

CHICAGO LAWYER®

MED MAL MATTERS

P rivate equity acquisitions of hospitals, physician practices and other healthcare entities is causing a major upheaval in the industry. According to an April 2023 JAMA article by Dr. Christopher Cai, within the last 10 years, an alarming number of hospitals, physicians, nursing homes and surgical centers were purchased by private equity. This trend is alarming to researchers who fear it reflects a broader shift within the industry of corporate investors gobbling up health care providers, "driven by the allure of short-term profitability and efficiency gains," according to Carl Dimitri in a February article in the Brown School of Public Health News.

Private equity firms operate differently than traditional healthcare organizations, even traditional for-profit organizations. In JAMA, Cai wrote that private equity operates within a shorter timeframe, usually holding a healthcare asset for only 5-10 years, with an emphasis on maximizing short-term profits. The quest for short-term profits leads to increased prices for patients, larger volume for providers and aggressive efforts to reduce labor costs by shedding staff, including physicians.

For-profit status has been associated with decreased patient safety and poorer outcomes. Cai notes that for-profit nursing homes already have higher COVID-19 mortality rates, lower staffing ratios and higher rates of equipment shortages than their nonprofit counterparts. Acquisition by private equity leads to even higher mortality even among for-profit nursing homes.

But private equity reach is not limited to for-profit institutions. As Katherine Davis reported in a March issue of Crain's Chicago Business, Ascension Healthcare is firing more than 110 hospitalists at its 10 Chicago-area hospitals and hiring a medical staffing company majority-owned by a private equity firm. The hospitalists are concerned about higher patient caseloads that will result from the staffing firm's contracts as it looks to grow revenues. More patients per physician equals lower quality care.

The problem with private equity's involvement in healthcare, Davis wrote, is the tendency to cut staff and services to reduce costs while pumping up revenue with aggressive billing practices.



PRIVATE EQUITY DAMAGE

Healthcare acquisitions prioritizing profits over care

By **THOMAS A. DEMETRIO** and **KENNETH T. LUMB**

Some argue that sunshine is the best disinfectant and lawmakers and regulators have become increasingly interested in shining light on private equity ownership. As Yashaswini Singh and Erin Fuse Brown wrote in January 2023 in Health Affairs Forefront, data on ownership of health care providers in the United States is lacking. The American Hospital Association and Centers for Medicare and Medicaid Services (CMS) collect information on hospital ownership characteristics, but the data is insufficient to provide a comprehensive overview of healthcare entity ownership.

Medicare is out in front of this issue. In November 2023, CMS finalized a rule requiring disclosure of additional information regarding nursing home ownership and oversight which will shine a light on private equity and other investment fund ownership of facilities accepting Medicare and Medicaid.

The rule was prompted by CMS's concern about the quality of care at nursing homes and especially those owned by private equity companies. According to CMS, research suggests that ownership of nursing facilities by private equity companies can be associated with worse resident outcomes and closer scrutiny

is warranted:

"CMS believes that greater transparency about nursing homeowners and operators can help hold these parties more accountable for the quality of care they furnish and give families and caretakers the information they need."

Holding those parties more accountable is what trial lawyers do. In that pursuit, knowledge is power. CMS will begin publishing the new data by the end of this year and lawyers who sue or defend nursing homes will undoubtedly need to become familiar with it. It is reasonable to believe, however, that CMS will expand these new reporting requirements to hospitals and other healthcare providers who accept Medicare and Medicaid, and the information spigot will open wider.

Stay tuned and follow the money. [CL](#)

Thomas A. Demetrio is a founding partner of Corboy & Demetrio, representing victims of medical malpractice and personal injury. He can be reached at tad@corboydemetrio.com

Kenneth T. Lumb is a medical-malpractice attorney and managing partner at Corboy & Demetrio. He can be reached at ktl@corboydemetrio.com