

Advocates of President Obama's national health care reform secured a major victory this past quarter when the U.S. Court of Appeals for the Sixth District (located in Cincinnati) upheld the constitutionality of the individual mandate portion of the healthcare reform law. In this first decision from a Federal Court of Appeals on the matter (*Thomas More Law Center v. Barack Obama*), a Republican appointee joined a Democratic appointee on June 29th for a 2 to 1 decision upholding the law. The decision affirms the ruling of a federal circuit judge in Michigan. In ruling for the majority, Judge Boyce F. Martin wrote "Congress had a rational basis for concluding that the minimum coverage provision is essential to the Affordable Care Act's larger reforms to the national markets in health care delivery and health insurance." The Court decided that Affordable Care Act's (ACA's) individual mandate that requires individuals to obtain insurance in 2014 or pay a penalty is "a valid exercise of Congress's authority under the Commerce Clause." Two other similar challenges are pending in other Federal Appeals Courts:

- In mid-June, the 11th Circuit Court of Appeals heard arguments in the government's appeal of Circuit Court Judge Vinson's earlier ruling that the individual mandate is unconstitutional and that, given the lack of a severability clause, the entire law is therefore unconstitutional.
- The 4th Circuit heard arguments in mid-May in cases brought by the Commonwealth of Virginia and Liberty University challenging the individual mandate and PPACA (Patient Protection and Affordable Care Act) generally.

While the nation waits on these additional Circuit Court rulings, it is anticipated that some or all of these cases will be consolidated by the US Supreme Court for hearings this fall.

Another unresolved legal battle relates to Section 6001 of the ACA. On May 27, Physician Hospitals of America (PHA) and Texas Spine and Joint Hospital (TSJH) filed a notice to appeal the adverse summary judgment decision entered by the U.S. District Court for the Eastern District of Texas. PHA and TSJH are calling to repeal Section 6001, which prohibits construction or expansion of physician owned hospitals. There are currently 275 physician owned hospitals serving patients in 33 states.

Physicians throughout the nation continue to seek the stability of employment and hospitals are seeking to align with physicians in response to healthcare reform. According to a survey published this past quarter by Merritt Hawkins, a nationwide physician search firm, more physician jobs feature hospital employment while openings for private practice doctors are declining. The survey of more than 2,600 physician recruiting assignments found that 56% of search assignments featured jobs with hospitals, up from 23% in 2006. Only 2% of the search assignments featured openings for independent practitioners, down from 17% five years ago, according to the survey. Additional trends include:

- Demand for physicians remains strongest in primary care (for the 6th consecutive year).
- Salaries have almost entirely replaced income guarantees (which were traditionally used to recruit private physicians) as a compensation model. Only 9% of physician search assignments featured income guarantees, down from 21% in 2006 and 41% in 2003.
- 74% of search assignments featured a salary with production bonus.
- Reimbursement cuts and declines in elective procedures have significantly reduced volume of physician search assignments for certain specialists. Radiologists, cardiologists, and anesthesiologists were among the most requested search assignments four to five years ago, but were the 17th, 18th, and 19th most requested assignments this past year.
- Signing bonuses, relocation and continuing medical education allowances remain standard in most physician recruitment models.

- Demand for physicians is not confined to traditionally underserved areas. 44% of the assignments were for communities of 100,000 or more last year, while 22% of the assignments were for communities of 25,000 or less.

The Greater Cincinnati Health Council released its annual *Vacancy, Workforce Age and Retirement Report* on May 27th. This report helps hospitals, health care leaders, schools and prospective health care students assess job openings and needs in Greater Cincinnati hospitals. Highlights include:

- Overall vacancy rates increased to 5.3% for full-time equivalents (FTE), up from 3.4% in 2009 and 4.4% in 2008. This represents the highest overall vacancy rate for Cincinnati area hospitals since 2007 when the rate was 6.3%.
- Registered nurses (RN) posted a 4% vacancy rate in 2010, up from 3% in 2009.
- Among the jobs included in this year's survey, 24 of the 33 "hard-to-fill" jobs saw increases in overall FTE vacancy rates. The highest vacancy rates were for certified occupational therapy assistants (20.3%), patient care technicians/assistants (11%) and radiation therapy technologists (10.8%). Three other positions – nurse practitioners, surgical assistants and occupational therapists – posted vacancy rates at just over 8%.
- The number of employees approaching potential retirement age increased slightly for the fourth consecutive year. Employees over the age of 50 increased to 33% of the total work force, up from 32.2% in 2009 and 31.2% in 2008. The retirement rate (percent of total hospital employees who retired) was 0.72% in 2010 compared to 0.73% the year prior. A total of 77 RNs retired in 2010 (a retirement rate of 0.62%), up from 2009's retirement rate of 0.61% during which time 67 RNs retired.

The vacancy and age data are obtained from an annual survey of Health Council member hospitals. Vacancy and age data are effective as of December 31, 2010, and the retirement data is effective for the period from Jan. 1-Dec. 31, 2010. A total of 23 hospitals participated in the report.

People and Companies on the Move

- **The Christ Hospital** acquired **Wetherington Family Medicine**, consisting of Doctors Ken Farber, Sandra Hans, and Barry Staley. These physicians will continue to see patients at their current West Chester location (7589 Tylers Place Boulevard).
- The breast surgery physician practice of Jennifer B. Manders, M.D., F.A.C.S., joined **The Christ Hospital**, effective April 18th. The practice assumed the name The Christ Hospital Surgical Oncology Associates, and continues to see patients at its existing location (4460 Red Bank Expressway in Madisonville).

Second Quarter Medical Office Transactions

Sale Transactions

- **7300 Beechmont, LLC** purchased 7300 Beechmont Road (4,500 SF) in Anderson from Trustee Donald Lee Hay on 4/14/11 for \$390,000 (\$86.67/SF). Dr. Chetan Gupta has opened an urgent care office at this location.
- **UC Health** purchased the Jewish Hospital Medical Campus in Avondale from the Jewish Foundation of Cincinnati (JHSI, Inc.) on 4/28/11 for \$18,950,000. The medical campus includes 28 parcels totaling over 6.337 acres, which include the former Jewish Hospital at 3200 Burnet Avenue (home to the UC Health Business Center), the former Jewish Hospital Professional Building (3120 Burnet Avenue), the former Jewish Hospital Medical Office Building (3131 Harvey Avenue), and the parking facilities located at the intersection of Reading Road and Martin Luther King Drive.
- **Good Samaritan Hospital of Cincinnati** purchased the 7.486 acre Hebrew Union College campus at 3101 Martin Luther King Drive on 5/5/11 from Union for Reform Judaism for \$2,989,125 (\$399,295.35/acre).
- **Combined Care Management, LLC** purchased 157 Barnwood Drive (11,660 SF) in Edgewood from Lenaland, LLC on 5/30/11 for \$1,300,000 (\$111.49/SF).

Lease Transactions

- **St. Elizabeth Physicians** leased the entire 45,000 SF Chamber Center building at 2300 Chamber Center Drive in Fort Mitchell.
- **Seven Hills Women's Health Centers** leased 4,600 SF at 3301 Westbourne Avenue, and relocated from 6350 Glenway Avenue.
- **Seven Hills Women's Health Centers** renewed its 6,180 SF lease at the Mercy Franciscan MOB (2859 Boudinot Avenue).
- **Hanger Prosthetics & Orthotics, Inc.** leased 5,201 SF at Keystone I (2135 Dana Avenue), and will be relocating from 111 Wellington Place in Mt. Auburn.
- **Beacon Orthopaedics & Sports Medicine** leased 9,950 SF at the Beechmont Racquet & Fitness Center (463 Ohio Pike) in Anderson Township.
- **St. Elizabeth Physicians** leased 9,368 SF at 204 Bridgeway Street in Aurora, Indiana.
- **Oncology Hematology Care, Inc.** leased 5,445 SF at the West Chester Medical Center MOB (7626 University Court).
- **UC Health Hematology/Oncology** leased 6,920 SF at the West Chester Medical Center MOB.
- **Lifestyle Lift** leased 5,568 SF at Linden Pointe (4803 Montgomery Road).
- **The Lasik Vision Institute** leased 2,633 SF at One Kenwood Place (9825 Kenwood Road).

Second Quarter Construction Completions

- None

Projects Under Construction

- **TriHealth** broke ground in January on a new 65,000 SF medical office building at Good Samaritan Hospital. The building will be built on the parking lot behind the current 61,000 SF medical office building. Group Health Associates will occupy the building and relocate from its existing facility at 2915 Clifton Avenue. The anticipated completion date is summer 2012.
- Construction commenced in February on **Mercy Health Partners'** new West Side hospital, Mercy Hospital West. Located near I-74 off the North Bend Road exit, the facility will encompass 550,000 SF and have 250 beds. The \$200 million hospital is scheduled to open in the autumn of 2013. Services will include heart care, a cancer center, an orthopedics center, a women's health center, neurology service, and obstetrics/maternity care.
- **The Christ Hospital** broke ground in March on a three-story, 68,000 SF outpatient center at Harrison Avenue and Filview Circle in Green Township. This building is scheduled for completion in the first quarter of 2012. The outpatient center will offer a wide range of services including cardiovascular, orthopaedic and primary care physician offices; a full-service imaging center; physical and occupational therapy; a wound healing center; and a testing center for diagnostic and pre-surgery lab work. This 11.3 acre site also includes room for future expansion.
- **The Urology Group** began construction on their three-story, 55,000 SF building, at Section Road in Norwood. This new building will house administrative offices and an ambulatory surgery center that will include labs, surgical rooms, seven operating rooms, and radiology facilities. The Urology Group will relocate from 38,000 SF at 4700 Smith Road (Central Parke).
- Duke Realty's **Western Ridge Medical Office Building Two** (6909 Good Samaritan Drive) remains on schedule for a mid-2011 completion. This single-story, 29,700 SF building has 6,280 SF available. **Wellington Orthopaedics & Sports Medicine** has leased 18,920 SF and **Tri-State Centers for Sight** has leased 4,520 SF.
- The new 109,000 SF **FBI** campus at Montgomery Road and I-71 in Kenwood is on schedule for a November 2011 completion. The **FBI** will be relocating from the CBD when their four-story building is completed. The FBI signed a twenty year lease on this \$50 million building, where it will house its Special Weapons and Tactics and Hazardous Materials units. Plans for the western part of the site include a 160-room hotel and a nine-story, 266,000 SF office tower. The total size of the entire site is 6.26 acres.
- The future of **Kenwood Towne Place**, comprising 270,000 SF, remains uncertain.

Planned Construction Projects

- **Phase II** of **The Banks** will comprise 250,000 SF of Class A office space, but the timing of this project remains uncertain due to its 60% pre-leasing requirement.

- **Neyer Properties** plans to build 40,000 SF of Class A medical office space at 5655 Harrison Avenue. Located at Harrison Avenue and Westwood Northern Boulevard on a 5 acre site, this new building will be built to LEED Silver standards. Planet Fitness has signed a letter-of-intent to lease 20,000 SF adjacent to the new building. The timing of this project will depend upon obtaining the necessary pre-leasing requirements.
- Demolition of **Oakley Station** (a 74 acre mixed use site at Disney and Forrer Streets and Marburg Avenue in Oakley) continues. **Cinemark NextGen** will have a 55,000 SF, 16-screen movie theater. Additional plans include 350,000 SF of retail space, 200 apartments, and 300,000 SF of office space built to LEED standards.
- **St. Elizabeth Healthcare** will construct a single-story, 25,000 SF medical complex at the site of the former Mildred Dean Elementary School in Newport. The school closed in June 2010 and St. Elizabeth purchased the property for \$1.9 million. St. Elizabeth will demolish the building this quarter, with construction of the new facility commencing in the next year.
- **itelligence, Inc.** will be building an 85,000 SF headquarters and data center on an 8.1 acre site at Reed Hartman Highway and Osborne Boulevard in Blue Ash. itelligence will be relocating from 25,000 SF at Kemper Pointe (7870 E. Kemper Road) in Blue Ash.
- **Medpace, Inc.** will be expanding its Madisonville headquarters by 200,000 SF. Medpace's first building (132,000 SF) was completed last December. Al Neyer will build the two new facilities. One building will be a four-story 140,000 SF facility, and the other will be two stories totaling 60,000 SF. The additional space will allow Medpace to consolidate all of its 575 Cincinnati employees at the former 29 acre NuTone site on Red Bank Road. Construction will begin in the next several months.
- **Cincinnati Children's Hospital Medical Center** will build a 60,000 SF facility in Green Township, 1.9 miles south of the I-74/Harrison-Rybolt Road exit. CCHMC purchased 8.3 acres of land and the facility will house pediatric subspecialty clinics, therapies, urgent care, and laboratory and radiology services. Construction will begin by October, and the building will open in early 2013.
- **Mercy Health Partners** announced it will spend as much as \$165 million to build a new patient tower at its Anderson campus, expand Jewish Hospital in Kenwood, and renovate Mercy Fairfield. Construction at Anderson will cost \$50-\$75 million and is likely to begin next year, although the final design for the building is yet to be finalized. At the 209-bed Jewish Hospital in Kenwood, Mercy will invest \$50-\$75 million to add private rooms, expand the emergency department, and possibly combine several intensive care units into one area. Mercy Fairfield will be a \$15 million renovation project to take advantage of unused space.

Interesting Facts

- If all Medicare inpatients received the same level of care as those treated in Thomson Reuters' Top 100 Hospitals, 116,000 additional patients would survive each year, 197,000 patient complications would be avoided annually, expense per adjusted discharge would drop by \$462, and average patient stay would decrease by half a day. (Source: Thomson Reuters Top 100 Hospitals released March 30, 2011)
- In **2009, Medicaid overspent an estimated \$329 million for 20 popular multi-source drugs** by paying for more costly brand drugs rather than lower-cost, therapeutically equivalent generics. (Source: American Enterprise Institute)
- 28 percent of workers with Health Savings Accounts (HSAs) or Health Reimbursement Accounts (HRAs) reported employer contributions of \$1,000 or more, down from 37 percent in 2008. Sixty-four percent reported some employer contribution, not significantly different from 2008 or prior years. (Source: Employee Benefits Research Institute [EBRI])
- **Merger and acquisition (M&A) activity in health services industries increased 24 percent** from 2009 to 2010, up to 458 deals. M&A spending grew 425 percent, to \$64.9 billion. (Source: Irving Levin Associates)
- **Hospital care as a percent of total health spending:** 33 percent in 2009 from 43 percent in 1980. (Source: AHA Trendwatch)
- **Projected savings from medical liability reform:** \$54 billion over ten years—a reduction of 0.5 percent; interstate purchasing of insurance: savings \$7.4 billion over ten years; expanded use of health savings accounts: \$300 million increased costs, and reduced federal revenue. (Source: CBO)
- Hospital stays for uninsured patients average 3.8 days and \$7,300 cost, and 4.7 days and \$9,200 cost for insured patients. In 2008, uninsured made up 5.3 percent of community hospital stays. (Source: AHRQ)
- In **FY 2009, states faced a \$1.26 trillion shortfall in public employee pensions and other retirement benefits**, up 26 percent from \$1 trillion in FY 2008. Pension funding shortfalls accounted for \$660 billion and unfunded retiree health care costs accounted for \$604 billion. (Source: Pew Center on the States)
- Average **per capita costs for health care services increased 6.29 percent in 2010** from 2009. The increase in 2009 from 2008 was 6.05 percent. (Source: Standard and Poor's)
- **Hospital ownership of physician practices increased** from 35 percent in 2009 to 42 percent of total physicians in 2010. (Source: MGMA)
- **Hospital prices will be up 5.4 percent in 2011;** inflation will increase two percent and consumer prices will increase three percent. (Source: U.S. Department of Commerce)
- The Medicare Hospital Trust Fund (Part A) spent \$247.9 billion in 2010, \$32.3 billion more than receipts through taxes and other receipts. (Source: Medicare Trustees' Report, U.S. Department of the Treasury)
- The **market for EMR systems will grow at 15.1 percent annually for the next five years**, but that growth could hinge upon the creation of more user-friendly systems, i.e. font size, frame size, number of keystrokes for entry. (Source: Kalorama Information)
- One in five elderly patients discharged from the hospital is readmitted within a month. (Source: Health Affairs)
- **Thirty percent of employers will "definitely" or "probably" stop offering health insurance after 2014.** (Source: McKinsey & Company)
- Life expectancy in the U.S. is up 4.3 years for men to 75.6 (36th in world) and 2.4 years for women to 80.8 (33rd in world) between 1987 and 2007. Black men have the lowest life expectancy in the U.S. at 70 years; Asian-American women have the highest at 85.7 years; white women live an average of about 81 years. (Source: Center on Aging, University of Illinois at Chicago; June 15, 2011, Population Health Metrics)