Big California medical group goes under, leaving physicians unpaid

The state's largest medical group failure of the year brings renewed calls for tighter regulations, but HMOs and state officials say the system will survive.

By Leigh Page, amednews staff. Dec. 11, 2000.

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KPC Medical Management, which took over MedPartners' troubled Southern California clinics last year, closed all of its 38 remaining clinics on Nov. 20 and went out of business.

The failure affects 250,000 patients, hundreds of physicians and perhaps thousands of contracted specialists who have not been paid.

- From MedPartners to KPC to out of business

The Anaheim-based giant is the latest and the largest of some 20 closings of California physician groups this year, and the news is prompting renewed calls for tighter regulation of physicians' organizations, which are not under financial oversight in California and most states.

State officials and the affected HMOs said most patients will be able to keep their own doctors as the plans switch contracts to other groups and independent practice associations or contract individually with doctors.

Although physicians are no longer being paid by KPC (and some have been inadequately paid for months), the California Medical Assn. warned that they are obligated to continue providing care to KPC patients while the company's Chapter 11 bankruptcy reorganization gets under way.

KPC has not yet stated how much is owed, and it will likely take months for physicians to be paid -- possibly at a few cents on the dollar owed.

But CMA officials believe the contracted health plans will have to pay most of KPC's debts in full. The plans are "obligated to pay you for the services provided to their enrollees, particularly during this bankruptcy transition period," the CMA said in a Nov. 22 memo to doctors. "In essence, the bankruptcy filing 'freezes' all existing contracts and current obligations continue to remain in effect until the court decides otherwise."

KPC executives were unavailable for comment, but in interviews with California newspapers they and the CMA blamed contracted HMOs for not fully carrying out promises this year to provide $42 million in financial assistance to keep the money-losing enterprise afloat.

Health plans contacted by *AMNews* insisted that they held up their end of the bargain but eventually had to pull out because of inadequate specialty and ancillary services for KPC patients. The plans said so many contracted specialists had dropped KPC that it was hard to schedule referrals, prompting them to declare that their contracts with KPC had been breached.

The plans dropped their KPC contracts on Nov. 17, just hours after the state approved their actions, and the CMA contends they failed to pay $10 million in November capitation payments to KPC. The group closed its doors on Nov. 20, telling employees that their paychecks would bounce.

A note on the door of one clinic read: "KPC is no longer in business. Please contact your insurance company for further direction."

Troubles from the start

KPC's roller-coaster ride began in August 1999, when its owner, Kali P. Chaudhuri, MD, bought the failing MedPartners Provider Network for $24 million.

Dr. Chaudhuri invested millions more to upgrade its tangled information systems. Closing money-losing clinics and laying off many doctors and staff, he reduced the group's ongoing losses to well below the $8 million a month logged when he took control. But he never was able to bring it into the black, even after receiving several major loans.

In April, the health plans gave KPC a $12 million loan promised months before. Tenet Health Care, California's largest hospital group, provided an additional $18 million in credit.

In September, the health plans agreed to loan an additional $30 million and raise their capitation rates to KPC to $42 per member per month at that time and then raise the rate to $45 in January 2001, the CMA said.

Meanwhile, the Dept. of Managed Health Care asked the HMOs to submit plans to transfer KPC patients to other providers should the company go out of business. The department has the authority to block such transfers if the plan cannot prove network adequacy. Based on those reports, the department approved the full transfer of KPC patients on Nov. 17.

In addition to canceling their contracts with physicians that day, the HMOs sent letters to affected members assigning them to other medical groups. Some plans also sent representatives to KPC sites to answer questions for baffled patients.

Michael Chee, spokesman for WellPoint Health Networks, the licensee for Blue Cross of California in Thousand Oaks, Calif., said breach of contract allowed the plan to terminate its contract immediately without the usual notice period.

Well before it closed, Chee and others said, KPC was bleeding patients and contracted physicians.

According to the HMO department, the number of patients in KPC fell from 750,000 to 350,000 in the spring and summer, as individual patients fled and plans shifted some patients to other providers.

Meanwhile, Chee said, 60 KPC doctors based in Artesia exited KPC and formed their own practice, Pioneer Medical Group.

our practice is closing. Where will the medical records go?

Confusion and problems at other clinics highlight the need to know what will happen to patients' records if a practice breaks up.

By Julie A. Jacob, amednews staff. April 16, 2001.

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When a medical group shuts down due to bankruptcy or other reasons, it's important to have a plan in place to ensure that patient medical records are either transferred to the patients' new physicians or stored for several years in compliance with state and federal regulations.

If the medical group's physicians and administrators don't have a procedure in place, the result can be chaos, as the situations with KPC Medical Management in Southern California and the Casa Blanca Clinic in Gilbert, Ariz., illustrate.

- Who's got the records?
- Links

When KPC Medical Management declared bankruptcy in November 2000 and abruptly shut down, the medical records of 250,000 KPC patients were left sitting in the group's clinics.

After the California Medical Assn. wrote a letter to the state Dept. of Managed Health Care in January, the health plans that contracted with KPC agreed to pay to have the records pulled and distributed to the former KPC patients' new physicians.

"It was a huge, contentious issue," said Aileen Wetzel, CMA's associate director of managed care and medical staff issues. "We received numerous calls from physicians. ... Physicians and patients didn't know what happened to the patient records."

Although the CMA maintained that the health plans had an obligation under state law to pay for the transfer of the records to the patients' new physicians, the health plans contended that it was the KPC physicians' responsibility to transfer the records to their patients' new doctors.

The health plans agreed to pay for it simply to "help out," said Bobby Pena, the California Assn. of Health Plans' spokesman.

"The law did not require us to do so," said Pena, adding that the "ultimate responsibility goes to the physicians in the medical group" to make sure that patient records are stored or transferred to other physicians following a medical group closure.

When the Casa Blanca Clinic in Gilbert, Ariz., declared bankruptcy and closed last month, the clinic's medical records were left sitting until the bankruptcy trustee permitted the physicians to come to the clinic and take custody of their patient records, if they signed a form agreeing to do so. Patients who had a note from their physicians could retrieve their own records.

The process didn't proceed smoothly, however.

"It was terribly, terribly confusing," said Rodney Schotton, MD, a family physician, who said all his charts were dumped on a table when he arrived at the clinic to pick them up. Not all of his patients' charts had been pulled, and he was given some charts for other doctors' patients.

Better communication among the bankruptcy trustee, the clinic's owners and the physicians in the group would have helped the process of transferring the records go more smoothly, said Dr. Schotton.

"Communication could have been better [because] several things were happening so fast," said Dr. Schotton.

Retention and transfer key issues

So what can physicians in a medical group that is closing do to avoid the confusion over medical records that occurred when KPC and the Casa Blanca Clinic closed?

Whenever a medical group dissolves due to bankruptcy, retirement, a sale to another group or some other reason, the guiding principle to remember is that "the physical record is the property of the practice and the information is the property of the patient," said Phillip Schaedler, counsel at the Health Law Center in Greenville, S.C.

Before the medical group dissolves, the physicians should get permission from the patients to bring their records along to their new practices or make arrangements to transfer the records to their patients' new physicians. Records that are not transferred should be stored.

"You must make arrangements for off-site storage," said Gwen Hughes, practice manager for the American Health Information Management Assn.

Under federal regulation, the amount of time that medical records need to be retained depends on what type of record it is, said Schaedler. Nevertheless, a good general rule is to arrange to store adult medical records for 10 years and medical records of minors for 21 years, said Hughes.

However, she said, physicians in a practice that is closing should talk to their attorneys and professional liability insurers for specific information on how long their patients' medical records must be retained.

In addition, some state regulations may require longer storage periods than federal regulations, said Schaedler.

If a physician wants to take records along to a new practice, the physician group must arrange for the physician to become the legal caretaker of those records, said Hughes.

If patients don't authorize their transfer to another physician or group, physicians in a closing group should let their patients know where the records are being stored and how they can retrieve them, said Hughes.

"I've gotten many calls from patients who don't know where their medical records are," she said.

News Story

Healing spirits

2/15/2001

MAYRAV SAAR

Patients who can't remedy red tape have laws and advocate groups at their side. The Orange County Register

Jack Redmond needed an injection of a prostate-cancer drug, so he called his doctor's office. But no one picked up the phone.

KPC Medical Management, the Anaheim-based doctors group that was treating Redmond's cancer, had gone belly-up and closed the clinic.

Redmond panicked.

For two weeks, I spent solid days on the telephone, trying to figure out how I was going to get my next shot," says Redmond, 65.

I'm cussing around the house. My wife thought I was going crazy."

Redmond's primary-care doctor could do nothing for him until he got his records from a locked KPC facility in Arcadia. And no one whom Redmond thought to call knew how to track his records down.

With the crumbling of KPC and other groups, thousands of local patients are now adrift in the murky sea of health-care coverage. But new organizations have cropped up to help protect patients and navigate them through the system.

During one of Redmond's telephone rants, a harried Blue Shield representative gave him the number for one such organization, the California Department of Managed Health Care's 24-hour call center. Redmond thought it was a stalling tactic.

It was just another phone number to me. A shot in the dark," says Redmond, of North Hollywood. I spoke to a lady there, and she said she'd get back to me. I thought, Sure you will.' But believe it or not, the next day someone called me, and within a few days it was taken care of. I got my shot. It was a week late, but I got it."

The department's case managers hadn't asked anything that Redmond wasn't asking.

But they're trained to dispassionately tread bureaucracy, and they get answers.

Also coming to patients' aid are new state laws:

As of Jan. 1, patients who are denied health care by their HMOs have access to free reviews by medical experts outside their plans.

On denial-of-care letters, health plans are required to print in bold the Department of Managed Health Care's hot-line number.

Another law allows people to sue their health plans if they were harmed by the plan's failure to provide care. To make sure those laws work, the department and other patient-advocate groups keep an eye on HMOs and champion patients' rights.

The new department was established (six months ago) because situations like KPC were predicted," says Daniel Zingale, director of the Department of Managed Health Care, which licenses and regulates HMOs.

Sometimes it's as simple as letting people know they still have insurance, even if their doctors' group goes bankrupt," he says.

Medical-group and HMO bankruptcies displaced or disrupted care for 1.7 million Californians in 1999, Zingale says.

The following year, the department opened for business.

So far, the department has issued $275,000 in fines against HMOs, which some patients and physicians say isn't enough.

The department has also received criticism for not getting more involved with physicians' groups.

INDEPENDENT AUDITS

Many patient advocates say medical groups would be less likely to crumble if the department regulated payments between the groups and HMOs.

The medical groups should be fair game to the department because they're part of the delivery of health care," says Jamie Court, a spokesman for the Los Angeles-based Foundation for Taxpayer and Consumer Rights.

Zingale says he agrees, and plans to require independent financial audits of medical groups later this year.

AN OUTSIDE VOICE

Advocacy groups don't advertise, but patients find them. And people like Redmond say they help.

The department's call center averages 14,000 calls per month. Last year, the Virginia-based Patient Advocate Foundation aided 29,000 people. And the California Consumer Health Care Council says it intervened on behalf of hundreds of struggling patients in 2000.

Not all patient problems are solved, but those that can be are usually resolved within a few days.

It's amazing how sometimes just getting an outside voice involved makes a huge difference," says Patient Advocate Foundation case manager Beth Darnley.

I don't know if it's that the insurers really don't want to tarnish their reputation or want something to be made public," she says, or if an outside, trained individual can ask the right questions."

The demand for people like Darnley is only going to grow in coming years, says John Metz, chairman of the California Consumer Health Care Council, a patient-advocate group based in Sacramento.

Metz predicts more doctors' groups will founder and many millions more people will be left without medical help.

There's no way in the world these doctors' groups can survive because doctors have an oath to care for patients even when it's against their own financial interest to do so," says Metz.

When those doctors' groups do fold, Metz and others say, they're ready to help.

You're supposed to be given what you're promised," Metz says. Getting the run-around is not a minor thing at all. It's often life or death."

Disruption in care is one of the main reasons former physicians' group patients call the Department of Managed Health Care, says case manager Jodi Pope.

There were a couple of calls where surgery was scheduled, and the patients were told it was going to be canceled because of the KPC issue," Pope says. They were still able to have the surgery."

After the KPC bankruptcy the phone lines at the department and at patient-advocacy groups buzzed with questions about prescription coverage, pending appointments and access to specialists.

People who called advocates learned that a health plan can't force them to drive long distances to a specialist within the plan if there is a doctor outside the plan who works 15 miles or 30 minutes away from the patient's home.

Patients have right to continuity of care, the burden is on the health plan to figure out how to provide the continuity of care," Zingale says. The health-care helpers say they're happy to lend a hand. But ultimately, Pope says, the best thing people can do is stand up for themselves.

Self-defense

Thomas Clay, 52, is trying. He launched his own defense campaign a half-hour after waking from surgery to remove a lung-cancer tumor that had spread to his brain.

Clay's surgeons operated under the assumption that the Long Beach oil-refinery machinist had authorization from CIGNA Health Care of California.

Clay says that while in the recovery room, he was told that his insurance company said it hadn't authorized the surgery and wouldn't pay for it. He hasn't called any advocacy groups but has been in constant contact with the insurance company.

We work all our lives, pay out good money for an insurance company," he says. And then when you need them, you're suddenly abandoned."

CIGNA spokesman James Harris says the company is working on reimbursing Clay and covering his expenses.

Our records indicate nothing being denied," Harris says. Of the bills he's sent us, we're in the process of paying. He's not sent us the other bills."

Clay, who is slowly regaining the 100 pounds he dropped during treatment, says hospitals and treatment centers still send him bills and tell him that the bills sent to the insurance company have gone unpaid.

I'll send them the bills again. A big envelope of them that I'll have to probably put $1.50 postage on," Clay says.

This time, I guess I'll mark on there, Pay the damn thing.' "

Riverside Press Telegram- 2000

A year of health-care turmoil

Medical care for thousands of Inland patients was disrupted this year by the financial instability roiling California's health-care system.

KPC Medical Management, one of Southern California's largest medical groups, went bankrupt in November after struggling for months with chronic financial and management problems. And Inland seniors begin the new year facing higher costs and fewer Medicare health maintenance organizations to choose from.

By the time it collapsed, KPC Medical Management of Anaheim provided care to about 250,000 Southern Californians, including about 50,000 Inland patients. KPC Medical is one of a number of medical companies owned by Hemet surgeon Dr. Kali Chaudhuri. Chaudhuri's other companies, including KPC Global Care in Riverside, were not part of the bankruptcy.

The company received two bailouts worth more than $40 million from about a half-dozen health plans. Yet by mid-November, health plans concluded their members' care was being jeopardized by KPC's financial woes, so they decided to move the patients to other medical groups.

KPC closed its clinics so swiftly that patients were left without doctors, medical records or the results of just-completed medical tests. Although health plans moved quickly to connect patients to new doctors, some patients found themselves in limbo.

Suzanne Alexander of Anza lost her Temecula family physician of two years, Dr. Gordon Skeoch. Her health plan initially assigned her a physician in Upland, but she switched to a doctor closer to home.

"That was just for emergency purposes until we could find Skeoch," she said. "We knew he just couldn't disappear."

After checking with Rancho Springs Medical Center, where Skeoch had admitting privileges, Armstrong found Skeoch had landed at another medical group in Temecula.

Alexander said she cannot switch back to Skeoch until after the start of the new year, when she'll be certain that Skeoch can accept the health-insurance coverage she and her husband have.

Alexander considers herself luckier than others with more pressing medical needs. Still, she said, "it's a big mess."

The past year has been a mess for Inland seniors enrolled in Medicare HMOs. Two health plans, CIGNA and Maxicare, decided to pull out of the Inland region, saying the federal government wasn't reimbursing them enough to cover rising medical costs. Two others, Secure Horizons and Inter Valley Health Plan, announced they would limit enrollment for similar reasons. Still others, like Kaiser Permanente, Aetna and Blue Shield, imposed monthly premiums or office-visit fees or limited prescription drug benefits.

The changes mean seniors face higher out-of-pocket costs and fewer health plan choices in 2001. Moreover, HMO contracts with some Inland medical groups are being canceled, forcing seniors to change doctors or change their health plan.

"Our seniors are really up in arms over all of this," said Sharron Marsh, outreach coordinator for the Health Insurance Counseling and Advocacy Program. HICAP helps seniors untangle problems with their Medicare health insurance coverage.

Howard Ellis is among those fretting about his health insurance. Ellis, 76, a Moreno Valley retiree, is a member of Secure Horizons. But he wonders how long his HMO will remain in the Inland region, or what he will do if it pulls out.

"If they do drop us, we're in the same position of those who've been dropped (by other HMOs) and don't know where to go," he said.

California doctor fights slander lawsuit on grounds of patient advocacy

The hospital says a contract limits the physician's speech, and a trial court agreed. The case is on appeal.

By Amy Lynn Sorrel, amednews staff. June 5, 2006.

California infectious disease specialist Michael Fitzgibbons, MD, says he knows what it feels like to get a SLAPP -- a strategic lawsuit against public participation.

The term is used to describe lawsuits by large entities, such as corporations, allegedly aimed at silencing criticism by less powerful groups or individuals on issues affecting the public's interest.

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Dr. Fitzgibbons, a medical staff member at Western Medical Center Santa Ana, says that the suit filed against him last year by Integrated Healthcare Holdings Inc. is a SLAPP. IHHI, which owns four hospitals including Western Medical, sued him for slander after he spoke out about the financial instability of the company when it defaulted on $50 million in loans.

The physician asked the trial court to dismiss the case, saying his speech is protected under California's anti-SLAPP statute. About 30 states have such laws, and another 10 are pursuing them. California's statute allows those being sued to defend against unfounded lawsuits that often include defamation or business interference claims.

The trial court refused to dismiss the case, and the Fourth Appellate District in California is now considering the doctor's appeal.

Physician groups have joined Dr. Fitzgibbons in his fight. They say doctors have a right and obligation to advocate for their patients on health care matters and that this duty is a fundamental public concern that requires anti-SLAPP protection.

"Physicians have to be able to advocate without fear of retaliation, or doctors and patients will be the ones to suffer," said Gregory M. Abrams, general counsel for the California Medical Assn., which filed a friend-of-the-court brief in support of Dr. Fitzgibbons.

The CMA shares Dr. Fitzgibbons' concern that the potential bankruptcy of the hospital system "could leave hundreds of thousands of patients without care," Abrams said.

The American Medical Association/State Medical Societies Litigation Center also joined the CMA's brief in support of physicians' freedom of speech rights. "The proper application of state laws restricting the use of retaliatory litigation is an important issue in California and elsewhere," said AMA Chair Duane M. Cady, MD.

But IHHI disputes that the doctor's comments were made with the purpose of patient advocacy and instead argues that they were intended to thwart the company's operation of the hospitals, according to Yolita Nowak Lecellier, IHHI's attorney.

"There are many issues that doctors should be speaking out on and by law are required to, but the law has created limits between free speech and making false remarks," which are not entitled to anti-SLAPP protection, she said.

Question of protected speech

IHHI sued Dr. Fitzgibbons after he sent an e-mail to the medical staff at Western Medical in May 2005 stating that the company "appear[ed] to be underwater."

The message followed several local newspaper accounts of a U.S. Securities and Exchange Commission filing that month indicating that IHHI defaulted on two loans it had taken out to acquire four hospitals from Tenet Healthcare Corp. in 2004, court documents show. As a result, IHHI was restricted from borrowing more money, the interest rate was increased and nearly $64 million in debt was immediately due, the SEC filing stated.

Prior to the loan defaults, the financial viability of the 2004 takeover had been the subject of county and state Senate hearings that year because IHHI's major stockholder, Kali P. Chaudhuri, MD, was involved in the bankruptcy of KPC Medical Management of Anaheim, Calif., in 2000. The incident left "hundreds of thousands of patients ... without health care, ... access [to] their medical records, and ... thousands of doctors unpaid for their services," the CMA and organized medicine brief states.

The information worried Dr. Fitzgibbons. "We felt that the financial distress meant that quality of care was going to be impaired and the kind of capital spending we knew we needed wasn't going to happen," he said. The hospital did not respond to his attempts to discuss the problems, he added.

In June 2005, IHHI sued Dr. Fitzgibbons after one of the medical staff members forwarded the physician's e-mail to Blue Shield, with whom the company was in contract negotiations. The e-mail, Nowak Lecellier said, resulted in Blue Shield not increasing fees it paid the hospital, thus jeopardizing the delivery of health care.

"Dr. Fitzgibbons' statements were inaccurate and improper and in essence were not an exercise of free speech and not advocacy for quality of care," she said. When the medical staff in January 2005 consented in writing to "express public support" for the IHHI acquisition in exchange for management rights at the hospital, they contractually waived their rights to criticize the hospital, she said.

The trial court concurred in September 2005 when it denied anti-SLAPP protection to Dr. Fitzgibbons.

"The court notes that constitutional rights can be waived ... . If that is true, then this lawsuit is not an attempt to chill the valid exercise of the freedom of speech, but, at least partially, an attempt to enforce the contractual waiver of that freedom," Orange County Superior Court Judge Geoffrey Glass wrote.

Doctors want decision overturned

Physicians disagree with the ruling and say that the court interpreting an agreement as having such an effect would preclude them from doing what they are legally and ethically bound to do: protect their patients.

The law shields physicians from retaliation when they speak out about health care issues under California's Business and Professions Code and other abuse reporting laws, the CMA and organized medicine brief states, adding, "These protections, however, would be severely undermined" without similarly applying the anti-SLAPP statute.

Doctors say the high-profile nature of the IHHI controversy is a clear indication the company's financial status remains an ongoing public concern.

"That is the whole point: that a bad financial transaction creating instability at a hospital is a legitimate medical quality issue," said Tom Curtis, Dr. Fitzgibbons' attorney.

Because physicians are fiduciaries and advocates for patients, Dr. Fitzgibbons warned, "if they have to look for a lawsuit every time they engage in patient advocacy, then they are going to be deterred in their willingness to speak up, and we will all be losers in that."

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Judge again denies attorney fees for MedCap bosses

April 29th, 2010, 11:24 am by Ronald Campbell

U.S. District Court Judge David O. Carter has again denied a request for $150,000 a month in legal fees by former Medical Capital Holdings executives Sidney M. Field and Joseph "Joey" Lampariello.

Federal prosecutors have launched a criminal investigation of the pair. They sought Carter's permission to use frozen MedCap assets to hire defense attorneys Wayne Gross and Thomas H. Bienert Jr., both former federal prosecutors.

In a ruling signed Tuesday, Carter declined to release funds. He said he was "dissatisfied with the showing by defendant regarding the source and nature of the funds as well as the unlimited duration of the request."

Field and Lampariello had asked to tap their MedCap-paid life insurance policies. Between November 2003 and June 2009 MedCap paid $354,000 in premiums for Field and $160,000 in premiums for Lampariello, according to court-appointed receiver Thomas A. Seaman.

The Securities and Exchange Commission sued MedCap, a Tustin lender, for fraud last July and persuaded Carter to shut the company down a few weeks later. The SEC has alleged that Field and Lampariello defrauded some 20,000 investors by selling them interests in fake medical receivables, or billings.

Prior to this week's ruling, Gross and Bienert met privately with Carter and Gross submitted an "in camera" (secret) declaration.

In open court at an April 2 hearing on the sale of some MedCap loans, Gross said Field "is in desperate need of effective legal representation." Bienert, who represents Lampariello, said he needs months to dig into hundreds of thousands of pages of evidence already gathered by the government.

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Feds launch criminal probe of Medical Capital

March 22nd, 2010, 3:27 pm by Ronald Campbell

Federal prosecutors have opened a criminal investigation into the top executives of shuttered Tustin lender Medical Capital Holdings.

Attorneys for MedCap CEO Sidney M. Field and President Joseph J. "Joey" Lampariello revealed the probe last week in an emergency request to use $150,000 per month in frozen assets for legal bills. U.S. District Judge David O. Carter denied the request, saying there was no emergency.

The Securities and Exchange Commission sued Field and Lampariello last summer, alleging a garden-variety securities fraud: failure to disclose $18.5 million in fees to investors. But the case has mushroomed since then into one of the largest alleged Ponzi schemes in Orange County history.

MedCap provided cash up front to financially troubled hospitals and health-care facilities, secured by the hospitals' unpaid bills, or receivables. It then sold interests in those receivables to 20,000 investors.

Court-appointed receiver Thomas A. Seaman has reported that the company had $543 million in phony receivables on its books, that it had lost $316 million on supposedly profitable loans and collected $323 million in fees for managing those loans. In addition, it allegedly sold receivables at a markup among the six funds it controlled, using money from newer investors to pay investors in the older funds.

In addition to its money-losing loans, MedCap sank $4.5 million into a 118-foot yacht, the Home Stretch, and $18.1 million into an unreleased movie about a Mexican Little League team, "The Perfect Game," the receiver said.

Carter froze the assets of MedCap, Field and Lampariello last August, shortly after the SEC sued. He later allowed them to tap $21,000 and $34,000, respectively, in frozen funds for living expenses.

In their motion last week, Field and Lampariello asked for $75,000 per month each for legal fees, partly to defend themselves against the SEC and partly for "specialized criminal defense counsel necessary to defend them in a parallel criminal investigation initiated by the United States Department of Justice."

A spokesman for the U.S. Attorney's Office, Thom Mrozek, declined to comment.

Field said he wanted to hire Wayne Gross, who formerly headed the U.S. Attorney's Office in Santa Ana. Lampariello wants to hire prominent defense attorney Thomas H. Bienert Jr.

Both the SEC and Seaman opposed the request. Seaman said the assets Field and Lampariello want to tap — life insurance policies paid for by MedCap — could potentially be used to repay MedCap investors. Between November 2003 and June 2009, MedCap paid $354,000 in premiums for Field and $160,000 in premiums for Lampariello, the receiver said.

Field and Lampariello can again ask Carter for the money, but they'll have to do so on the regular court calendar. That would give the SEC and the receiver more time to object.

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New bidder emerges for MedCap hospital loans

February 11th, 2010, 1:59 pm by Ronald Campbell

One controversial physician is vying with another controversial physician for the mortgage on Western Medical Center – Santa Ana and three other Orange County hospitals.

Prem Reddy's Prime Healthcare Services said in a court filing Wednesday that it will bid against Kali P. Chaudhuri for the mortgages on Integrated Healthcare Holdings Inc.

A court-appointed receiver for Tustin-based Medical Capital Holdings is selling the mortgages, which have a face value of $81 million. The sale is scheduled for March 22.

Chaudhuri, the majority shareholder of IHHI, has bid $55 million for the mortgages.

Reddy is offering $57 million.

Reddy objected in a court filing to the bidding terms, saying they favor Chaudhuri. As an "overbidder," Reddy must deliver a cashier's check or letter of credit for $57 million while Chaudhuri only has to make a $2 million deposit, according to the motion.

U.S. District Judge David O. Carter approved the bidding terms late Wednesday, after Reddy filed his objection. Reddy's attorney, Michael J. Sarrao, said he still plans to bid.

Chaudhuri and Reddy both have been dogged by controversy in their attempts to build medical empires.

A Chaudhuri-controlled company, KPC Medical Management, collapsed in 2000, disrupting health care for 300,000 Southern California residents. That led state regulators and local physicians to block Chaudhuri's attempt to take control of IHHI in 2005. But over the past five years he gradually has bought a majority stake.

Reddy owns 12 hospitals, including four in Orange County. In July 2007 the state blocked his attempt to buy Anaheim Memorial Hospital. A year later, the state sued Prime Healthcare for billing patients for costs not fully paid by their insurers. That lawsuit is pending.

MedCap financed IHHI's 2005 purchase of WestMed -Santa Ana and three other hospitals — Western Medical Center – Anaheim, Coastal Communities Hospital in Santa Ana and Chapman Medical Center in Orange. The four hospitals together have 12 percent of the county's hospital beds and serve many of the county's poorest residents.

The Securities and Exchange Commission sued MedCap for fraud last summer. Receiver Thomas A. Seaman took control of MedCap's assets in August and is trying to sell them off. MedCap investors are owed more than $1 billion, Seaman has reported.

Read our coverage of MedCap and IHHI:

- Massachusetts cites broker over MedCap deals
- Controversial doctor gets more clout at Western Med
- For sale: pieces of the MedCap wreckage
- SEC: Tustin lender faked billings, cheated investors
- MedCap investors sue trustees
- Old investments, new claims threaten MedCap
- Former insurance industry 'bad actor' again accused of fraud
- Medical Capital wants bankruptcy protection
- Receiver: 'Significant losses' for Medical Capital investors
- Hospital chain tells workers: Have faith
- Lender crisis puts four O.C. hospitals at risk
- Judge again blocks Tustin medical lender
- Judge lifts order against Tustin medical lender
- SEC sues Tustin medical lender for fraud

Posted in: Health care • O.C. business news • fraud • SEC | Comments Off

Clarient buys cancer-test maker

December 21st, 2009, 3:57 pm by Ronald Campbell

Clarient Inc. of Aliso Viejo said it bought Huntsville, Ala.,-based Applied Genomics Inc. in an all-stock deal worth up to $17.6 million.

Clarient Chief Executive Officer Ron Andrews said Applied Genomics brings a new lung cancer panel as well as several cancer tests that are in development. Clarient also gets a lab in the eastern U.S. and access to Applied's network of academic consultants.

Andrews said the acquisition puts Clarient in a position to grow in 2010 and later.

"The combination of near-term commercial opportunity, the rich, long-term pipeline, and the robust development capabilities would be nearly impossible to replicate in-house and would take an investment of many years and considerable cash resources to attempt to do so," Andrews said.

The merger was announced after the markets closed today. Clarient stock, which is listed on Nasdaq, rose 8 cents to $2.56 in after-hours trading.

Read the Clarient news release here.

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O.C. medical device maker bought for $324 million

October 9th, 2009, 7:04 am by Mary Ann Milbourn

I-Flow Corp., a medical device maker in Lake Forest, will be bought by consumer conglomerate Kimberly-Clark Corp. for $324 million, the companies announced today.

The total transaction value, not including acquired cash and cash equivalents, is $276 million.

Shareholders will receive $12.65 a share, a 7.6% premium over Thursday's closing price of $11.76.

I-Flow, which was founded in 1985, specializes in medical devices that help relieve pain after surgery. The company's **ON-Q pain relief system** (demonstrated by CEO Donald M. Earhart above) consists of an external pump connected to tubes that delivers a non-narcotic anesthetic (like novocaine) to the site of the surgery.

"Combining forces with a global leader such as Kimberly-Clark Health Care will enable future growth, and provide a platform to more broadly deliver pain relief and surgical site care, which is important for patients, physicians and healthcare providers," said Earhart.

Kimberly-Clark, perhaps best known as the maker of Huggies diapers and Kleenex, said the purchase is part of its effort to expand its health care business to include high-growth, higher-margin medical devices. Earlier this week, the company bought Montreal-based Baylis Medical Co.

Did you miss these recent Orange County business stories …

- Labor advocates win suit seeking back pay
- Creditors accuse Freedom of being too secretive
- Freedom tries to keep bankruptcy documents secret
- SEC revokes license of former Irvine broker
- Local.com says Microsoft merger report is false
- O.C. super richest lost $4 billion in year

Posted in: Economy • Health care • O.C. business news • OC Stocks • Top tale • Health • I-Flow • medical devices | 1 Comment »

Old investments, new claims threaten MedCap

September 9th, 2009, 1:39 pm by Ronald Campbell

Beleaguered investors in Medical Capital Holdings, the Tustin lender sued for fraud by the Securities and Exchange Commission and later shut down, have more worries.

A report by court-appointed receiver Thomas Seaman throws further doubt on the quality of MedCap's assets.

And one of MedCap's biggest customers, Santa Ana-baseed Integrated Healthcare Holdings Inc., is charging that MedCap fattened its assets by embezzling $12.1 million from the hospital chain. IHHI wants that money back.

In a plea to U.S. District Judge David O. Carter, who is overseeing the MedCap case, the hospital chain also says that if the receiver gets control of IHHI's receivables, it would force the shutdown of four hospitals that serve Orange County's poorest residents.

Medical Capital raised $2.2 billion from 20,000 investors over the past six years, investing most of it in medical receivables.

The receiver's latest report was filed Tuesday, shortly before a hearing in front of Carter. Part of the report rebuts claims by attorneys for MedCap executives Sidney M. Field and Joey Lampariello that the receiver is liquidating assets and failing to collect payments.

But the core of the report is Seaman's inventory of MedCap assets. That inventory is almost unrelieved bad news for investors:

- Of $80 million in verified accounts receivable, $74 million is more than 180 days old. That's significant because bills become progressively harder to collect as they age. That's why "vulture investors" pay pennies on the dollar for old accounts receivable.
- An additional $543 million — 87 percent of all the accounts receivable on MedCap's books — are "non-existent," according to the receiver. While the receivables may once have existed, the receiver wrote, "there have been no collections or advances on these accounts for many years."
- One of MedCap's biggest real estate holdings, Parkway Hospital in Forest Hills, New York, shut down months ago after going into bankruptcy and lost its all-important operating license. A new owner would have to get a "certificate of need" — no easy task since a state commission recommended closing Parkway a few years ago. MedCap invested $65 million in Parkway.
- Another MedCap-owned hospital, Legacy Medical Center in Atlanta, shut down in January. There is community sentiment to reopen it. Legacy was for decades the principal hospital for Atlanta's black residents, and many graduates of Morehouse School of Medicine trained there. But the only offer on the table is for $5 million, far less than the $36.6 million MedCap invested.

The receiver did offer investors good news about Trace Life Sciences, a Texas manufacturer of radiochemicals that MedCap seized last September. He said he made payments to the city of Denton, Texas, which was about to shut off electricty, and also paid four employees who had been working without pay since June. If the power had been shut down or employees had walked out, the facility would have had to be decommissioned at a cost of $5 million to $8 million. MedCap has invested $28 million in that facility.

Meanwhile, Integrated Healthcare Holdings Inc. wants to sue Seaman, as MedCap's receiver, and Lampariello for fraud. Integrated operates Western Medical Center-Santa Ana and three other central Orange County hospitals.

Because MedCap is in receivership, IHHI needs Carter's permission before it can file a lawsuit. So, in what amounts to a virtual lawsuit, IHHI laid out its case against MedCap in an unusual plea to Carter.

IHHI alleges:

- MedCap stopped advancing funds to IHHI under its $50 million revolving credit line late last year. Meanwhile, under a "lockbox" arrangement MedCap continued to collect all payments from Medicare, Medi-Cal and private insurers to IHHI.
- Over time MedCap "converted and/or embezzled $12.1 million of IHHI's money."
- If the receiver carries out his threat to reimpose the lockbox — which trustee Wells Fargo Bank closed in May — it would "effectively put IHHI's four Orange County hospitals out of business."

IHHI acknowledged that taking $12.1 million from MedCap would reduce the assets available to pay allegedly defrauded investors.

But "the interests of four Orange County hospitals struggling to stay in business are at least on par, if not superior to, the interests of investors who bought into the inherently speculative investment scheme promoted by MedCap's founders and former management," the IHHI motion says.

IHHI CEO Ken Westbrook has declined two requests for an interview.

Read the receiver's latest report HERE.

Read IHHI's request for permission to sue HERE.

Read our earlier stories about MedCap and IHHI.

- Medical Capital wants bankruptcy protection
- Receiver: 'Significant losses' for Medical Capital investors
- Hospital chain tells workers: Have faith
- Lender crisis puts four O.C. hospitals at risk
- Judge again blocks Tustin medical lender
- Judge lifts order against Tustin medical lender
- SEC sues Tustin medical lender for fraud
- Four O.C. hospitals on track
- Doctors sue hospital firm
- Hospital dispute spills into courthouse
- Hospital owner could get new management
- Hospital exec framed doctor on gun charge, lawsuit says
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Posted in: Government regulation • Health care • Investing • O.C. business news • fraud • SEC | 77 Comments »

Medical Capital wants bankruptcy protection

August 17th, 2009, 1:13 pm by Ronald Campbell

In a last-ditch effort to oust a court-appointed receiver, the officers of Tustin lender Medical Capital Holdings asked a federal judge Monday to let the company file a Chapter 11 bankruptcy reorganization.

U.S. District Judge David O. Carter said he probably would refuse. But he gave the company and the Securities and Exchange Commission a week to make their cases. The SEC sued Medical Capital for fraud last month, and Carter appointed a temporary receiver on Aug. 3.

Separately, Carter told receiver Thomas Seaman and attorneys for Wells Fargo Bank to stay in the courthouse and try to resolve a fight over money. He ordered them to return to his courtroom at 7 tonight.

Wells Fargo is trustee for two of Medical Capital's six investor funds. The bank wants those two funds, which total $510 million in principal, taken away from the receiver.

Seaman said he needs the money to preserve Medical Capital assets. The power is about to be shut off at one of those assets, medical isotope maker Trace Life Sciences in Denton, Tex., he said. Another asset is a shuttered hospital in Atlanta.

"I have all kinds of collateral that I can't take care of," Seaman told Carter.

"Get busy. Work this out," Carter told Seaman and the attorneys for Wells Fargo. "I'm hearing too much reluctance, quite frankly."

Carter also gave the Wells Fargo attorneys a pointed warning to make a deal before the nighttime court session.

"I have a nuclear power plant," Carter said, referring to the linear accelerator at the Denton facility. "If I have to balance the equities, guess who loses? Wells Fargo."

Medical Capital raised $2.2 billion from 20,000 investors in the past six years, investing most of it in medical receivables. The SEC contended in its lawsuit that the company had defrauded investors of at least $18.5 million.

Carter was supposed to decide Monday whether to appoint a permanent receiver, a step that would have been tantamount to closing down Medical Capital.

However, on Sunday afternoon attorneys for Medical Capital CEO Sidney M. Field and President Joseph J. "Joey" Lampariello filed papers asking Carter to let the company file a Chapter 11 bankruptcy reorganization.

"The receiver has already caused a lot of problems with this estate by precipitously shutting it down," attorney Alan A. Greenberg said. He argued that a Chapter 11 reorganization would be a better way to administer the company.

But Carter was skeptical, telling Greenberg, "I think bankruptcy is slow and cumbersome."

Read our earlier stories about Medical Capital and its largest local client, Integrated Healthcare Holdings Inc.:

- Receiver: 'Significant losses' for Medical Capital investors
- Hospital chain tells workers: Have faith
- Lender crisis puts four O.C. hospitals at risk
- Judge again blocks Tustin medical lender

- Judge lifts order against Tustin medical lender
- SEC sues Tustin medical lender for fraud
- Four O.C. hospitals on track
- Doctors sue hospital firm
- Hospital dispute spills into courthouse
- Hospital owner could get new management
- Hospital exec framed doctor on gun charge, lawsuit says

Posted in: Health care • Investing • O.C. business news • Top tale • fraud • Medical Capital Holdings • SEC | 389 Comments »

Hospital chain tells workers: Have faith

August 5th, 2009, 6:00 am by Ronald Campbell

Hours after The Register reported that Integrated Health Care Holdings is in trouble because of its dealings with Tustin lender Medical Capital Holdings, CEO Kenneth Westbrook assured employees that things are looking up.

Santa Ana-based IHHI said in a June 29 public filing that Medical Capital had withheld $12.7 million that it should have paid, raising “substantial doubt” about IHHI’s ability to survive.

IHHI operates Western Medical Center – Santa Ana and three other central county hospitals. Together the four hospitals have 762 beds — 12 percent of the county total — and serve many of the county’s poor.

In a letter to employees Tuesday afternoon Westbrook said IHHI is making progress finding a lender to replace Medical Capital. An unidentified but “highly qualified” lender is performing its due diligence now, he said, “and we hope to secure a definitive loan agreement with that company in the near term.”

Westbrook cited a couple of positives in his letter:

- IHHI, which lost $106.5 million over the past six years, has been profitable since December.
- After wresting control of a “lockbox” bank account from Medical Capital in May the company has used the cash in that account to pay down debts to vendors and physicians.

A federal judge shut down Medical Capital on Monday after the Securities and Exchange Commission accused the company of defrauding investors. Medical Capital bought receivables from hospitals and other health care providers such as IHHI.

Read previous stories on Medical Capital and its involvement with IHHI:

- Lender crisis puts four O.C. hospitals at risk
- Judge again blocks Tustin medical lender
- Judge lifts order against Tustin medical lender
- SEC sues Tustin medical lender for fraud

- Four O.C. hospitals on track
- Doctors sue hospital firm
- Hospital dispute spills into courthouse
- Hospital owner could get new management
- Hospital exec framed doctor on gun charge, lawsuit says

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Judge again blocks Tustin medical lender

August 3rd, 2009, 11:26 am by Ronald Campbell

UPDATE: Receiver says investors could "suffer significant losses." The story is HERE.

UPDATE: Four O.C. hospitals are in trouble because of their reliance on Medical Capital for money. The story is **HERE**.

U.S. District Judge David O. Carter reimposed his order blocking Tustin-based Medical Capital Holdings from selling investments to the public today. Carter also froze the company's assets and appointed a receiver to take charge.

The order covers Medical Capital, two affiliates, Chief Executive Sidney M. Field, 63, of Villa Park, and President Joseph J. Lapariello, 55, of Newport Beach and Huntington Station, N.Y. The order remains in effect until a hearing on Aug. 17.

The Securities and Exchange Commission sued Medical Capital alleging fraud July 16.

Carter had imposed a temporary restraining order on July 20 at the SEC's request but withdrew it the next day when Medical Capital attorneys asked for time to respond.

The SEC alleged that Medical Capital misappropriated $18.5 million of the $76.9 million it raised in the past year by taking excessive fees. In addition, the SEC said, Medical Capital failed to tell investors that earlier investments had defaulted.

Medical Capital's attorneys argued that the SEC, despite months of investigation, misunderstood the company's business. They argued that the company is working hard to fix defaults on earlier investments and that those defaults didn't affect "core" investments and thus didn't really matter.

Carter didn't buy it, saying Medical Capital's arguments were "unavailing." He specifically cited the earlier defaults. The offering statement for its latest investment said Medical Capital had never defaulted — "a statement that was admittedly untrue at the time it was made," Carter wrote.

“This representation was clearly material as it related directly (to) the quality of defendants’ management, experience and business model,” Carter said. “The economic recession that followed, while certainly unfortunate, is of no import to the determination as to whether defendants made false disclosures (to investors).”

Medical Capital has raised $2.2 billion from 20,000 investors over the past six years. It used investors’ money to buy receivables at a discount from hospital and other health care providers. Among its biggest customers was Integrated Health Care Holdings Inc., which operates Western Medical Center in Santa Ana and three other central Orange County hospitals.

But Medical Capital also made more adventurous investments, including $15 million for a movie — so far undistributed — and $4.5 million for a yacht, the Homestretch, according to a preliminary report July 21 by the court-appointed receiver, Thomas Seaman. Seaman had access to Medical Capital’s books for several hours when the earlier restraining order was in effect.

The yacht’s Web site, which is registered to Medical Capital Corp., says the 118-foot Homestretch offers “a unique charter vacation.” The yacht features five staterooms, “an elegantly appointed master stateroom … fit for a king” and “elegant formal dining for 10 in the salon.”

Click HERE to read Carter’s ruling and HERE to read the minutes, which detail his reasons for imposing the order.

Click HERE to read the receiver’s preliminary report.

Read previous stories on Medical Capital and its involvement with IHHI:

- Judge lifts order against Tustin medical lender
- SEC sues Tustin medical lender for fraud
- Four O.C. hospitals on track
- Doctors sue hospital firm
- Hospital dispute spills into courthouse
- Hospital owner could get new management
- Hospital exec framed doctor on gun charge, lawsuit says

Posted in: Government regulation • Health care • Investing • Legal problems • O.C. business news • SEC | 110 Comments »

Judge lifts order against Tustin medical lender

July 21st, 2009, 7:39 pm by Ronald Campbell

UPDATE: Judge Carter reimposed the temporary restraining order on Monday, Aug. 3. Click HERE to read the update.

One day after he temporarily ousted the management of a Tustin medical lending company, a federal judge let the managers back in.

U.S. District Judge David O. Carter on Tuesday lifted a temporary restraining order he had imposed Monday on Medical Capital Holdings Inc., CEO Sidney M. Field and President Joseph J. Lampariello.

The Securities and Exchange Commission sued Medical Capital, Field and Lampariello for fraud last week. The SEC claimed that the company, which makes its money by buying and then collecting on unpaid medical bills, wrongfully took $18 million from investors and failed to tell investors that several of its funds were in default.

The SEC sought the restraining order without notifying the company first — a step it takes when it believes investors' funds are in danger.

In a brief written order Tuesday, Carter said he received Medical Capital's request for more time to respond to the SEC demand late Monday afternoon — an hour after he had signed the restraining order. In his new ruling he lifted the restraining order and gave Medical Capital until 8 a.m. Thursday to explain why he shouldn't reimpose the SEC restraining order.

Later Tuesday the SEC urged Carter to reverse course and impose the restraining order again.

"Investors have been and are being harmed by defendants' fraudulent offering and misappropriation of investor funds," the SEC wrote.

John Libby, Medical Capital's attorney, said the company will fight the SEC.

"Medical Capital Holdings, Inc., Medical Capital Corporation and its affiliates have always diligently obeyed laws and regulations in the conduct of their business," Libby wrote. "We have been cooperating with the SEC's investigation for over a year, producing hundreds of thousands of pages of documents and making several witnesses available for testimony under oath."

"Our primary concern remains, as it has always been, the protection of investors and repayment of their interest and principal," Libby added.

Read Medical Capital's plea for more time HERE.

Read Judge Carter's order HERE.

Read the SEC's plea to reimpose the restraining order HERE.

Here are previous stories on Medical Capital and on its dealings with O.C. hospital operator Integrated Healthcare Inc.:

- SEC sues Tustin medical lender for fraud
- Four O.C. hospitals on track
- Doctors sue hospital firm
- Hospital dispute spills into courthouse
- Hospital owner could get new management

- Hospital exec framed doctor on gun charge, lawsuit says

Posted in: Health care • Investing • Legal problems • O.C. business news • fraud • SEC | 101 Comments »

SEC sues Tustin medical lender for fraud

July 20th, 2009, 1:24 pm by Ronald Campbell

UPDATED: Judge issues asset freeze, temporary restraining order

The U.S. Securities and Exchange Commission has sued Tustin medical lender Medical Capital Holdings, alleging that it defrauded investors.

Named in the lawsuit are Medical Capital, two affiliates, Chief Executive Sidney M. Field, 63, of Villa Park, and President Joseph J. Lapariello, 55, of Newport Beach and Huntington Station, N.Y. It was filed Thursday in U.S. District Court in Santa Ana and announced today.

The SEC alleges that Medical Capital, which raises money from investors, then loans that money to hospitals, misappropriated $18.5 million from investors to pay administrative costs. The agency contends that when the company raised $76.9 million from investors it promised that none of that money would be used for administrative expenses.

In addition, the SEC claims that Medical Capital misrepresented its track record. Contrary to its claims, three of its fund programs have defaulted and a fourth was making late payments, the SEC said.

U.S. District Judge David O. Carter on Monday froze the company's assets and appointed a temporary receiver, Thomas A. Seaman, to take over the company's property and records. He scheduled a hearing for Aug. 3.

The SEC is also seeking a permanent injunction and a court order requiring Medical Capital and its officers to disgorge ill-gotten gains.

Medical Capital's attorney did not return repeated phone messages seeking comment.

Meanwhile InvestmentNews, a trade publication for financial advisers, reported today that the Financial Industry Regulatory Authority is seeking information from broker-dealers that sold Medical Capital offerings to investors.

The SEC said privately held Medical Capital has raised $2.2 billion from about 20,000 investors since December 2003.

In 2007 Medical Capital played a role in the turmoil at Integrated Healthcare Holdings Inc., which owns four central Orange County hospitals. Medical Capital had loaned $50 million to IHHI at rates ranging from 14 percent to 37 percent.

The loan agreements in effect guaranteed the jobs of top IHHI officers Bruce Mogel and Larry Anderson by saying their removal would constitute a default on the loans. Medical Capital dropped the provision in June 2007, and both men later left IHHI.

Read the SEC complaint HERE.

Read the InvestmentNews story HERE.

Here are stories on Integrated Healthcare Holdings that mention Medical Capital:

- Four O.C. hospitals on track
- Doctors sue hospital firm
- Hospital dispute spills into courthouse
- Hospital owner could get new management
- Hospital exec framed doctor on gun charge, lawsuit says

Posted in: Health care • Investing • Legal problems • O.C. business news • Top tale • Add new tag • fraud • Medical Capital • SEC | 5 Comments »