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# Health Care in the Shadow of COVID-19: What Will the “New Normal” Look Like?

May 28, 2020

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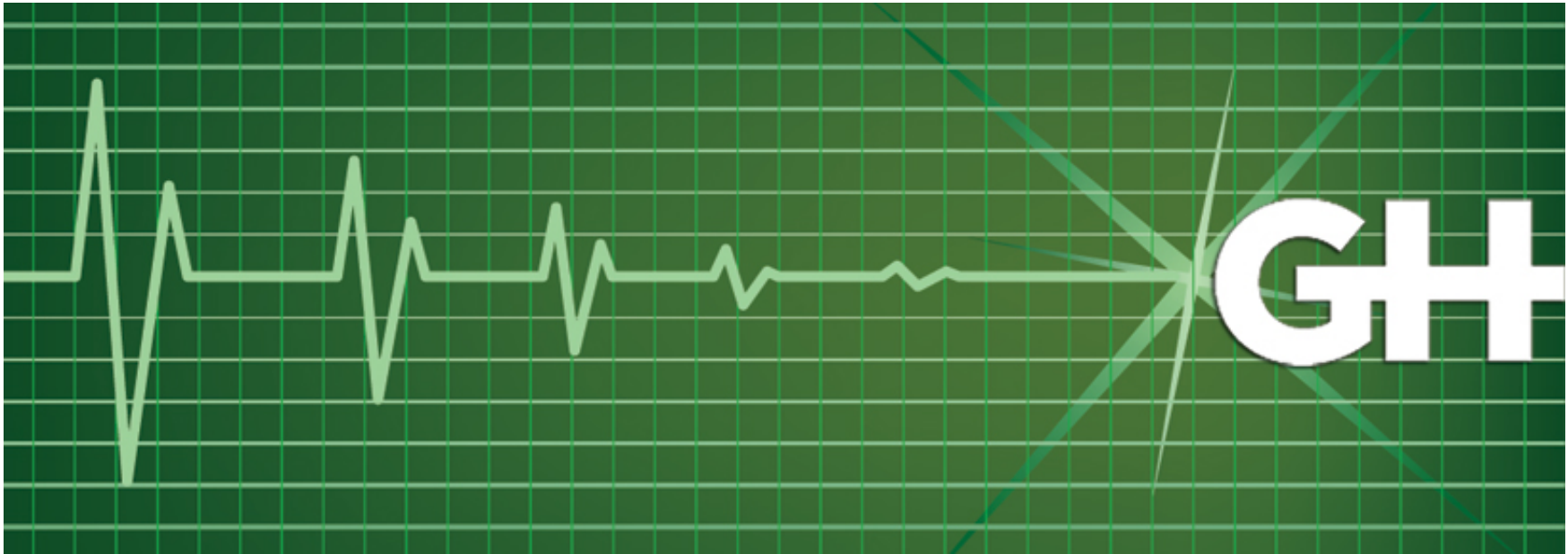


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**FARRAGUT  
SQUARE GROUP**  
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## Introduction





## Our Speakers

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## Polsinelli/TrBK Distress Indices







## About the Polsinelli/TrBK Distress Indices

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The Polsinelli/TrBK Distress Indices provide quarterly reporting on three research indices

- General Chapter 11, Real Estate, Health Care Services
- Carefully filtered Chapter 11 filings to ensure accuracy and statistical significance (over \$1mm in assets)
- Published approximately 30 days after quarter end on [www.distressindex.com](http://www.distressindex.com)
- Cited by Bloomberg, The New York Times, The Wall Street Journal, The Deal, Healthcare M&A News, etc.

- Only measurement that captures distress from Main Street to Wall Street
- Data collected by TrollerBK – tracks all bankruptcy filings by NAICS codes
- Measured on a rolling four quarter basis
- Findings reviewed and scrubbed by a statistics professor
- Causes of healthcare distress in 2015 and updating the report now...

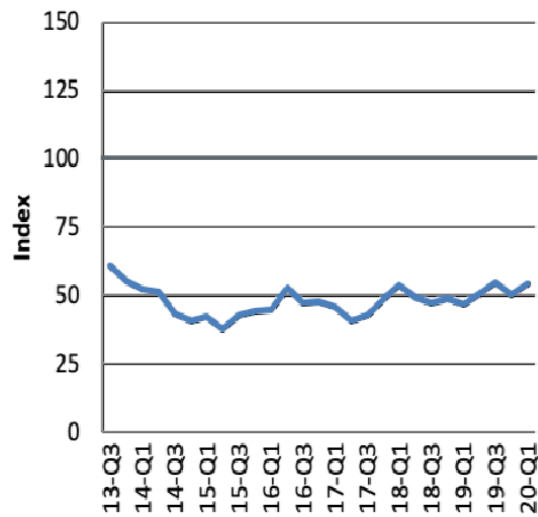


## Polsinelli/TrBK Distress Q1 2020 Data

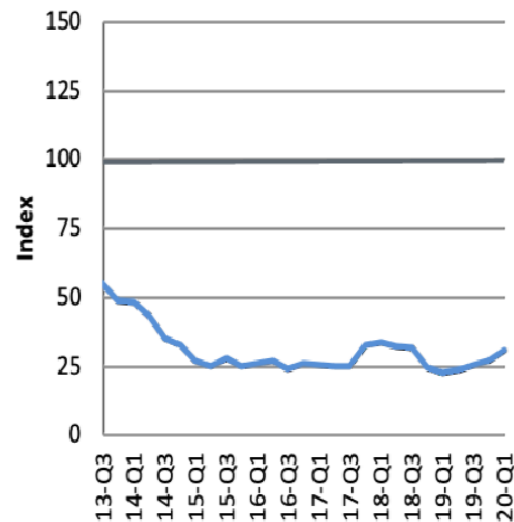
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DISTRESS INDICES

April 2020

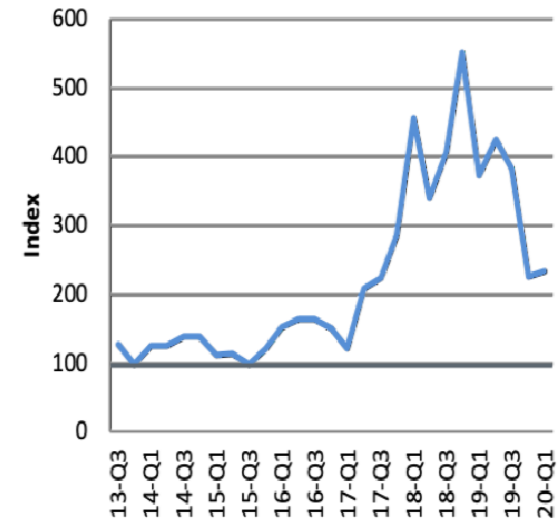
Chapter 11 Distress Index



Real Estate Distress Index



Health Care Services Distress Index

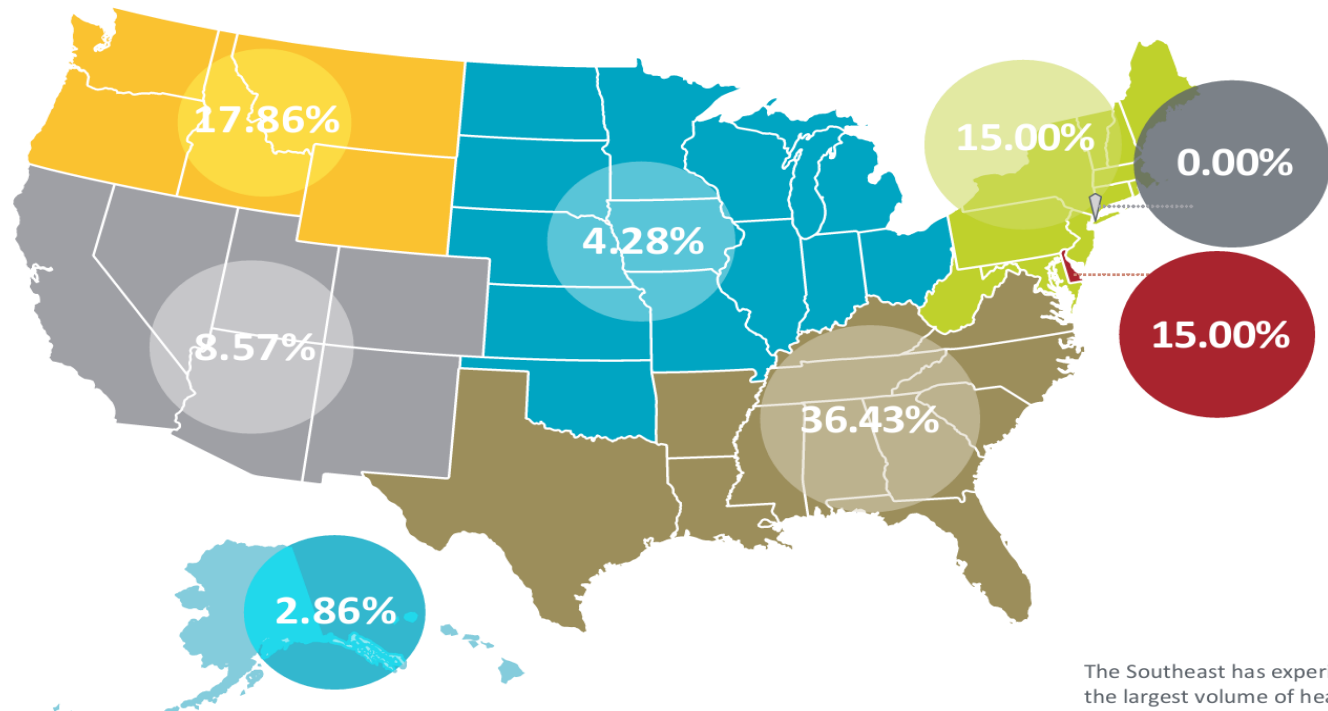


## Health Care Filings by Geography

The percentage breakdown of index filings for the current period by geographic region is:

**GEOGRAPHIC REGIONS**

- Midwest
- Non-Continental U.S. & Territories
- Northeast
- Delaware
- Northwest
- Southern District of New York
- Southeast
- Southwest



The Southeast has experience the largest volume of health



## The State of the Health Care Market



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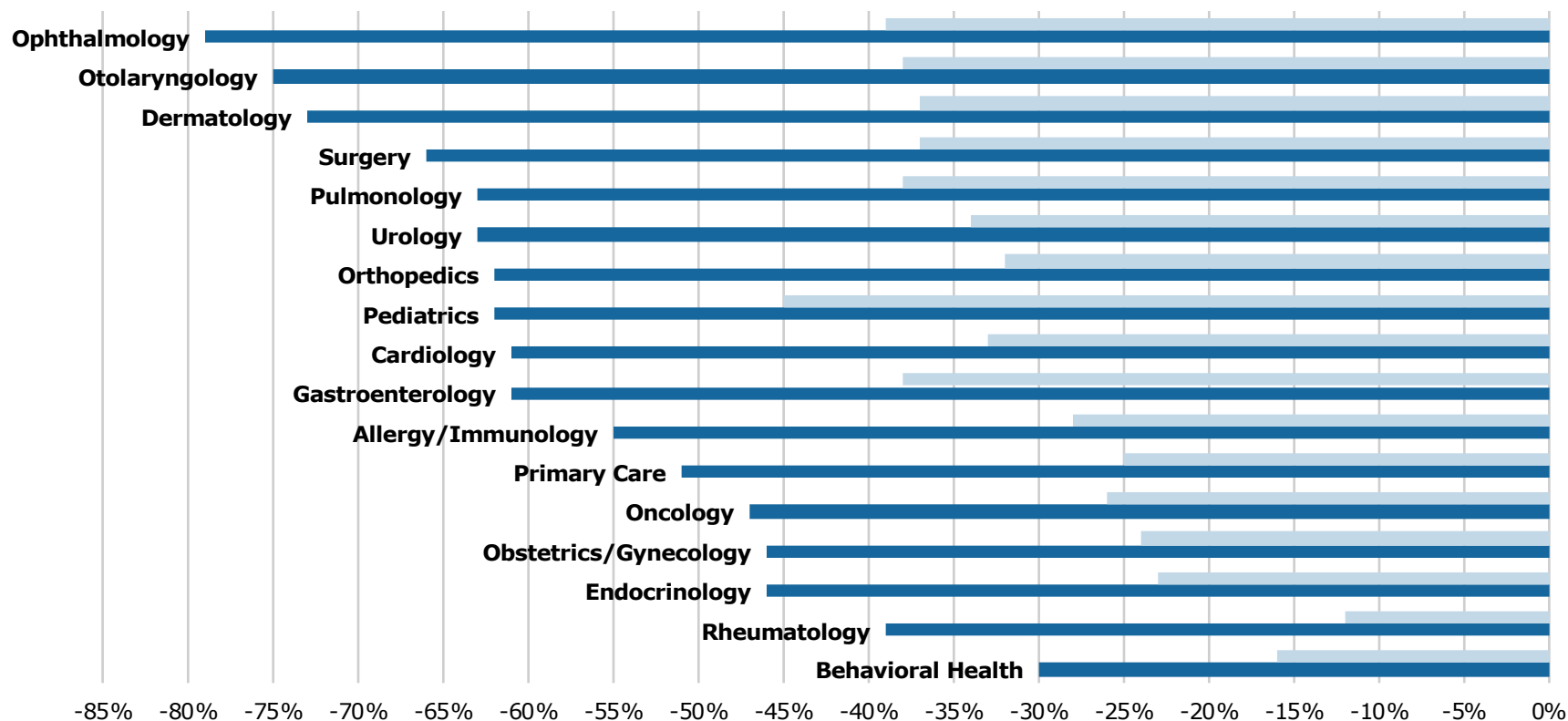
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## COVID Impact: Percent Change in Visits from Baseline, by Surgical and Procedural Specialties

Surgical and procedural specialties got hit the hardest by the PHE, while pediatrics has shown a slower rebound trajectory.

■ Week starting 05/10   ■ Week starting 04/05





## CARES Act: Overview



### Funding:

- **\$100 billion in grants** to hospitals, public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to cover unreimbursed health care related expenses or lost revenues from COVID-19 – **mini-stimulus package added \$75 billion to the fund**
- **\$4.3 billion** to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus
- **\$200 million** for CMS to assist nursing homes with infection control and support states' efforts to prevent the spread of coronavirus in nursing homes
- **\$350 billion** in loan forgiveness grants to small businesses and non-profits under the Paycheck Protection Program – **the mini-stimulus packaged brought the total program's funding up to \$660 billion**



### Financial Relief to Healthcare Providers:

- A temporary lift of the **Medicare 2% payment sequester** during the public health emergency
- A **20% boost in Medicare payments** to hospitals for treating COVID-19 patients
- Expansion of **Accelerated and Advance Payment Program**, allowing hospitals to gain access to advanced Medicare payments with an extended repayment deadline



### Other Key Provisions:

- An extension through November 30, 2020 of the Medicare and Medicaid extenders that are scheduled to expire on May 22
- Relief from certain Medicare regulations for providers, including labs, IRFs, and DME providers
- Support for telehealth services and expansion of these services in Medicare during the public health emergency
- Clarification that private insurance plans must cover COVID-19 testing without cost-sharing – requiring the plan to pay either the rate specified in a contract or a cash price posted by the provider when no price is included in contract



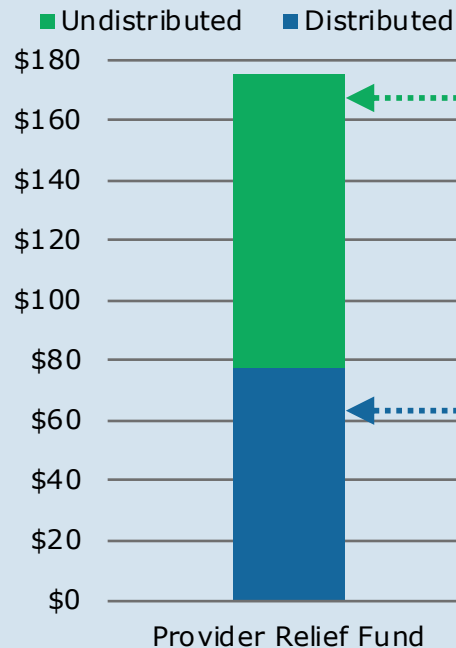
# Funding Streams: Provider Relief Fund



## Provider Relief Fund:

Created under the CARES Act and replenished by the mini-stimulus package, the Provider Relief Fund helps hospitals and other providers to cover unreimbursed health care related expenses or lost revenues from COVID-19. HHS is currently in the process of distributing the funds.

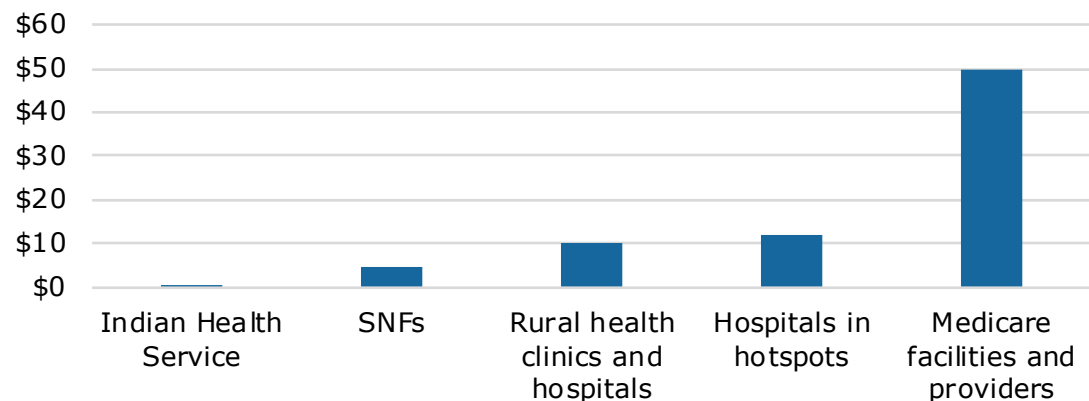
### Provider Relief Fund (Billions)



### Undistributed Funds:

- HHS still has \$97.7 billion to distribute from the Provider Relief Fund
- Remaining priorities that HHS has stated include the uninsured, sole Medicaid providers, and dentists

### Distributed Funds (Billions):





## HEROES Act: Funding Overview



### Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act:

On May 12, House Democrats released a fifth emergency bill that reportedly includes over \$3 trillion in new support, as well as sweeping policy provisions. Unlike the previous four stimulus packages, this bill was drafted without bipartisan input and will likely become a political stalemate. However, features included in HEROES signal points for negotiation in the next package.



#### State & Local Funding:

- \$375 billion for local governments
- \$20 billion for tribal governments
- \$500 billion for state governments



#### Small Business Funding:

- \$10 billion in grants



#### Health Funding:

- \$175 billion to the Public Health and Social Services Emergency Fund, including \$100 billion in grants for hospitals and providers to reimburse related expenses or lost revenue attributable to the PHE – this is in addition to the Provider Relief Fund – and \$75 billion for testing, contact tracing, and other necessary activities to monitor and suppress COVID-19
- \$7.6 billion to the HRSA for health centers to expand testing, triage, and care capacity
- \$4.575 billion to the ASPR, including funding for Biomedical Advanced Research and Development Authority (BARDA) to support vaccine and therapeutic development, US based next generation manufacturing facilities, and antibacterial research and development
- \$2.1 billion to the CDC to help public health agencies prevent, prepare for, and respond to COVID
- \$2 billion for a temporary expansion of the FCC's Rural Health Care Program to partially subsidize their health care providers' broadband service; authorized subsidies would flow to all nonprofit and public hospitals, not just rural providers



# HEROES Act: Key Healthcare Policy Proposals

HEROES includes a number of provisions geared at increasing funds to healthcare providers, expanding enrollment for individuals, and increasing testing and contact tracing

## Medicaid:

- Increases federal funding to states via a 14% increase to FMAP, up from the 6.2% FMAP increase authorized by the CARES Act
- Prevents release of Medicaid Fiscal Accountability Regulation until the end of the PHE
- Increases Disproportionate Share Hospital payments by 2.5%

## Private Insurance:

- Establishes a special enrollment two-month period through the exchanges
- Provides approximately nine months of full premium subsidies to allow workers to maintain their employer sponsored coverage if they are eligible for COBRA due to a layoff or reduction hours, and for workers who have been furloughed but are still active in their employer sponsored plan

## Medicare Accelerated & Advance Payment Program:

- Lowers the interest rate for loans to Medicare providers to 1%
- Reduces the per-claim recoupment percentage to 25%
- Extends the period before repayment begins to one year
- Extends the repayment period to a minimum of two years
- Codifies the Advanced Payment Program for Part B suppliers and moves the payments out of the AAP to general Treasury funds rather than out of the Medicare Trust Fund

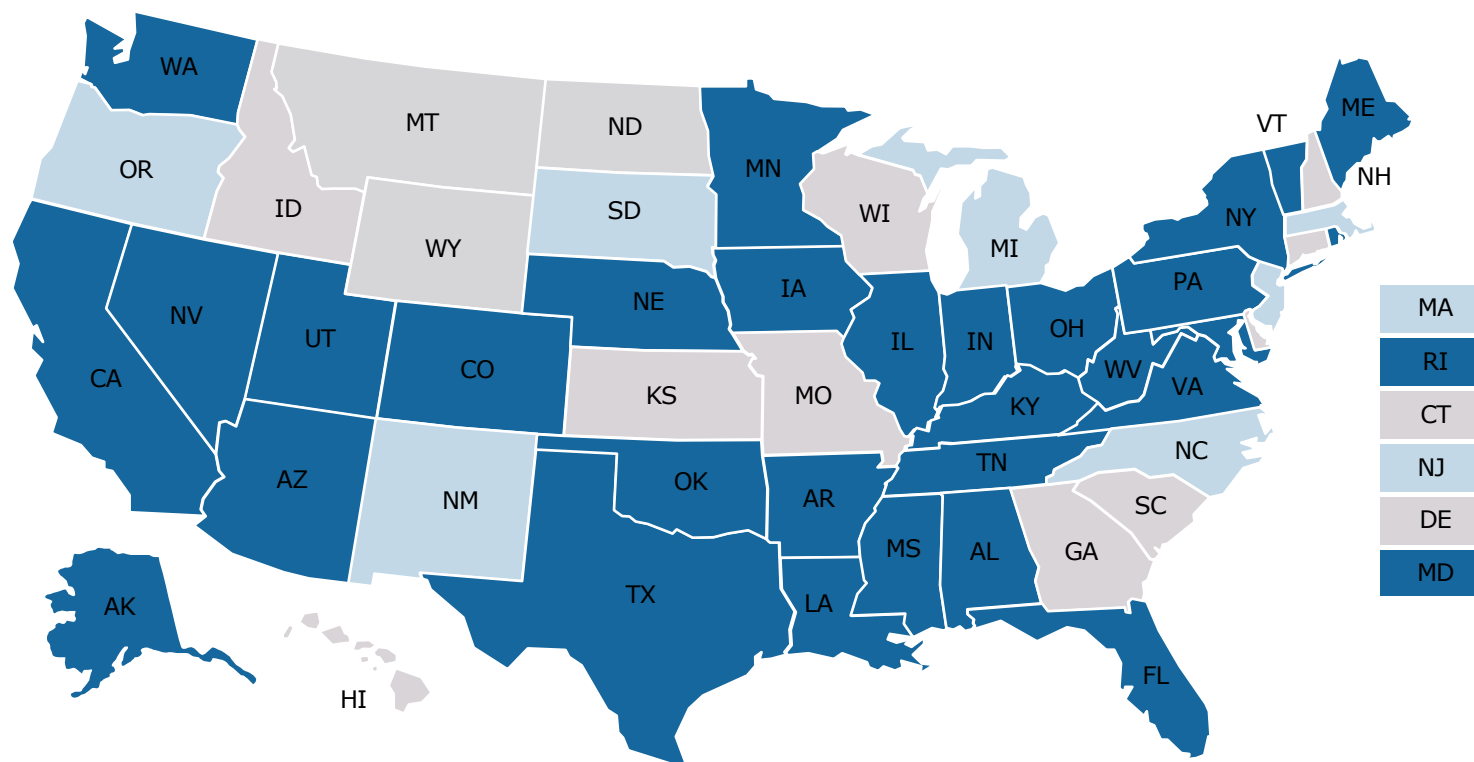
## Testing:

- Requires HHS to update the strategic testing plan by June 15, 2020
- Require HHS to establish a public website of tests used in the US to detect COVID-19 or antibodies
- Requires every lab that performs or analyzes COVID-19 tests to submit daily reports to HHS
- Creates a COVID-19 National Testing and Contact Tracing (CONTACT) Initiative within CDC to coordinate and establish a national system for testing, tracing, and containment of COVID-19
- Awards grants for evidence-based systems for testing, tracing, surveillance, containment, and mitigation of COVID-19



## COVID Impact: States with Elective Procedure Guidance

Most states that issued guidance to postpone elective procedures have begun to relax restrictions, however states vary greatly in what procedures are currently allowed and what requirements providers must meet.



■ Elective procedure guidance issued  
■ Elective procedure guidance issued, but made significant update to guidance



## COVID Implications & Strategies





## Distress in Health Care: Where?

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### **What areas in health care are seeing distress due to COVID-19?**

- The COVID-19 pandemic has impacted health care unevenly across the industries and regions of country.
- Sectors such as pharma and behavioral health have been largely unimpacted or only moderately impacted while skilled nursing facilities and dental practice groups have been greatly impacted. Yet even within healthcare subsectors the impact has been uneven due to differences in “shelter-in-place” policies and population densities.
- Physician practice groups, and specifically elective procedures at acute care hospitals, have been significantly disrupted.





## Implications for Today & Tomorrow

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### **What does this mean for providers over the near-term?**

- Staged reopening(s) depending on geography and specialty
- Reduced capacity utilization and volumes based upon patient comfort levels and social distancing guidelines
- The broader reimagining of waiting rooms
- Increased utilization of telemedicine as a means of patient engagement

### **How does the new normal impact the financial and operational performance of the Company?**

- The pandemic has not changed the economics of various provider business models; if anything, patient social distancing will make required volumes even more difficult to attain
- Will providers be willing to work longer hours to see the same number of patients?
- Will SNFs be required to limit rooms to single patients?
- Efficient operations and the ability to generate data and KPIs to run the business will need to become the norm rather than the exception
- Scale and operational leverage will be critical factors to success



## Long-Term Shifts & Relationships

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### Will the long-term landscape change for providers?

- Some marginal changes to delivery models as a result of COVID-19
- Expect reversion to a pre-COVID landscape barring major changes
- Potential areas of major change could include:
  - Payer reimbursement levels
  - Dramatic changes in health outcomes
  - Structural changes to the healthcare landscape

### How does COVID-19 effect relationships with various stakeholders?

- Lenders in highly-levered situations will need to realize the value of their collateral has been significantly impacted
- M&A markets may no longer provide the near-term liquidity solutions they once offered
- Landlords and lenders may find themselves holding general unsecured claims as providers reduce both fixed and variable costs



## Trickle Down Effects of COVID-19

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### Who will feel the ongoing impacts of COVID-19?

- Trickle down effects from COVID-19 touch many areas of health care including:
  - Lenders
  - Landlords
  - Vendors & Suppliers
  - SBA & PPP Issues



## Health Care COVID-19 End Game: Part I

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### What are some end game strategies for health care organizations impacted by COVID-19?

- Critical areas organizations, their counsel, and their advisors should explore include:
  - Liquidation or Dissolution
  - Article 9/Friendly Foreclosure
  - Receivership
  - Assignment for the Benefit of Creditors



## Health Care COVID-19 End Game: Part II

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### **What options are available to health care organizations through the bankruptcy court?**

- Bankruptcy options for organizations should consider:
  - Chapter 7
  - Chapter 11
    - Reorganization/Balance Sheet Restructuring
    - Pre-packaged/Pre-negotiated Plans
    - 363 Sales
    - Liquidating Plans
    - SBRA



## Attendee Q&A





# Faculty

**Luke Andrews** is a director with Getzler Henrich & Associates LLC in New York and specializes in financial and cash-flow modeling, quantitative and statistical data analyses, and efficiency improvements through business-tool development. Since joining the firm 15 years ago, he has been involved in more than 25 engagements in such industries as health care, retail, fashion, real estate, construction, manufacturing, distribution, asset-management, professional services, apparel and food, among others. He also has advised management teams through financial and managerial crises, complex operational and financial restructurings, and both micro and macro strategic planning. Prior to joining Getzler Henrich, Mr. Andrews worked in the alternative investment group of a Swiss private bank and as a member of the investment team at a New York-based multi-family office. His previous experience included financial modeling, research and data analyses, as well as both quantitative and qualitative evaluations of investment opportunity, performance and risk. Mr. Andrews is proficient in multiple programming languages, including Python, Javascript, Stata, R and VBA, and he is a member of the Turnaround Management Association's New York Chapter, having served on its NextGen Committee for three years. He received his Bachelor's degree in economics from Washington and Lee University in Lexington, Va.

**David R. Campbell** is a managing director with Getzler Henrich & Associates LLC in Chicago and has corporate restructuring, capital markets and leveraged finance experience, having completed restructurings and financing across multiple industries including health care services and providers, steel, metals, automotive, technology, media and telecom. He has more than 20 years of experience with in- and out-of-court restructurings and recapitalizations, and M&A and divestiture initiatives, and he works with private-equity firms, banks, family offices and commercial lenders to provide strategic advice to their investments. Mr. Campbell's functional expertise includes special-situation strategies, financial and due diligence, and capitalization initiatives. Prior to joining Getzler Henrich, he was a managing director in the private-equity coverage group at Fifth Third Bank, where he focused on health care leverage finance. He also was a managing director with Almeric Capital Partners, a credit opportunity fund focusing on distressed first- and second-lien leveraged loans, and before that, he served as a senior vice president with GE Capital's Health Care Finance group and as a principal at Potak, Campbell & Co., a boutique corporate restructuring firm providing advisory services to unsecured creditors. Mr. Campbell received his B.A. from Boston University, his M.B.A. from the University of Chicago's Booth School of Business and a Master's degree from the University of Chicago's Harris School of Public Policy.

**Brian Fortune** is president of Farragut Square Group in Washington, D.C., and is responsible for the firm's research and diligence work. Before co-founding Farragut, he was the political strategist and a managing director of Marwood. Previously, Mr. Fortune served the Republican leadership in the U.S. House of Representatives for a decade, working primarily for former House Speaker John Boehner (R-Ohio) and Majority Leader Dick Armey (R-Tex.). While representing the House leadership, he served as staff director of Legislative Digest, the policy analysis and communications division of the House Republican Conference. In that role, he worked with the senior staff on

all House committees, concentrating primarily on issues before the Ways and Means, Energy and Commerce, and Appropriations Committees. During this period, he worked directly with leadership on all of the major health care initiatives, including BBA97, BBRA, HIPAA and BIPA 2000. Mr. Fortune is a graduate of Oregon State University.

**Jeremy R. Johnson** is a shareholder with Polsinelli PC in New York, where he provides clients with business-oriented legal guidance addressing their financial restructuring and insolvency issues, including transactional and litigation matters. His financial restructuring practice focuses on representing distressed companies requiring out-of-court corporate or debt restructuring, debtors in chapter 11 bankruptcy cases (reorganizations and liquidations), strategic and financial acquirers of distressed assets through § 363 asset sales or plans, individual creditors or committees in bankruptcy proceedings, borrowers and lenders in financing transactions, healthy companies seeking protection from exposure to distressed entities, international companies seeking chapter 15 relief, and creditors, lenders or private-equity sponsors requiring advice on borrower or portfolio companies. During his 15 years in practice, Mr. Johnson has represented stakeholders across various industries, including manufacturing, mining and metals, automotive, energy, retail and financial services. He has developed a particular concentration in distressed health care, representing for-profit and nonprofit hospitals, senior living and nursing home providers, ambulatory care and other providers, and strategic and financial purchasers of health care assets. He also counsels purchasers utilizing “loan-to-own” strategies, defendants in avoidance actions (preferences, fraudulent conveyances or other matters), lenders and borrowers in distressed real estate matters, receivers, and chapter 7 and 11 trustees. Mr. Johnson received his B.A. in 1996 from the University of Iowa and his J.D. in 1999 from Boston University School of Law, where he served as editor-in-chief of the *American Journal of Law & Medicine*.

**Daniel Polsky** is a managing director with Getzler Henrich & Associates LLC in New York and has 30 years of diversified restructuring experience, serving in advisory, expert and crisis/turn-around management roles. He has led many engagements in formal bankruptcy proceedings and out-of-court restructurings, and has advised unsecured creditors’ committees, senior management of distressed businesses, bank lenders, private-equity investors and other parties-in-interest. Mr. Polsky has assisted clients in a wide variety of industries, including health care, retail, telecommunications, steel, transportation, professional services, manufacturing and distribution, among others. He has also advised investors considering potential business/asset acquisitions and distressed businesses on disposition alternatives. A longtime creditor rights practitioner, Mr. Polsky has experience in devising case recovery and litigation strategies, developing plans of reorganization and capital structures, designing operational and strategic plans, and creating and implementing cost-reduction strategies. He has conducted various fraud and financial investigations, performed insolvency and liquidation analyses, prepared expert reports, and provided expert testimony in connection with numerous bankruptcy litigation and restructuring matters. Over the course of his restructuring career, Mr. Polsky has also provided quality and risk-management oversight, including conflict resolution and risk mitigation, engagement acceptance and documentation, service-line policy development, and complex client and technical matters. Prior to joining Getzler Henrich, he served in a senior leadership role at a prominent global consulting firm. A member

of ABI and the Turnaround Management Association, Mr. Polsky received his Bachelor's degree from the University of Pennsylvania and his M.B.A. from New York University.

**Christopher A. Ward** chairs Polsinelli PC's Bankruptcy & Financial Restructuring Practice and is the managing shareholder of the firm's Wilmington, Del., office. He is ABI's Vice President-Development and serves on Polsinelli's board of directors. Mr. Ward focuses his practice on corporate bankruptcy, financial restructuring, bankruptcy litigation and distressed-asset sales, as well as non-bankruptcy alternatives. He has been recognized for excellence in Delaware Bankruptcy/Restructuring by *Chambers USA* since 2010, recognized by *SuperLawyers* in Delaware for Bankruptcy & Creditor Rights in 2012 and since 2014, and recognized in *The Best Lawyers in America* for Bankruptcy/Restructuring in Delaware since 2015. He is also an editor and contributor to the app version of Polsinelli's *The Devil's Dictionary of Bankruptcy Terms*, which has its own dedicated website and is available for free on iTunes. Mr. Ward co-authored ABI's *A Business Creditors' Guide to Distressed Vendors, Debt Collection and Bankruptcy* and was editor and co-author of ABI's *The Chief Restructuring Officer's Guide to Bankruptcy*, and he is routinely quoted in the *Wall Street Journal*, *Law360* and *The Deal* on restructuring issues. He received his B.A. from Moravian College in 1995 and his J.D. *cum laude* from Widener University School of Law in 1999.