

THE BURFORD

Quarterly

A REVIEW OF LEGAL FINANCE

HEALTH CARE ROUNDTABLE
WITH LAW FIRM LEADERS

POWERING A REBOUND
USING INVISIBLE ASSETS

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CASE STUDIES





ROUNDTABLE

Health care roundtable: Navigating opportunity after a year of upheaval



In April 2021, Burford Directors Christine Azar and Andrew Cohen directed questions concerning the most salient industry forces and the most high value disputes in the health care sector to a respected group of law firm leaders. Their perspectives are excerpted and gathered below.

Q.

The past year has been one of upheaval for all industries, but especially for health care. What has been the most significant challenge for your clients?

Steve McBrady:

One of the most remarkable stories of the past year has been the ability of the health care industry, and in particular health insurers, to adapt to new challenges in delivery, processing and member care—while working in an almost entirely remote environment. Health insurers have been operating in an evolving regulatory environment, as public health officials have assessed and acted upon the risks presented by the Covid-19 pandemic. The Centers for Medicare & Medicaid Services (CMS), as well as states and localities, have issued constantly evolving guidance and regulations impacting the health care supply chain, and health insurers have quickly adapted their business to meet the needs of their members under these extraordinary circumstances.

Jason Cowart:

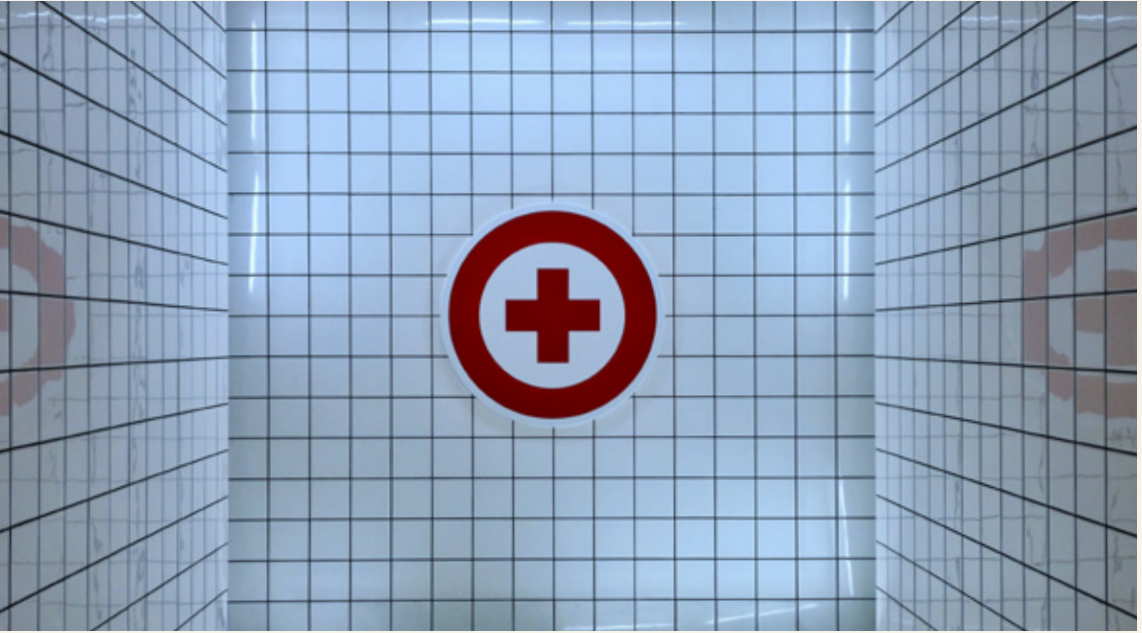
I represent providers and their patients in disputes with health insurers. Before litigating such disputes, and especially because there are only a handful of health insurers, my clients must carefully balance their short-term needs (which might depend on a less than hostile relationship with the dominant health insurer) against their longer-term interests (which might require litigation). The past year made it all but impossible for many of my clients to consider anything beyond next week. At the same time, it produced record profits for the health insurance industry and left it stronger and more consolidated than ever.

Stephanie Carman:

My clients have continued to provide excellent care despite a number of challenges. Some of the key challenges

“The past year made it all but impossible for many of my clients to consider anything beyond next week.”

—JASON COWART, PARTNER, ZUCKERMAN SPAEDER



revolved around staff. For example, dealing with frequent federal and state regulatory changes and making sure that sufficient staff was available and able to serve patients was critical. This sometimes involved developing and implementing new policies, hiring or retaining employees and using staffing services. Additionally, it required making sure the staff had access to personal protective equipment (PPE) and sufficient space

and equipment to care for patients. For staff providing care in patients' homes, challenges also included having enough staff and PPE as well as ensuring that the patients' families were willing to work with the staff to ensure protections were in place and appointments were kept. Additionally, keeping staff morale up was important as they were facing constant pressures and daily changes.

07

Q.

What is the most important piece of advice you've given to your health care clients in the last year?

Jason Cowart:

They have legal rights that they should assert. The power imbalance between providers and patients on the one hand, and health insurers on the other, has been growing for years.

Covid exacerbated that imbalance. Although providers and patients have tools they can use to enforce those rights vis-à-vis health insurers, their tools are woefully underutilized. It is time to open the toolbox.

Thank you for your interest in Burford.

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