

Delaware State Bar Association
HEALTH LAW SECTION
December 11, 2012
 (Balick & Balick location)

PRESENT: Joanne Ceballos (Chair), Julie Rahaim, Nate Trexler, Jonathan Neipris, Susan Gordon, Brenda Pierce, Adam Balick, Diane Andrews, Patty Davis-Oliva.

BY TELECONFERENCE: Ben Schwartz, Rob Collins, Marcy Jack, Jennifer Brady. **GUESTS/PRESENTERS:** Bettina Riveros, Chair of the State of DE Health Care Commission.

AGENDA ITEM	DISCUSSION	FOLLOW UP/DATE
<i>Minutes</i>	Meeting called to order at 1210.	
<p><i>Discussion Points</i></p> <p>Delaware Health Benefits Exchange</p>	<p>Bettina Riveros, Chair of the state's Health Care Commission, discussed status of the state's efforts to establish a Health Benefits Exchange. Ms. Riveros serves as the Governor's advisor for Healthcare Reform and is the chair of the Health Care Commission.</p> <p>The Exchange is a product of the Affordable Care Act. There are currently 106,000 uninsured Delawareans. Approx. 35,000 will obtain insurance through the Exchange. <i>The Exchange needs to be operational by Jan. 2014.</i></p> <p>The State has opted for the federal-state partnership model for the Exchange with the State retaining control of the following functions:</p> <ol style="list-style-type: none"> 1. Certification of the Health Plans. 2. Consumer assistance (individuals and small businesses who want to purchase insurance through the Exchange) <p>What is an Exchange? It is like Travelocity for traveling, but for healthcare coverage. It has an online presence. One can input general information about oneself, family, needs and can determine if eligible for Medicaid and portal will take you to Medicaid. Perhaps can qualify for a federal subsidy (which is available up to 400% of the federal poverty level). Can also purchase unsubsidized coverage. <u>Exchange cannot advise about which coverage to purchase.</u></p> <p>Small business portion of the Exchange (in progress). Access to coverage is part of the Exchange so businesses can sign up to provide different levels of coverage for employees. Important to provide support to the small business community. It can be difficult to understand the requirements—such as when insurance is required (depending on how many employees a business has) options depend on how many employees, how they work (full time, part time) and there are complex rules for penalties.</p> <p>Brokers play critical role, because Navigators with the Exchange cannot advise as to which insurance to choose. The navigators <i>cannot</i> say, "This is the best plan for you."</p> <p>Children can remain on plans until age 26. Pre-existing conditions for children have gone away. There are many pieces</p>	

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that still need to come together.

Landscape of insurance is changing dramatically. No exclusions for pre-existing conditions. Issuance of coverage is guaranteed. Only factors that go into your rate are the following: age, whether a smoker or not, wellness planning and only a few other requirements.

Affordable Care Act is doing more than affecting only insurance coverage. It is also supporting changes in health care systems to reduce costs and ensure quality. Focuses on prevention and a coordinated care approach (less treatment in the acute care setting). Establishment of Medical Homes. New payment models (paying for outcomes). Increased technology to support care.

The State of DE is also looking at the workforce that is needed in Delaware-how do we grow the workforce for Primary Care and Mental Health? These issues are being reviewed and also working on getting funding for assisting with launching of new models. How do we invest to get the workforce that is needed? Access to coverage is not enough, we need to be able to connect people to get the care they need.

Question by Section Member: what about personal accountability and persons who need to purchase individual insurance; how will noncompliant people be penalized? Answer by Ms. Riveros: to be determined.

Comment by Section Member: Managed Care Organization have power to “un-invite,” or “un-register” those who do not keep appointments or are not compliant with instructions by health care providers.

Question by Section Member: How will noncompliant patients be viewed regardless as to how much effort is given to provide assistance with their disease? What will occur with those individuals? Answer by Ms. Riveros: It depends on which standards will be driving the reimbursement model—does it depend on the patient’s compliance or is it more geared to the actions taken by the health care provider (versus the results)?

Legal Guidance to clients: may be compliance issues that require support to clients, especially to small business owners who may need to obtain coverage through the Exchange.

Question by Section Member: Will there be another source of insurance or will it only be commercial insurers that will participate? Answer provided by Ms. Riveros: If any carriers want to offer insurance through the Delaware Health Benefits Exchange, there are certification standards that need to be met. We are trying to attract commercial insurers. There are some other private exchanges that provide coverage, such as the Benefits Connection through New Castle County Chamber. There are also many on-line exchanges that are national.

Comment by Section Member: Private exchanges can decide to take anyone who will pay the fee. What will be different? Suspect the difference will be the *immediate* ability of national plans that are the equivalent to a federal employees plan.

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<p>Other Health Law Section Business</p> <p>Minute Approval</p> <p>CLE/CME Health Law Conference</p> <p>Minute Approval</p> <p>Review Requested for proposed "Bio" Form</p> <p>Increasing membership in the Health Law Section:</p>	<p>Ms. Riveros: There is a minimum level of benefits plans on the Exchange must offer. The State selected the BCBS plan as the essential health benefits plan that sets the floor on what is covered. There can be catastrophic plans/coverage up to age 30. Beyond that, there can be other plans offered: Bronze, Silver, Gold and Platinum. Any plan that wants to apply to sell on the Exchange needs to offer a Bronze level plan.</p> <p>There will still be a need for charitable care (for example, if a person is undocumented, they cannot get coverage through the Exchange). Some of those who are currently receiving charitable care will be picked up through Medicaid or will qualify for a subsidy but there will still be some that require charitable care.</p> <p>*****</p> <p>Per Joanne: there are Nov. 8th & June 8th Meeting Minutes that were circulated and we need to approve for release on the Website.</p> <p>Feedback was received for the November 30, "Health Law 101: What Every Lawyer & Healthcare Provider Should Know" joint CME & CLE conference. There were 32 lawyers and 20 health care professionals attended. <i>Overall response was positive.</i> There were some recommendations related to location, microphones and room temperature. Bruce Katz (physician CME sponsor) expressed interest in joint CME & CLE seminars in the future. Dr. Katz also expressed interest in having a physician included on the CLE/CME planning committee the next time around.</p> <p>Ben: Do we want to put together joint CLE/CME every year or for every other year? Regardless, probably need to begin planning in late winter, versus spring.</p> <p>Joanne: possibly there will be those who would want to put something together around the time of our upcoming February Section Meeting.</p> <p>Nov. 8th & June 8th (2012) Meeting Minutes were approved.</p> <p>Joanne will circulate a draft version of the form "Health Law Section, Delaware State Bar Association DSBA Website Listing Registration Form" to the Section Members for review and feedback. The form is to be used as a tool for posting of Bios on the Health Law Section area of the DSBA Website (for those who are interested).</p> <p>Joanne sent an email out to those in the Attorney General's Office with information about the Section. Ben had received complaints about the fact some had paid the money to join the section and then had to pay again within a few months of payment. It should be noted that the Delaware State Bar Association membership renewal period is July 1 to June 30th and there are no pro-rated dues.</p>	<p>Members: Please review the form and let Joanne know of any changes.</p> <p>Members: please make every attempt to reach out and send information to those who you believe may wish to join the Health Law Section.</p>
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	<p>Motion to Adjourn.</p>	<p>Members: when you contact potential members, it would be best to notify them they are joining through to the end of the DSBA year and then they need to remember to “check” the renewal again in June/July (at annual renewal).</p> <p>Joanne will circulate the list of current members to those on the current list serve.</p>
<p>Next Meeting</p>	<p>Date: February 8, 2013 Place: to be determined</p>	

Respectfully Submitted by: Marcy Jack, Esq., BSN, CPHRM

Date: December 11, 2012