is already involved in or tracking over 300 proposed bills, and has testified on dozens of bills in several committees. That testimony is available on the CSMS website (csms.org/2017session). CSMS will continue to focus on advocacy in Hartford to protect and advance the practice of medicine.

Adding to the uncertainty is the new reality at the Federal level. There is much confusion surrounding many national health policy issues, and how potential changes in Washington could affect Connecticut. There are two schools of thought as to how we should proceed. One approach seeks ways to codify certain provisions of the Affordable Care Act in state statute, particularly related to the potential repeal of the ACA, is to seek ways to codify certain provisions of the act in state statute to at the very least provide those protects to patients insured by fully insured plans not exempt from state law by ERISA. The other school of thought is to take a wait and see approach before making any significant changes in the State.

Regardless of the environment, CSMS will continue to push many issues on behalf of our members, including:

- Working with legislators on policy and programs to recruit and retain physicians. This includes seeking ways to support community physician practices by increasing the availability of and access to small business development and other economic programs
- Protecting against the intrusion on medicine by non-physicians and other entities
- Seeking review and reform of the current liability system
- Promoting real solutions to address the state’s opioid and illicit drug use crisis. Fortunately, your CSMS is seen as an integral party in addressing this issue. We have been actively involved with legislators to craft workable policy to address the healthcare crisis of addiction and substance abuse.
- Ensuring that in these changing times that the appropriate access to affordable health insurance is preserved
- Preserving safety net programs such as Medicaid and ensuring proper resources are provided to ensure access to services
- Promoting public health initiatives such as protecting our children from head injuries and expanding the use of vaccines

While session ends on June 5th, with the current projected deficit and related budgeting difficulties, it will remain to be seen if a new biennial budget is adopted by the beginning of Fiscal Year ’18 beginning July 1st. However, CSMS will continue advocating for its members aggressively.

Specialized financing for a successful practice.

Staying competitive in today’s changing healthcare environment can be a challenge. It may require investing in new technologies, expanding services, even merging with another practice.

For the specialized financing you need to help keep your practice successful, contact Jace D’Amico at 203.316.5075 or jdamico@websterbank.com.

Webster Bank is the affinity banking partner for the members of Connecticut State Medical Society founded in 1793.

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At the national level, CSMS worked closely with the AMA. CSMS also worked directly with the DOJ, providing information on Connecticut’s already highly-concentrated market, and arranging several DOJ discussions with Connecticut physicians who would be impacted by the mergers.

Jumping for a moment into the legal realm, the process of health insurer consolidation has both federal and state components. National anti-trust scrutiny is the purview of the DOJ. Entities that are subject to federal anti-trust review (as was the case in both of the proposed mergers) must receive clearance from the DOJ prior to completion of a merger. In health insurance, each state also plays a role. Any state that is impacted by the proposed merger must also give clearance from a state perspective. Often, in the interest of time, federal and state inquiries and reviews run concurrently.

In the summer of 2016, the DOJ brought suits to block both mergers. As the trials progressed, Anthem and Aetna made similar arguments that the mergers would result in consumer cost savings by creating “synergies” to lower physician reimbursement rates.

The judges in both cases were unconvinced, and the DOJ was victorious in both suits. In the Aetna-Humana ruling released on January 26, US District Judge John Bates wrote that “[T]he Court is unpersuaded that the efficiencies generated by the merger will be sufficient to mitigate the anticompetitive effects for consumers in the challenged markets.” On February 9, US District Judge Amy Berman Jackson ruled in a similar vein, noting that, “The evidence has also shown that the merger is likely to result in higher prices, and that it will have other anticompetitive effects.”

This was a tremendous victory for CSMS member physicians and their patients.

From a legal perspective, the Aetna/Humana case is over. Aetna has not and does not intend to appeal the Judge’s ruling, and announced that they have called off the merger. Humana has announced its intent to exit the insurance exchange markets in 2018, the first major national insurer to do so.

The Anthem/Cigna case, however, has become more legally complex. After the unfavorable anti-trust ruling, Anthem immediately announced its intention to appeal the case. At the same time, Cigna filed suit against Anthem seeking the $1.85 billion “breakup fee” they were entitled to if the merger did not come to fruition. In addition, Cigna is seeking $13 billion in other damages from Anthem from what they allege to be breaches of the merger agreement. As of the writing of this article, Anthem has also filed suit against Cigna, claiming Cigna sabotaged the merger and publicizing Anthem’s belief that there are still avenues to appeal the unfavorable court ruling. This is likely to become a very complex (and expensive) multi-year litigation.

Countless studies have shown that there is no cost-savings or other benefits for consumers or physicians. Whatever happens next with Anthem, and when and if the next big merger comes around, CSMS will continue to defend the interests of physicians and their patients, and fight any effort to place profits ahead of patient care.

Cybersecurity: “Not A Case Of If, But When”

CSMS Affinity Partner Webster Bank presented an informative program on cybersecurity for CSMS member physicians and practice administrators on February 22.

Attendees were welcomed by Matthew Katz, CSMS EVP/CEO, and Jordan Arovas, Webster Bank SVP and Manager of Webster’s Specialty Banking Group.

The presentation featured Laurance Selnick, Webster Bank SVP, Director, Treasury & Payment Solutions Sales; Matt Kozloski, VP of Professional Services at Kelser Corporation; and Larry Racioppo, SVP of Management and Professional Services at USI Insurance Services.

The presentation team walked the audience through the basics of cybersecurity, types of fraud and cyber risks (“It’s not a case of if, but when…and how much it will cost”), followed by a review of HIPAA security requirements and a discussion of risk mitigation strategies. The program concluded with a detailed Q&A session.

Many thanks to Webster Bank for organizing this important program, which provided critical information for today’s medical practices.

Visit csms.org/cybersecurity to view the Webster presentation and download the Fraud Awareness and Risk Management Checklist.
5 Tax Tips to Prepare for Tax Time

Brian H. Vendig, CPA, President & Managing Executive of MJP Wealth Advisors

Now that tax season is upon us, here are five tax tips you can follow now to help save time and money on your taxes in 2017.

1. **Contribute to retirement accounts.**
   If you have not already funded your retirement account for 2016, do so by April 17, 2017, which is the deadline for contributions to a traditional IRA, deductible or not, and to a Roth IRA. Making a deductible contribution will help you lower your tax bill this year and your contributions will grow tax-deferred. For 2016, the maximum IRA contribution you can make is $5,500 ($6,500 if you are age 50 or older). For self-employed individuals, the maximum annual addition to SEPs and Keoghs for 2016 is $53,000.

2. **Get organized for tax time.**
   Organize your tax information by accumulating documentation in one place as it arrives. Also, consider using a personal finance software program, such as Quicken throughout the year so you have easy access to all the information you need. Start by printing out a tax checklist to help you gather tax documents you will need to complete your tax return. Make sure to keep all the information that comes in the mail in January, including W-2s, 1099s and mortgage interest statements. Also, pull together receipts and information that you have accumulated during the year. In addition, make sure you know the price you paid for any stocks or funds you have sold and if you don’t contact your advisor before you start to prepare your tax return. Lastly, know the details on income from rental properties.

3. **Itemize your tax deductions.**
   You can save money if you itemize your tax deductions, especially if you are self-employed, own a home or live in a high-tax area. Although it may take extra time, it is worth it when your qualified expenses add up to more than the 2016 standard deduction of $6,300 for singles and $12,600 for married couples filing jointly.
   Mortgage interest and charitable donations are well-known deductions, however taxpayers sometimes overlook miscellaneous expenses, which are deductible if the combined amount adds up to more than two percent of your adjusted gross income. These deductions include business car expenses, tax-preparation fees, job-hunting expenses, and professional dues.

4. **Take advantage of a home office tax deduction.**
   Individuals who have no fixed location for their businesses can claim a home office deduction if they use the space for administrative or management activities, even if they do not meet clients there. Doctors, for example, who consult at various hospitals, can now qualify. As always, you must use the space exclusively for business. You are permitted to write off expenses that are associated with the portion of your home where you exclusively conduct business (such as rent, utilities, insurance and housekeeping). The percentage of these costs that is deductible is based on the square footage of the office to the total area of the house.

5. **Provide dependent taxpayer IDs on your tax return.**
   Don’t forget to enter Taxpayer Identification Numbers (usually Social Security Numbers) for your children and other dependents on your return in order to receive the personal exemption of $4,050 in 2016 for each dependent and the $1,000 child tax credit for each child under age 17. If you are divorced, only one of you can claim your children as dependents and receive the deduction. The $1,000 child tax credit begins to phase out at $110,000 for married couples filing jointly and at $75,000 for heads of households.

If you have questions about these tax tips or would like us to help you with your wealth planning needs, please contact MJP Wealth Advisors at (860) 677-7755. Please contact your tax advisor to discuss your personal tax objectives and needs.

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MACRA: What It Means for Your Practice

There are a lot of unanswered questions when it comes to the fate of the Affordable Care Act (a/k/a “Obamacare”), but there’s no question that MACRA is here to stay.

MACRA was enacted in 2015 as a replacement for the flawed Medicare Sustainable Growth Rate (SGR) formula. MACRA passed with overwhelming bipartisan support in both the Senate (92-8) and the House (392-37). It offers two Quality Payment Paths, the Merit-Based Incentive Payment System (MIPS) and Alternative Payment Models (APM). Initially, most physicians will be in MIPS, a modified fee-for-service program that streamlines several Medicare quality programs (PQRS, Meaningful Use, Value-Based Payment Modifier/VM) and adds a new component (Clinical Practice Improvement Activities).

MIPS and APM began on January 1 of this year, but it’s not too late to get on board. There are several ways to participate in 2017, and each of them will protect your practice from a -4% cut in 2019.

**Test MIPS**
Submit a small amount of data in 2017
- **One** Quality measure or
- **One** Improvement Activity or
- Attest to 4 or 5 required Advancing Care Information measures
Avoid a -4.0% cut in 2019
No positive payment adjustment in 2019

**Submit 90 Days of Data**
Submit data for any 90-day period between 1/1 and 10/2
- Quality and
- Improvement Activities and
- Advancing Care Information
Avoid a -4.0% cut in 2019
You may earn a neutral or positive payment adjustment in 2019. The size of your payment will depend both on how much data you submit and your performance results.

**Full Year of Data**
Submit data from 1/1 – 12/31/2017
- Quality and
- Improvement Activities and
- Advancing Care Information
Avoid a -4.0% cut in 2019
You may earn a positive payment adjustment in 2019. The size of your payment will depend both on how much data you submit and your performance results.

As with all Medicare quality programs, there is a two-year lag between the program year and the payment adjustment. For MIPS and APM, the program year will run 1/1/17 – 12/31/17; program data will be reported in the first quarter of 2018, and payment adjustments based on that data will be applied in 2019.

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Your CSMS MACRA Resources
- Visit csms.org/medicare for program updates and deadline reminders
- Download free, on-demand CSMS webinars at csms.org/webinars
- Additional MACRA resources for CSMS members – csms.org/macra
  - CSMS Weekly E-News “PQRS/MACRA Corner” feature provides regular updates on Medicare quality programs
  - MIPS Navigator™ tool available free of charge
  - CSMS staff can provide personalized assistance
To help you maximize your MIPS potential, CSMS members who have renewed their 2017 membership can receive the MIPS Navigator free of charge.

The MIPS Navigator is an on-line tool that makes it possible for individual clinicians or practice administrators to quickly and easily sort through the various MIPS alternatives and produce a “2017 MIPS Itinerary/Plan” designed to maximize their potential 2019 MIPS bonus. By answering a few questions specific to your practice, the MIPS Navigator will let you determine:

- Whether you or your practice will likely be subject to MIPS at all
- What the likely impact of various MIPS payment adjustments will mean to your practice in 2019
- Whether you should participate in an APM and the potential impact of that choice

Based on your responses, the MIPS Navigator can produce a summary of specific things to help maximize your MIPS score, and a final 2017 MIPS Itinerary/Plan, based on your choices. If you are interested in using the MIPS Navigator free of charge, please email CSMS General Counsel Layne Gakos for registration details.
Leading into the 2015 legislative session, CSMS physician leaders interacted regularly with the Office of Policy and Management and the Governor's staff in developing the administration’s omnibus legislation on opioid and substance abuse. During the session, CSMS was heavily involved in advocacy and lobbying efforts related to the omnibus bill that would become Public Act 15-198. CSMS strongly supported a number of the bill’s provisions, including the opportunity for physicians to meet state-mandated risk management CME requirements through education on opioid and substance abuse.

In 2016, CSMS worked to make the PMP requirements more physician-friendly, including changes to expansion of authorized agents, modified reporting deadlines, and decreased prescriber reviews for certain types of treatment.

CSMS works to support appropriate opioid prescribing through its Addiction Medicine Committee, Opioid Task Force, Physician Health and Education Fund, and physician leadership. These efforts include accredited Continuing Medical Education (CME) programs, resident and fellow educational events, and development of physician and patient education materials. Continuing medical education programs frequently include how to register and use the state’s Prescription Monitoring Program (PMP) as a point of care strategy.

2017 Opioid Initiatives

Neonatal Abstinence Syndrome Comprehensive Education and Needs Training
Ongoing collaborative effort among CSMS, CHA, MRM Group, and the CT Health & Development Institute (CHDI)

CSMS and CT Chapter of American Society of Addiction Medicine (ASAM) Training Program
This co-sponsored program will provide a half-day training session at the University of Connecticut Health Center (UCHC) School of Medicine April 2017

6th Annual Resident Educational Competition in Addiction Medicine
Co-hosted by CSMS, CT ASAM and the ABAM Fellowship Journal Club, this annual competition is a highlight for residents and fellows May 17, 2017

CSMS and CT Pharmacists Association (CPA) Continuing Medical Education program (CME)
This co-sponsored program will address the pharmacokinetic properties of opioids, clinical pharmacology issues, and conceptual frameworks for collaborative medication management. June 2017

CSMS and Connecticut Pain Society (CPS) Annual Meeting
September 2017

Regulatory Efforts

CSMS is an active participant in many statewide opioid initiatives, including the Connecticut Opioid REsponse (CORE) Initiative, Connecticut Prescription Drug Abuse Prevention Workgroup, Opioids and Prescription Drug Overdose Prevention Program and the Office of Injury Prevention, and the Connecticut Department of Public Health (CT DPH).
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C. Robert Biondino Memorial Golf Classic
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July 10, 2017  Great River Country Club

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For additional information contact John Bermudez, 203.865.0587 ext. 122, or jbermudez@csms.org
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