



THE
PHIA
GROUP

EMPOWERING PLANS



2020 Renewal Season - Decisions Today ... Uncertain Tomorrow!



- **Housekeeping**
- **“Court”erly Update**
- **Lawmaker’s Corner**
- **Talking About Drugs**
- **Have Disease, Will Travel**
- **Hail to the Chief!**

Housekeeping

Today's Speakers



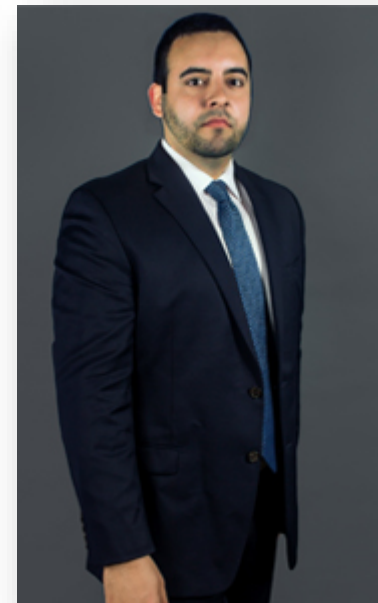
Adam V. Russo, Esq.
Chief Executive Officer



Ron E. Peck, Esq.
Executive Vice President
& General Counsel



Jennifer M. McCormick, Esq.
Sr. Vice President, Consulting



Brady C. Bizarro, Esq.
Director, Legal Compliance
& Regulatory Affairs

What Motivates Us?

The Problem – Health Care Costs Too Much and The Price is Increasing; Employers are Forced to Offset Costs Through Higher Co-Pays and Deductibles

Our Purpose – To Make Health Benefits Affordable for Employers and Employees

Why? – Because Hard Working Americans Deserve Access to High Quality, Affordable Healthcare

Follow Us ...

Looking to stay updated on the latest health insurance industry news?

Click on the link below to follow our LinkedIn page!



Or...

Go to LinkedIn and search for *The Phia Group, LLC*

Housekeeping

... and Download the Podcast!



or

Listen to our podcasts on our website!

www.phiagroup.com/Media/Podcasts

Thanks for listening!

Patient Defender

Patient Defender: Another Weapon in the Fight Against Balance Billing.

- **A PEPM Fee Places an Attorney on Retainer**
- **Patient & Plan Consent Ensure No Conflict of Interest**
- **Litigation & Negotiation Strategies Implemented**
- **Attorneys Represent Patient with Plan Support**
- **The Phia Group Continues to Protect the Plan**
- **Patient Defense Can Be Added to Any Type of Plan**



Please contact Tim Callender at tcallender@phiagroup.com or 781-535-5631 if you are interested in learning more.

Housekeeping

20 Years of Empowering Plans!

1



2



3



4



2020 Ushers In the 20th Year of The Phia Group's Existence

Stay Tuned as we Roll Out a Year of News, Special Offers, and Events to Celebrate Twenty Years of Empowering Plans!

PACE® CERTIFICATION

The PACE® Certification program will educate you using 3 distinct chapters of information:

Chapter One

Explore the ins and outs of self-funding while learning about its risks and rewards. This chapter will transform any individual into a self-funding pro.

Chapter Two

Take a deeper dive into the laws that apply to self-funded plans. We cover it all, from federal preemption to adverse benefit determinations and appeals.

Chapter Three

Explain what PACE is, what PACE does, and how it's obtained, implemented, and utilized.



PACE® Certification was released on August 1, 2019!

Special Shout-Out to Alexa Fulk of



Alexa is from Nebraska and loves riding her motorcycle!

“I love compliance! It’s become a pretty big passion of mine over the years. But In the summer, I love to ride my motorcycle and attend motorcycle rallies like Sturgis each year.”

Thanks for listening!

“Court”erly Update: Texas v. Azar



On Tuesday, July 9th, the U.S. Court of Appeals for the Fifth Circuit heard oral arguments in the case of Texas v. Azar.

5th Circuit Court of Appeals Decision Due Soon

- Oral Arguments Held on July 9th (Texas v. Azar)
 - Three-judge panel
 - Judge Carolyn King (Carter appointee)
 - Judge Kurt Engelhardt (Trump appointee)
 - Judge Jennifer Elrod (George W. Bush appointee)
- What Did We Learn from Oral Arguments?
 - Court annoyed at the lack of a political solution
 - The 800-pound gorilla NOT in the room
 - Court seemed open to striking down the ACA
 - Judge King remained silent...
- What Is At Stake?
 - Coverage for 20 million Americans
 - Coverage mandates (pre-existing conditions dependent children, etc.)



RBP Under Fire – An Uptick in Provider, Plan, and Patient Suits

IHC Health Servs.

- Court effectively required production of communications with members, which it previously withheld, citing privilege
 - Presumably, the provider wants these communications on the record to try to substantiate its allegations of exactly what was said to patients, arguably in violation of law.
- From a set of interrogatory responses:

[T]he following percentages represent the frequency with which health care providers do not seek additional payment beyond the health plan’s payment and the member’s cost-sharing responsibilities:

 - Utah: 85.3%
 - Idaho: 83.9%
 - Nationally: 86.7%

RBP Under Fire – An Uptick in Provider, Plan, and Patient Suits

Providence Health & Services-Oregon v. Mancuso

Quotes from amended complaint:

“It is a violation of the Oregon Unlawful Trade Practices Act...for any person in the course of that person’s business to disparage the goods, services, or business of another by false or misleading representations of fact.”

“On information and belief, [the defendant] communicated to Mancuso the following representations of fact, each of which was false or misleading and disparaged PH&S-O’s business in the context in which it was made”

“Court”erly Update

“(a) That PH&S-O had already been **paid fully and properly** for the goods and services that it provided to [the patient] between March 23, 2016, and April 4, 2016;

(b) That PH&S-O through its claim under the Agreement was seeking to collect **excessive and unreasonable charges**;

(c) **That historic Medicare cost to charge ratio data were relevant** to what Pahalad had agreed to pay under the Agreement or to **what [the plan] was obliged to pay** [the patient’s] estate under the Plan;

(d) That PH&S-O had been paid by the Plan 165% of **the amount routinely paid and accepted for such services**; and

(e) That PH&S-O’s **Charge Master rates are grossly in excess of the amounts typically paid** for such goods and services **and of the costs incurred** to provide those goods and services.”

- **Surprise Balance Bill Legislation & Proposals - UPDATE**
 - Physician-backed coalitions have spent nearly \$23 million advocating for a no-action solution, or one that backs a pure arbitration approach
 - Private equity firms with a financial interest in provider groups are also backing attack ads



- **Surprise Balance Bill Legislation & Proposals - UPDATE**
 - Members of Congress are increasingly concerned about this entry of private equity interest in the debate versus the opportunity to protect patients.
 - The Ways and Means committee held a member-only meeting on surprise billing
 - House Republicans are holding their annual policy retreat
 - SIIA expects both the Ways & Means and Education & Labor committees to mark-up the legislation by early-October

- **Surprise Balance Bill Legislation & Proposals - UPDATE**
 - SIIA has developed a policy summary that you can share with your Member of Congress to express your support for a fair and equitable solution in protecting patients from surprise billing.
 - Please contact Dakota Jackson at djackson@siia.org or Ryan Work at rwork@siia.org.



- **Pricy Pills! New Drugs & Outrageous Price Tags**
 - High Cost Rx Exclusions – Specialty Drugs/Tx Such as Zolgensma or Gene Therapy
 - Pharmaceutical Drug Management MSP Reporting Under SUPPORT
 - HHS Decision to Not Enforce Prescription Drug Coupon Rule to be Revisited in 2020 for Potential Application in 2021

Have Disease, Will Travel

- **Foreign Rx**
 - Legality (For Now)
 - Administration's Proposal
 - Medical Tourism



- **Legality (For Now)**
 - Foreign Importation Of Drugs = Illegal
 - The Food, Drug, and Cosmetic Act (“FDCA”), codified at 21 U.S.C. §§ 301 et seq., broadly prohibits the importation of prescription drugs.
 - 21 U.S.C. § 381(e)(1) prohibits the importation of a drug manufactured within the United States which was subsequently exported, except by the manufacturer of the drug.

Have Disease, Will Travel

- **Legality (For Now)**
 - Foreign Importation Of Drugs = Illegal
 - Also specifically prohibited are the importation or introduction into interstate commerce of any “new drug” which has not been approved by the FDA, 21 U.S.C. § 355, any prescription drug not labeled as required by federal law, 21 U.S.C. § 352, 353, or any prescription drug dispensed without a valid prescription written by a licensed American practitioner. 21 U.S.C. § 353(b).

- **Legality (For Now)**
 - Personal Importation Exception
 - FDA has a policy explaining that it typically does not object to personal imports of drugs that FDA has not approved under certain circumstances, including the following situation:
 1. The drug is for use for a serious condition for which effective treatment is not available in the United States;
 2. There is no commercialization or promotion of the drug to U.S. residents;
 3. The drug is considered not to represent an unreasonable risk;

Have Disease, Will Travel

- **Legality (For Now)**
 - Personal Importation Exception
 - FDA has a policy explaining that it typically does not object to personal imports of drugs that FDA has not approved under certain circumstances, including the following situation:
 4. The individual importing the drug verifies in writing that it is for his or her own use, and provides contact information for the doctor providing treatment or shows the product is for the continuation of treatment begun in a foreign country; and,
 5. Generally, not more than a 3-month supply of the drug is imported.

Have Disease, Will Travel

- **Legality (For Now)**
 - The “Warning (2/26/19 FDA Warning Letter):”
 - The FDA issued a “Warning Letter” to a vendor which administers a popular drug importation program to self-funded employers and their covered participants (See <https://www.fda.gov/ICECI/EnforcementActions/WarningLetters/ucm632061.htm>).
 - The warning letter holds that the model violates numerous provisions of federal law, including the following:
 - Unapproved new drugs (intro new drug from foreign source to US)
 - Misbranded drugs
 - Health & safety concerns

- **Legality (For Now)**
 - The “Warning (2/26/19 FDA Warning Letter):
 - The Response:
 - They are not an internet pharmacy
 - They facilitate foreign doctors reviewing and rewriting prescriptions from the US, and then supplying the patient with an approved version of the FDA-approved drug

- **Administration's Proposal**

- July 2019 – The Trump Administration announced its plan to allow for the importation of prescription drugs from Canada
- Two options:
 - HHS will rely on its rulemaking authority under of the FDCA, discussed above, to examine and approve “pilot programs” from states, wholesalers or manufacturers who can outline how they will safely import certain drugs;
 - FDA to work with manufacturers who can import their own drugs from foreign markets

- **Medical Tourism**
 - Key differences between treatment abroad vs. importation of drugs
 - Drugs provided when abroad (part of medical treatment);
 - Non-Rx Medication and/or Supplies;
 - Travel Into US vs. Utilize Outside the US

Hail to the Chief!

- **2020 Democratic Presidential Candidates on Health Care**
- At Least They Are Honest!
 - Andrew Yang
 - Yang Favors Moving to a Medicare-For-All System
 - Yang Doesn't Want to Eliminate Private Insurance but Believes It Would No Longer Be “Economically Viable” Once it Was Competing with Medicare-For-All



Hail to the Chief!

- **2020 Democratic Presidential Candidates on Health Care**
- The “Misinformed”
 - Joe Biden
 - Supports Updating the ACA (2.0) and Offering a Public Option or Options Coexisting With Private Options
 - Free for Low-Income People in States that Refused to Expand Medicaid Under the ACA (2.5 million people)
 - Everyone Would Have a Choice to Either Buy Private Insurance or Buy into a Public Option on the Exchange; a Medicare-Like Plan
 - See Washington State
 - Allow Gov’t to Negotiate Rx Prices



Hail to the Chief!

- **2020 Democratic Presidential Candidates on Health Care**



- The “Misinformed”

- Kamala Harris

- Would Create a Public Option for People to Buy into Medicaid and that Would Lower Medicare’s Eligibility Threshold to 50 Years Old
- Would Create a Government-Run System that Still Allows Private Insurers to Compete with It
 - Private Insurers Could Offer Plans if They Met Tightly Regulated Requirements
- Would Not Use Taxes on “Middle-Class Americans” to Pay for Her Plan
 - Harris Would “Only” Tax Households Making \$100,000 or More
 - You and Your Spouse Make \$50K Each? Welcome to the Upper Class!

Hail to the Chief!

- **2020 Democratic Presidential Candidates on Health Care**

- Medicare-for-All (Honest to a Fault?)



- Bernie Sanders

- Medicare-for-All Plan
- Would Eliminate Private Insurance and Enroll All U.S. Residents in a Government-Run Health Care Program
 - Private Insurance Would Only Exist for Supplemental Care Outside Basic Coverage for Medical, Rx, Vision, Dental, and Mental Health Care
- Sanders' Plan Would Impose 4% Tax Households Making \$29,000 or More to Pay for His Plan
- But, Consumers Would Pay \$0 in Premiums & Out-of-Pockets

- Elizabeth Warren

- "I'm With Bernie!"

Hail to the Chief!

- **2020 Democratic Presidential Candidates on Health Care**

All In for Medicare-for-All	Public Option	Middle Ground
Bernie Sanders	Joe Biden	Kamala Harris
Elizabeth Warren	Pete Buttigieg	Andrew Yang
	Amy Klobuchar	Cory Booker
	Julian Castro	Beto O'Rourke

Thank You

**Join us for our next free webinar:
October 23, 2019 at 1:00pm EST
www.phiagroup.com/media/webinars**

