AMERICAN BANKRUPTCY INSTITUTE

2021 Health Care Program

Health Care Fraud Fallout: Financial Implications for the Future

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2021

Healthcare Fraud:
Pandemic Impacts and the Financial Implications

October 25, 2021

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Topics

1) Fraud Resulting from the Pandemic
   a. CARES Act
   b. COVID-19 Fraud
   c. Telehealth
   d. Nursing Homes
2) What to Expect in the Future
   a. False Claims Act and Anti-Kickback Statute Enforcement
   b. Other Developments in Enforcement
3) Questions?

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CARES Act Funding

- Funding for individuals and businesses affected by the pandemic, including:
  - Paycheck Protection Program (PPP): Established in the 2020 CARES Act to assist certain businesses to continue paying workers
  - Economic Injury Disaster Loans (EIDL): Loans offered through the Small Business Association to offset financial difficulties caused by disaster, expanded by the CARES Act. Intended to help physicians and smaller healthcare providers impacted by the emergency.
- Approximately $175 billion for hospitals and other providers to cover expenses and lost revenue associated with the treatment of COVID-19
- Health care providers received nearly $68 billion of the PPP loans that were distributed in 2020 and an additional $29 billion in 2021

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CARES Act Enforcement

- CARES Act established three new entities to address fraud
  - Office of the Special Inspector General for Pandemic Recovery (SIGPR)
  - Pandemic Response Accountability Committee (PRAC)
  - Congressional Oversight Commission (COC)
- These entities oversee the administration of COVID-19 relief funds and investigate and bring enforcement actions
- These entities are largely modeled after similar tools used to investigate fraud related to the Troubled Asset Relief Program (TARP), passed during the 2008 financial crisis.
  - SIGTARP yielded **384 criminal convictions**, including 94 bankers and 79 of their co-conspirators, and recovery of more than **$11 billion** in purportedly misappropriated funds, and remains active today.

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CARES Act Fraud Enforcement

- **$84 billion in potentially fraudulent lending** identified
- More than thirty agencies investigating allegations of fraud in CARES Act-related programs, including the U.S. Secret Service, Internal Revenue Service (IRS), and Financial Crimes Enforcement Network (FinCEN)
- As of March 2021, the Department of Justice has publicly charged 474 defendants with criminal offenses related to $569 million in fraudulently obtained funds – these numbers are steadily growing
- Use of the False Claims Act related to COVID-19 stimulus fraud
  - Knowingly certifying false answers in connection with loan forgiveness or loan requirements
  - Health care providers knowingly violate CARES Act provider relief fund requirements
  - DOJ working with OIG and SBA

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CARES Act Fraud Enforcement

- **Criminal Enforcement**
  - *Amina Abbas* (E.D. Mich.), owner of a home health business, was indicted February 2021. The business closed prior to the pandemic, but received funds to pay for the medical treatment of COVID-19 patients - the money was distributed to family.
  - *David Hines* (S.D. Fla.), pleaded guilty to obtaining $3.9 million in PPP loans and using part of those funds to purchase a $318,000 Lamborghini sports car for himself.
  - On July 22, 2021 the Northern District of Georgia announced that 22 defendants had been charged in connection with a scheme to obtain $11.1 million in PPP loans and used those funds to purchase cars, jewelry, and other personal items
- **Civil Enforcement**
  - *SlideBelts Inc.* and its CEO, settled an FCA case related to a PPP loan in January 2021 agreeing to pay a combined $100,000 in damages and penalties for alleged violations of the FCA and Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA)
  - Whistleblower FCA cases, filed under seal, are likely to start becoming public soon

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COVID-19 Fraud

- Antibody Testing
- Vaccines
- PPE
  - N95 respirator masks
  - Goggles
  - Full-face shields
  - Protective gowns
  - Gloves
  - Sanitizer

- Fake Services have been offered by scammers as part of phishing or malware scams:
  - Contact Tracing
  - Economic Impact Payments/ IRS Impersonation
  - CDC Alerts
  - Medicare Support
  - SBA Loan Assistance

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COVID-19 Scams

- In Missouri, a lawmaker was indicted on twenty counts including fraud for administering fake COVID-19 treatments filled with amniotic fluid
- In Washington, a company pleaded guilty to applying a worthless or improper pesticide that the company falsely claimed provided “90+ day protection” against COVID-19
- Internationally, hundreds of doses of fake COVID vaccines on multiple continents have been seized by authorities, which INTERPOL calls the “tip of the iceberg”

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COVID-19 Scams

- The government has seized domains such as “pfizervaccines.com” and “unicefcovid19relief.com” purporting to be the legitimate websites of either Pfizer or UNICEF, while actually being designed to obtain the personal information of website visitors for nefarious purposes, such as fraud or phishing attacks
- In Baltimore, three men were charged with establishing a website to sell the Moderna vaccine for $30 a shot after offering to sell 6,000 doses to federal officers
- As of March 2021, consumer fraud related to the COVID-19 pandemic has cost individuals in the U.S. over **$382 million** according to the FTC

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COVID-19 Fraud Enforcement Actions

FOR IMMEDIATE RELEASE — Friday, April 17, 2020

U.S. Attorney's Office Files Enforcement Action Against Chiropractor Promoting Fake COVID-19 Treatment

The U.S. Attorney's Offic… preventing a DFW chiro… Erin Nealy Cox.

FOR IMMEDIATE RELEASE — Monday, December 7, 2020

CAMEROONIAN OPERATOR CHARGED IN FRAUDULENT ONLINE "PUPPY SCAM" THAT EXPLOITED THE COVID-19 PANDEMIC

WASHINGTON – … Fodje Bohga for hi… consumers. Fodje … there. He is charge…

FOR IMMEDIATE RELEASE — Tuesday, August 4, 2020

Texas Entrepreneur Charged with Spending COVID Relief Funds on Improper Expenses Including Lamborghini and Strip Club

A Houston, Texas man has been taken into custo… Paycheck Protection Program (PPP) loans, annou… Department's Criminal Division and U.S. Attorne…

FOR IMMEDIATE RELEASE — Friday, April 10, 2020

Georgia Man Arrested for Attempting to Defraud the Department of Veterans Affairs in a Multimillion-Dollar COVID-19 Scam

WASHINGTON – Christopher Parris, a 39-year-old Atlanta, Georgia resident, was arrested today and charged in federal court in the District of Columbia with fraud for attempting to sell millions of nonexistent respirator masks to the Department of Veterans Affairs in exchange for large upfront payments, the Justice Department announced.

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Telehealth Regulatory Landscape Post-Pandemic

- Pre-COVID Medicare coverage of telehealth was limited – access primarily provided to beneficiaries in rural areas
- One of the first CMS actions pursuant the March 13, 2020 Emergency Declaration was to expand Medicare telehealth benefits to allow all beneficiaries to receive telehealth in any location, including at home
  - On March 17, CMS acted through waivers to remove rural and site limitations
- Now, we are seeing a rapid expansion of Medicare coverage for telehealth and virtual check-ins
  - Number of telehealth visits increased from ~ 10,000/week to ~300,000/week in March 2020
  - Percentage of Medicare primary care visits via telehealth increased from 0.1% to 43.5% between February and April 2020

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Telehealth Regulatory Landscape Post-Pandemic

On March 30, 2020, CMS released an Interim Final Rule that initially added 80 Medicare telehealth services, including:

- **Inpatient and ED**
  - Initial Hospital Care and Hospital Discharge Day Management
  - Initial and Subsequent Observation and Observation Discharge Day Management
  - Inpatient Neonatal and Pediatric Critical Care, Initial and Subsequent
  - ED visits, Levels 1-5
  - Critical Care Services
- **Long-Term Care**
  - Initial Nursing Facility Visits, All Levels
  - Home Visits
- **Behavioral Health**
  - Psychological and Neurological Testing
  - Group Psychotherapy
  - Licensed Clinical Social Work
  - Clinical Psychology
- **Other**
  - Radiation Treatment Management Services
  - ESRD Kidney Failure Services
  - Therapy Services
  - Care planning for patients with cognitive impairment

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Increased Focus on Telehealth Enforcement

- Telehealth, the subject of fraud takedowns and enforcement operations even before the pandemic, will remain a target of enforcement authorities
- DOJ, HHS-OIG, and CMS have increased scrutiny of telehealth services
  - DOJ announced the National Rapid Response Strike Force to “investigate and prosecute fraud cases involving major health care providers that operate in multiple jurisdictions, including major regional health care providers . . . .”
- HHS-OIG is exercising enforcement discretion regarding the Anti-Kickback Statute that may impact telehealth. For example,
  - Hospitals may provide free access to telehealth platforms to independent physicians on medical staff if they do so for all staff on an equal basis and do not condition access on volume or value of referrals
  - Providers may waive telehealth cost sharing
  - Will not apply to claims that are medically unnecessary or violate Medicare guidelines

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Increased Focus on Telehealth Enforcement

- Potential areas of increased enforcement focus related to telehealth:
  - Improper coding of health care services provided via telehealth
  - Inappropriate use of telehealth technology
  - Fraud involving HIPAA and data privacy laws and state fee-splitting and corporate practice of medicine laws
  - Provision of services without sufficient doctor-patient relationship
  - Improper use of relief funds
  - Continued operation under temporary COVID-19 waivers

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Nursing Home Care

- COVID-19's heavy toll on the elderly has put nursing homes in the spotlight
  - Revealed substandard care
- The DOJ launched the National Nursing Home Initiative in 2020 and will likely only escalate enforcement
  - Intended to coordinate and enhance civil and criminal efforts to pursue nursing home bad actors
  - Claims will include allegations of deficient care, substandard services, and billing for unnecessary services
- Expect increased scrutiny or regulations on private-equity owned nursing homes from the current administration

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Continued Focus on the use of the FCA

- As a Senator, President Biden argued for bipartisan support of key amendments to the FCA
- Biden was Vice President in 2009 with the Fraud Enforcement and Recovery Act further strengthened the FCA
- FCA recoveries averaged approximately $3.88 billion per year when Biden was Vice President
- Vice President Harris made extensive use of California's FCA to combat fraud as AG of California, including $241 million in one case
- As a Judge, AG Garland stated that the FCA is "the Government's primary litigative tool for combating fraud"
- Xavier Becerra, Secretary of HHS, previously sponsored legislation in California that would expand the state's FCA to further empower whistleblower reporting

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Other Developments impacting the FCA

- On July 1, 2021, AG Merrick Garland rescinded the 2018 Brand memo on affirmative civil enforcement (ACE) actions, such as False Claims Act (FCA) lawsuits, and a related 2017 memo from former Attorney General Jeff Sessions, calling them "overly restrictive."
  - Both memos prohibited the use of guidance documents, with the "Sessions Memo" focusing use to create rights or impose obligations on persons outside the executive branch and the "Brand Memo" prohibiting use in criminal and civil enforcement
- Under the Garland Memo, providers must keep tabs on DOJ policy statements, such as advisory opinions, in addition to regulations and CMS and OIG subregulatory guidance
- All the subregulatory guidance matters more

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False Claims Act in Numbers

- In 2020 the DOJ recovered more than $2.2 billion in both settlements and judgments
- This was the lowest level since 2008 and almost $1 billion less than was recovered in 2019
- Over 80% of all recoveries – amounting to almost $1.9 billion – came from the health care and life sciences industries
- 2020 saw the largest number of new FCA matters initiated in a single year
- The government initiated new FCA matters at its highest rate since 1994, with 250 new cases brought in 2020
- of the 672 *qui tam* cases filed, 68% were related to health care

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Modifications of AKS and Stark Law

- HHS issued 18 blanket waivers of sanctions under Stark Law
  - Apply to certain types of remuneration and physician referrals if solely related to COVID-19 purposes
  - Effective March 1, 2020 through the public health emergency
- HHS-OIG announced it will not impose administrative sanctions under the AKS for remuneration related to COVID-19 covered by Stark law blanket waivers
  - Policy statement issued April 3, 2020
- OIG and CMS finalized three rules modifying the AKS, Beneficiary Inducement Civil Monetary Penalty and Stark Law
  - effective January 19, 2021
  - Important new flexibilities, including several new safe harbors and exceptions for financial arrangements related to value-based care arrangements

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What to Expect in the Future…

- Regulatory and Enforcement Activity, particularly FCA enforcement will increase under the Biden administration
- Continued Focus on:
  - CARES Act Fraud
  - COVID-19 Fraud
  - Opioid –related enforcement
  - Telehealth – related fraud and kickback schemes
  - Elder Care – including long-term care facilities
  - Medicare Advantage
- Increase Use of Data Analytics to Bring Cases

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Questions?

ToneyKorf Partners LLC

ABI Healthcare Conference

October 25, 2021

Biography

James R. ("Jim") Porter is a Managing Director of ToneyKorf Partners. He has spent more than 25 years working with distressed companies and organizations internationally and in the U.S. by providing turnaround and restructuring services as well as litigation support to maximize stakeholder value and return

Jim's ongoing work is in the successful financial restructuring of a critical access hospital in New York, where he was responsible for the identification and rapid implementation of Finance and Business Operations initiatives. This allowed the organization to avoid bankruptcy and further develop integrating with a broader system. This work continued into and through the COVID-19 pandemic

Jim also served as the Chief Financial Officer in the restructuring of Brookdale University Hospital & Medical Center, a $500M revenue distressed hospital located in Brooklyn, New York. He also served as the SVP Restructuring, where he managed various restructuring initiatives in conjunction with the New York Department of Health to stabilize and improve healthcare delivery in East New York

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Topics

1. Background and Intro
   i. Include Bio and firm background. (5 min)

2. Why did we not initially see a wave of bankruptcy?
   i. Pandemic Impact
      i. General Comments (Steven)
         a. How did we get where we are
         b. Funding and Stimulus
         c. What bankruptcies did happen
         d. Regulatory
   ii. Issues
      i. Hospital
      ii. CCRC
      iii. LTC

   iii. What hasn't happened and outlook

3. Conclusion / Q&A (5 min)

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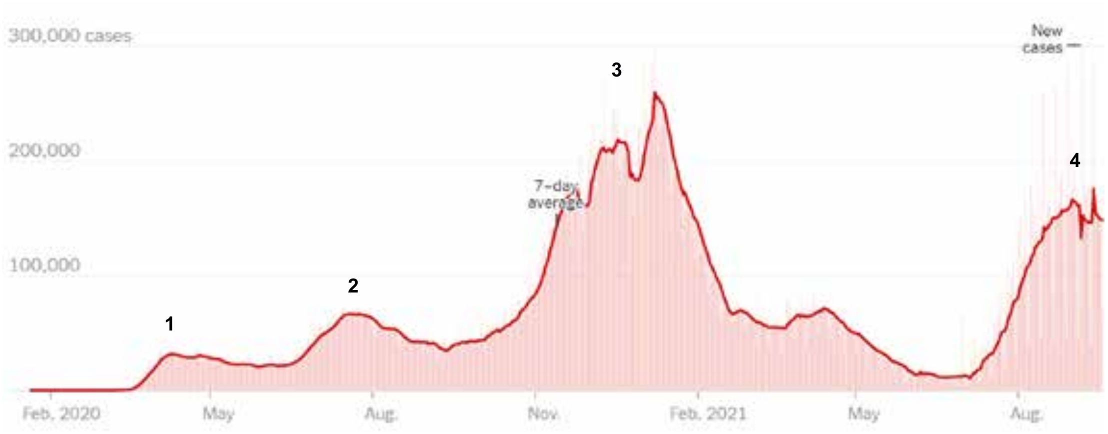
COVID Timeline



Source: https://www.nytimes.com/interactive/2021/us/covid-cases.html

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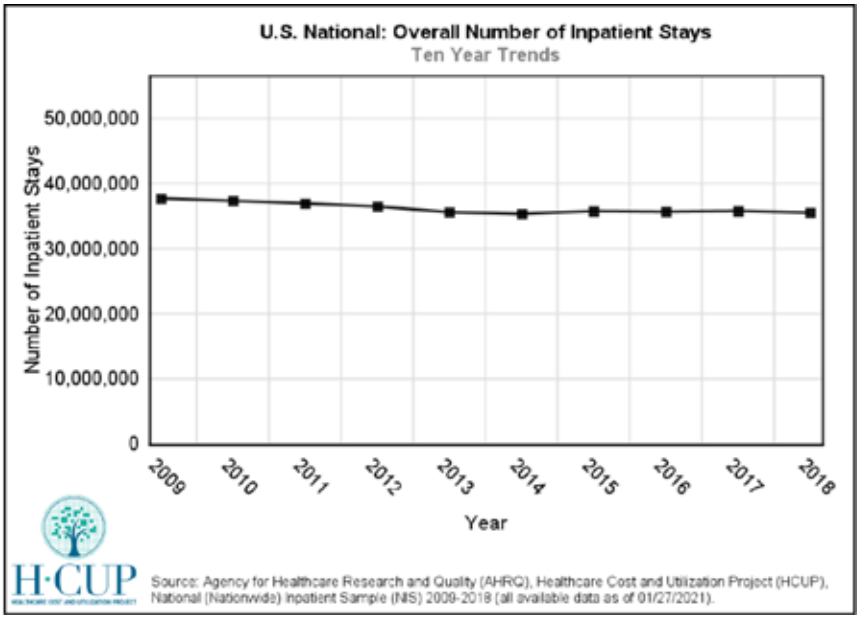
Traditional Inpatient Volumes



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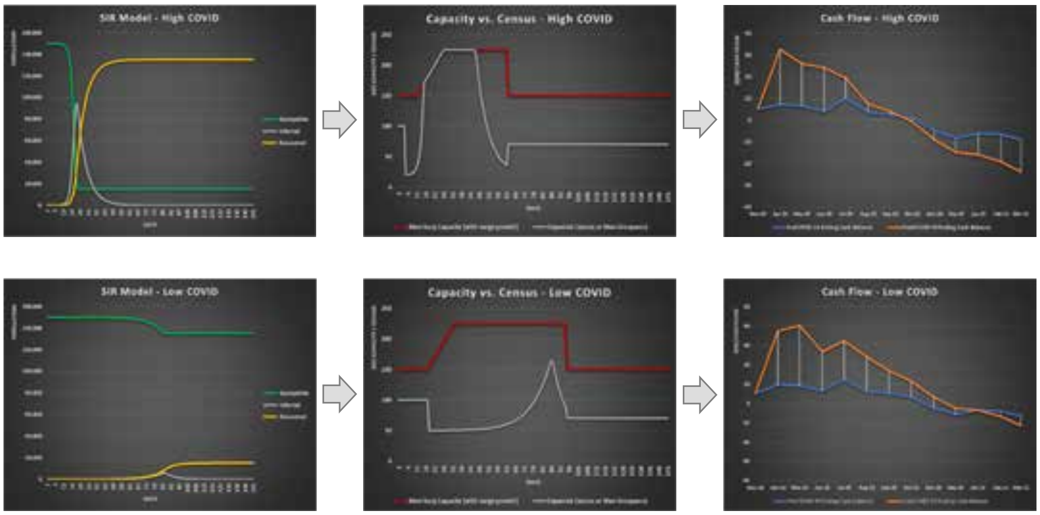
Pandemic Impact and Mitigation Strategies (PIMS)

SIR Model Rates for COVID-19 | Capacity Vs. Census | Cash Flow

High COVID

Low COVID



Infection rate drives COVID admissions and loss of elective case volume impacting financial outcome

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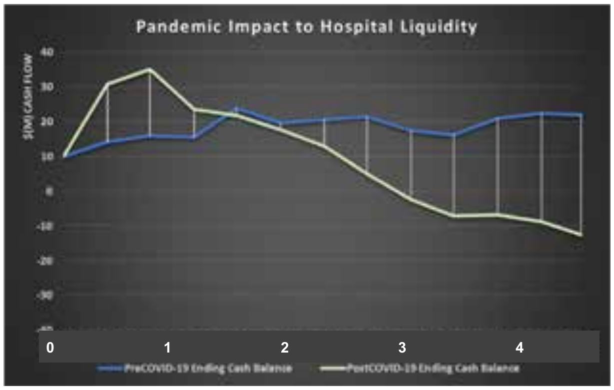
PIMS Links Total COVID-19 impact to Financial Stability

Full financial impact of COVID-19 will require early action



- **ALL HOSPITALS:** dramatic impact regardless of caseload
- **INFECTION RATE IMPACT:** predict magnitude and timing of hospital admission rates and initial financial impact
- **FINANCIAL PROJECTION:** PIMS utilizes case number, acuity, timing, and elective case volume loss
- **ADAPTABLE MODEL:** any hospital system in any region
- **SUPPLEMENTAL FUNDING INSUFFICIENCY:** does not cover lost case volume revenue
- **EARLY ACTION IS CRITICAL:** can significantly improve hospital financial stability from dramatic post-surge losses
- **FAILURE TO ACT = INSOLVENCY:** failure to act early jeopardizes a sustainable recovery for any hospital

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Reconstructing Healthcare Post-COVID

COVID has injected speed and volatility into healthcare transformation already in process

Boards Must Understand Full Impact of COVID	• Dramatic current and future financial impact to communities and healthcare systems • Changed patient demand for healthcare services • Altered clinical delivery and operational model • Shifting healthcare economics, heightened competition, different margin priorities • Community impact – socioeconomic health and wellness will worsen
Primary Strategic Focus Areas	• Recapture demand and volume • Reduce operating expense • Change clinical operating model • Restructure physician relationships • Partnerships for scale and efficiency
Boards Must Shape Actions	• Local situation will inform the right strategies • Unprecedented disruption requires ability to decisively advance change • Size, availability of resources and management capabilities will be determinants of outcome • High risk of insolvency requires Board's full engagement with management to create options

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Has the CARES Act been good or bad for providers?

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CARES

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed on March 27, 2020, which included a $100 billion fund intended to support health care providers. An additional $78 billion was granted on April 23, 2020 totaling to ~$178 billion of funding

- CARES was intended to stabilize hospital finances as they faced a loss of revenue from the loss of elective procedures and increased costs for PPE and personnel

Eligibility - CARES funds can only be used to reimburse eligible providers for "health care related expenses or lost revenues that are attributed to coronavirus"

Cannot be used for:
- Normal operating expenses
- Capital projects unrelated to coronavirus

As reference $100 billion roughly equals 9% of total hospital expenses in 2020*

***Source: https://www.aha.org/system/files/media/file/2020/01/2020-aha-hospital-fast-facts-new-Jan-2020.pdf**

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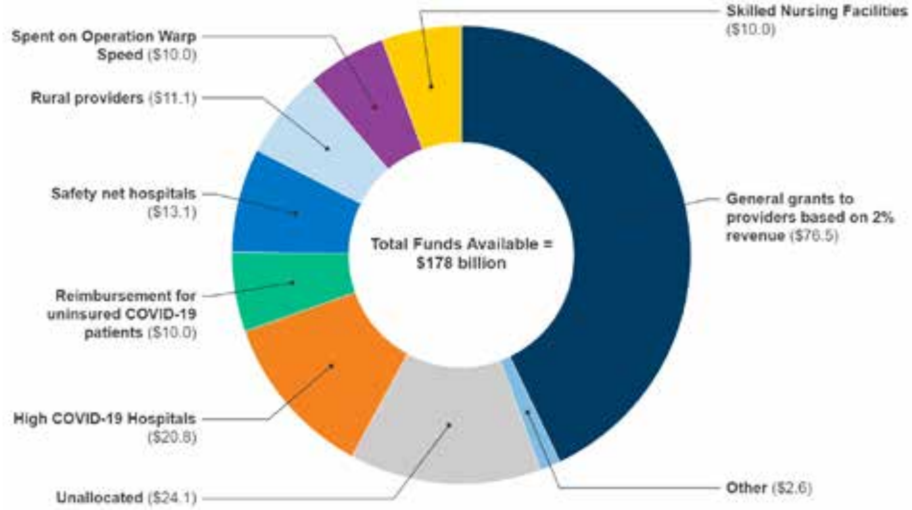
Allocation of Provider Relief Fund

Out of $178 billion approximately $40 billion* has not been distributed and $24 billion remains unallocated



Source: KFF analysis of HHS announcements regarding provider relief grant allocations and distributions of funds to providers treating uninsured COVID-19 patients and the Government Accountability Office's "COVID-19:Sustained Federal Action Is Crucial as Pandemic Enters Its Second Year ,", March 11, 2021.
*AHA stated that ~$40 billion of the Provider Relief Fund has not been distributed as of August 17, 2021 - https://www.aha.org/lettercomment/2021-08-17-aha-urges-hhs-release-covid-19-relief-funds-hospitals-health-systems
Note that an additional $25.5 billion was announced in additional distributions and applications for funding begin September 29th, 2021

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Additional Funding Sources for Providers

Health providers were also eligible to receive loans through the Medicare Accelerated and Advance Payment Programs

- 80% of the $100 billion in loans went to hospitals
- Repayment started as early as March 30, 2021
- A portion of the new Medicare claims will be reduced to repay the loans
- 25% during the first 11 months of repayment and 50% during the next 6 months

Social Security Deferral – Defer payment of 6.2% FICA tax

Paycheck Protection Program – Maximum of 250% of the last 12 months average monthly payroll capped at $10 million

State and Local Level Foundations and Charities

- Robin Hood COVID-19 Relief Fund
- Mother Cabrini Health Foundation
- New York Community Trust – NYC COVID-19 Human Services

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COVID's Financial Impact And Counting….

The American Hospital Association estimated that hospitals and health systems will lose at least $323.1 billion in 2020, which includes $202.6 billion between March 2020 – June 2020 and $120.5 billion between July 2020 and December 2020

Source: https://www.aha.org/system/files/media/file/2020/06/aha-covid19-financial-impact-short-0620.pdf

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The Good and The Bad

Good

- Liquidity
- Focus on operations
- Public perception
- Target those with greatest need
- Avoided mass bankruptcy

Bad

- Inaction
- Masking performance
- Lost focus on finance
- "Use it or lose it" mentality
- Market forces – "gouging"
- What can you buy with the money?
- Timing of funds versus deployment

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ToneyKorf

Has it prevented the collapse of our healthcare systems, or has it masked the underlying underperformance, resulting in a delay of needed actions?

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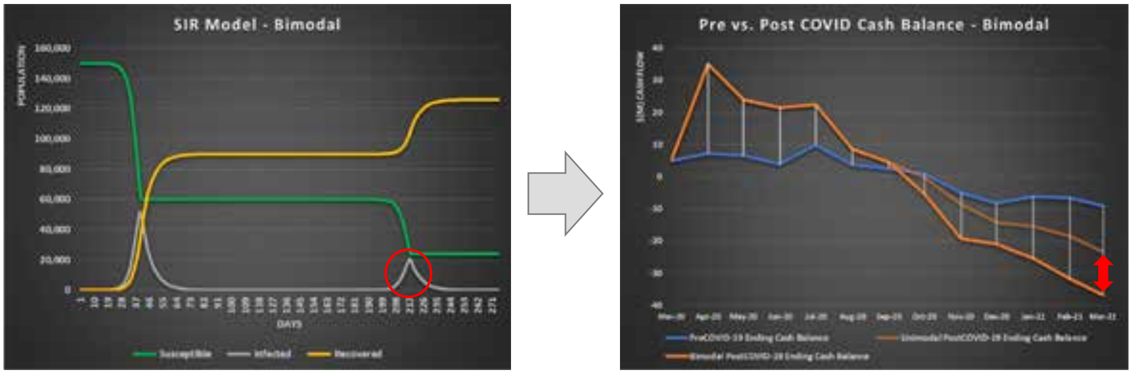
Every Surge Has a Cost

Bimodal COVID-19 impact on financial stability



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COVID Impact to Hospital Bankruptcies

At least 30 hospitals entered bankruptcy in 2019*

At least 47 hospitals have filed for bankruptcy in 2020**

Bankruptcies represent 0.5% of total hospitals in 2019 and 0.8% in 2020

*Source: https://www.hfma.org/topics/coronavirus/covid-19-exacerbates-bankruptcy-for-at-risk-hospitals.html

**Source: https://www.beckershospitalreview.com/finance/47-hospitals-closed-filed-for-bankruptcy-this-year.html

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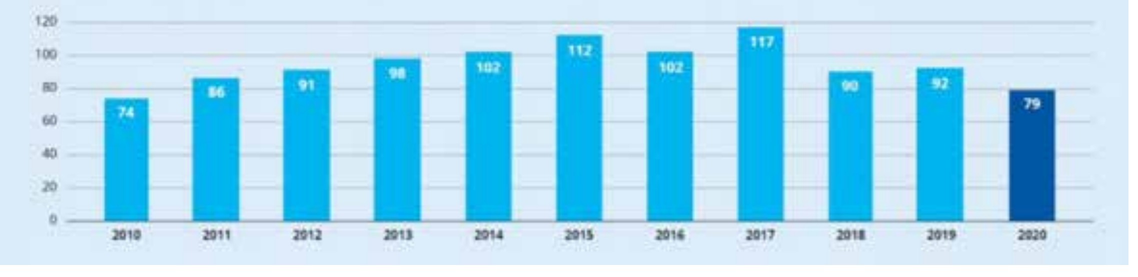
COVID Impact on Transactions

COVID-19 had an negative impact on transactions however the number remained within the historical range within the past 10 years



- For-profit health systems increased as a percentage of total transaction to 37% in 2020 from 23% in 2019
- The number of financially distressed sellers was stable but lower in 2020, down to 16% in 2020 from 20% in 2019

Source: https://www.kaufmanhall.com/insights/research-report/2020-mergers-acquisitions-review-covid-19-catalyst-transformation

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Other Observations

- Accelerate shift away from hospital-based services
- Continued advances in telemedicine
- New entrants

…so, yes at to prevention…

…what about unintended consequences?

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2021 HEALTHCARE CFO OUTLOOK SURVEY

February 10, 2021

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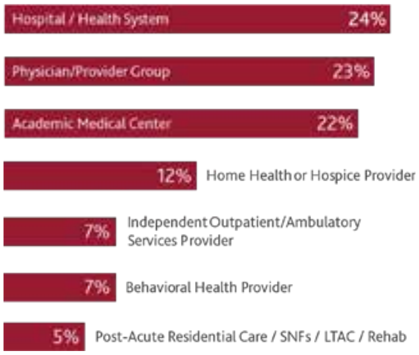
2021 Healthcare CFO Outlook

TYPES OF HEALTHCARE ORGANIZATIONS



REVENUES RANGED FROM $250M to $3B

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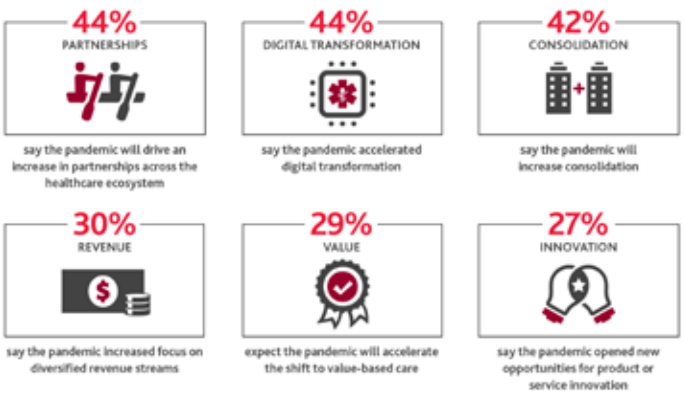
The Pandemic Changed Healthcare CFOs' Outlook for the Future of Health

SIX PRIORITIES MOVING FORWARD



2021 Healthcare cfo outlook survey

Revenue Will Return, but Liquidity Is an Immediate Challenge

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Resilience Through Distress

The pandemic brought a financial cliff to many healthcare organizations. It also created new clarity on the importance of liquidity and what are truly essential services and operational costs.

CASH
44% say liquidity will be a challenge in 2021

COSTS
34% will pursue a strategic cost reduction

CAPITAL
90% plan to seek outside capital

CONSOLIDATIO N
34% will look to optimize their real estate footprint

While the pandemic exacerbated some areas of distress, it's important to look critically at issues that may continue to present problems when the crisis abates. Unwieldy administrative structures, high reliance on Medicaid funding and lack of affiliation with a healthcare system should be addressed as part of any reorganization strategy.

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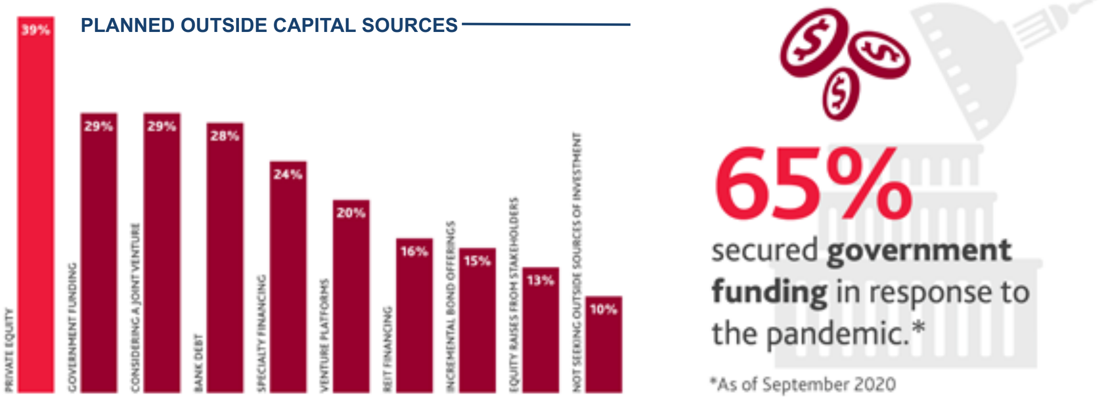
Healthcare CFOs give an edge to private equity as a preferred source of capital, followed by government funding.



Transformation Tracks

- Partnerships and consolidation
- Accelerating digital health and service innovation
- Restoring patient confidence

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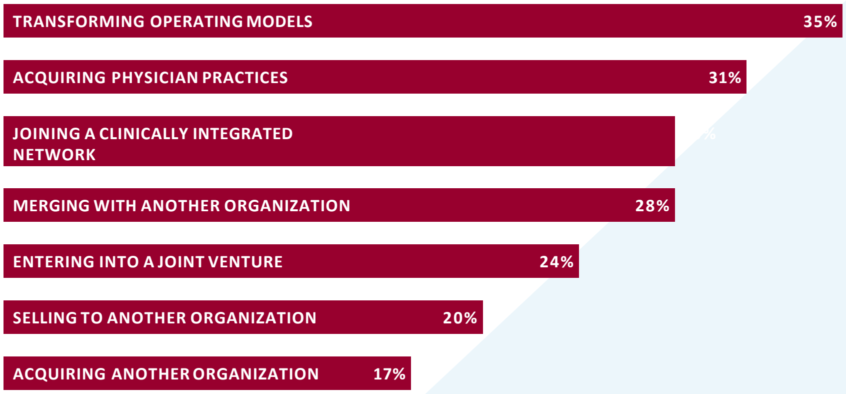
HEALTHCARE CFOs' PARTNERSHIP & CONSOLIDATION OUTLOOK

Choosing a Partnership Path Will Require Tough Decisions



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Innovation and Investment

Where CFOs plan to innovate and invest in service lines within the next 2 years

Looking ahead, healthcare organizations are hoping to fund and fuel a shift back to the primary care office as the center of health.

More than 3 in 4 CFOs say they will invest in primary care in the next year, a notable increase over 51% who reported planned investment in primary care last year.

2021 Healthcare cfo outlook survey

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Telehealth's Time to Shine

CFO's TOP-CITED CONCERNS RELATED TO TELEHEALTH

46% Efficacy of care

39% Consumer experience

34% Productivity

More than one in four healthcare CFOs say the pandemic has increased the industry's focus on opportunities in telehealth, but it is not without challenges.

Risk in Perspective

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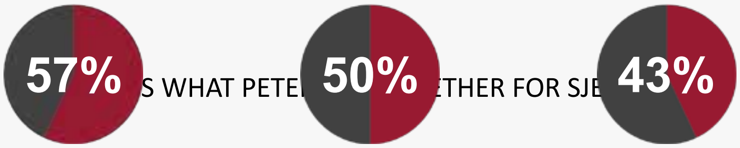
In context of a global pandemic, healthcare organizations' risk profile has evolved. The future of care will require new focus on patient experience, regulatory compliance and supply chain agility.

TOP EMERGING RISKS FOR 2021



restoring **patient confidence**

complying with **Health Price Transparency Act**

healthcare **reform policy**

Restoring patient confidence and enhancing the patient experience have never been more challenging or more critical. But in some ways, COVID-19 has leveled the playing field. There's new opportunity for any organization to secure competitor advantage by investing in patient satisfaction.

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Download the Full Report

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Thank you!

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Faculty

Kimberly Brandt is a partner in the Washington, D.C.-based policy firm Tarplin, Downs & Young, LLC, where she advises the firm's clients on a wide range of health care regulatory, enforcement and policy issues. She also serves as an advisor to Enhanced Healthcare Partners, a health care-focused private-equity firm committed to partnership with family- and founder-run businesses, and sits on the board of two of its portfolio companies. Prior to her current private-sector roles, Ms. Brandt served as principal deputy administrator for Operations and Policy of the Centers for Medicare & Medicaid Services (CMS), where she supported the administrator in overseeing all activities necessary for the operation and management of CMS's $1.4 trillion-dollar budget, 140 million beneficiaries, and its programs, including Medicare, Medicaid and the Children's Health Insurance Program. She also served as chief oversight counsel and general counsel on the staff of the U.S. Senate Finance Committee from January 2011-August 2017. Before joining the Finance Committee staff, Ms. Brandt was a senior counsel at Alston & Bird in Washington, D.C. Her previous government service includes serving for seven years as the CMS director of the Medicare Program Integrity Group. Prior to her first tenure at CMS, she worked for five years at the HHS Office of Inspector General as a senior counsel and director of External Affairs. Ms. Brandt received her B.A. in political science and history from Valparaiso University, her M.A. in legislative affairs and health policy in 1995 from George Washington University College of Professional Studies, and her J.D. in 1998 with a concentration in health law from DePaul University College of Law.

Adam S. Hoffinger is a sharegolder with Greenberg Traurig, LLP in Washington, D.C., and focuses his practice on complex civil and white collar criminal matters, including health care, securities, the Foreign Corrupt Practices Act (FCPA) and False Claims Act ("*qui tam*"), export sanctions, criminal tax, money laundering, antitrust and bankruptcy. He counsels corporations and individuals in compliance matters, government investigations, and congressional and regulatory matters. He also represents corporations and individuals in high-stakes civil litigation. Mr. Hoffinger conducts internal investigations on behalf of corporate boards of directors, bankruptcy trustees and public authorities. He has defended numerous high-ranking executives and general counsel from some of the world's largest companies, as well as high-profile staff and members of the Senate, Congress, White House and various government agencies faced with federal and state criminal investigations and indictments. Mr. Hoffinger is a Fellow of the American College of Trial Lawyers and has tried cases throughout the country. He has been recognized in *Chambers USA*, *The Legal 500 US* and in *Benchmark Litigation: The Definitive Guide to America's Leading Litigation Firms and Attorneys*. From 1985-90, Mr. Hoffinger served as an Assistant U.S. Attorney for the Southern District of New York. He received the Director's Award for Superior Performance from the U.S. Department of Justice (DOJ) in 1990. Mr. Hoffinger is an adjunct professor of law at George Washington University Law School and an instructor at Georgetown University Law Center's National Institute of Trial Advocacy. He received his B.A. from Trinity College and his J.D. from Fordham University School of Law.

Ellen H. Persons is a shareholder with Polsinelli in Atlanta, where she represents corporate and individual clients in civil and criminal investigations by the Department of Justice, regulatory investigations and enforcement actions by the SEC and other federal and state agencies, and complex litigation matters. She focuses her practice on defending clients against allegations of fraud, including matters involving the False Claims Act, the Anti-Kickback Statute, health care fraud, antitrus violations and securities fraud. Ms. Persons has represented clients in the health care, automotive, government contracting, education, banking and manufacturing industries. She also conducts internal investigations on behalf of companies and counsels them on remedial actions and disclosure decisions. Ms. Persons previously served as an Assistant U.S. Attorney in the Civil Division of the U.S. Attorney's Office for the Northern District of Georgia, where she investigated and prosecuted financial fraud against the federal government in the areas of health care, government contracting, education and the mortgage industry. She also defended the U.S. against civil claims in numerous contexts. Ms. Persons was named a "Local Litigation Star" by *Benchmark Litigation* in 2021 and is a member of the Georgia Bar Association, Women's White Collar Defense Association, American Bar Association's White Collar Crime Committee, The Atlanta Lawyers Club, American Health Lawyers Association and the Lumpkin Inn of Court Barrister. She received her B.A. in AMerican government in 2005 from the University of Virginia and her J.D. *cum laude* in 2008 from the University of Georgia School of Law, where she participated on its Moot Court.