

American Health Law Association 2022 Health Care Transaction Conference

April 27, 2022 – Dorsey Health Law
by Randall Hanson

After a 2-year hiatus, health care transactional attorneys and related industry professionals descended upon Nashville, TN April 25th – 27th for the 2022 American Health Law Association (“AHLA”) Health Care Transactions Conference. Aside from hot chicken and honky tonks, this conference was largely a celebration of the strength and resiliency of the health care industry during the past two COVID19-impacted years. Here are some of our main takeaways from the conference:

- **Strong Transaction Activity:** Health care-related deal value and volume has been at an all-time high, with evidence of continued growth. COVID19 increased federal and private health care funding and also highlighted various inefficiencies in the market. These factors have contributed to record transactional activity that takes advantage of the increased value and the opportunity to improve health care delivery in a post-COVID world. Industry experts do not expect this trend to slow down any time soon, especially with increased private equity and corporate investment in the space.
- **Private Equity Leads the Charge:** While not necessarily new to the world of health care transactions, private equity (“PE”) groups have taken a strong interest in increasing investment. PE groups view the health care space as a potentially untapped resource for short-term high rates of return. For the past 20 years, return on investment in health care transactions has largely edged out returns in all other industries. PE groups are not the only non-traditional players increasingly navigating health care transactions. Corporate investment from the likes of Walmart and Amazon continue to shift care delivery away from independent practice to a more corporate-backed model. Further, the growth of telehealth as a more accepted form of care delivery also makes the health care industry particularly inviting, considering what would traditionally be limited to local practice can now be expanded nationwide with relative ease. Of



Related People

- Randall Hanson

Related Capabilities

- Healthcare & Life Sciences
- Healthcare Transactions & Regulations
- Healthcare Litigation
- Medical Devices

course, with increased corporate involvement comes increased scrutiny.

- **Antitrust Overhaul:** Federal and state enforcement of antitrust rules is on the rise. On July 9, 2021, President Biden issued an executive order urging the Federal Trade Commission (“FTC”) to bolster its antitrust review of health care transactions. The FTC is now actively reviewing its horizontal and vertical merger guidelines to determine whether such guidelines are too permissive. One of the items the FTC is considering is requiring that more information be provided on a pending transaction on a quicker timeline. Additionally, certain states (e.g., Nevada, Washington, Oregon, and Massachusetts) are beginning to implement their own pre-closing transaction notification requirements that would encompass a broader range of health care transactions (as compared to the current HSR filing threshold of \$101 million).
- **Stark and Anti-Kickback:** Recent changes to the Stark and Anti-Kickback rules highlight that regulators may be starting to take a more business-oriented approach to framing acceptable compensation arrangements. This is mainly shown in the changes/clarifications made to language related to fair market value, commercially reasonable transactions, and the volume/value standard. For additional discussion of these rules, please see our previously published blog here.

The 2022 AHLA Health Care Transactions Conference covered a lot of ground. If you have any questions on the topics covered, please do not hesitate to reach out to the author or your regular Dorsey attorney.