



# PERSPECTIVES

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**AHLA Takeaway:  
Healthcare Executives,  
Is Your House In Order?**

Our perspectives feature the viewpoints of our subject matter experts on current topics and emerging trends.

## INTRODUCTION

Walking away from the American Health Law Association’s annual conference, I’m feeling energized from (re)connecting with friends and colleagues, inspired by the complex and transformational work being done throughout the country to drive healthcare into the future, and mildly concerned for all my current, past, and prospective clients about the challenges that lie ahead if they are not prepared.

It would be easy to be overwhelmed by all of the headline-worthy insights shared at the conference this week. Notable themes included the following:

- “Hospital operating margins to stay depressed in 2023” – this comes as hospitals saw overall hospital expenses increased by 17.5% between 2019 and 2022, while Medicare reimbursement rose just 7.5%, contract labor expenses soared 258%, drug expenses per patient rose 19.7%, and hospital supply expenses per patient rose 18.5%, according to an April [report](#) by the American Hospital Association.
- Staffing shortages and healthcare worker mental health are the top patient safety concerns, according to the [Emergency Care Research Institute](#). This is leading to more nursing strikes – about pay, staffing and patient care standards, etc.
- Fraud, waste, and abuse enforcement continues to be aggressively pursued by federal and state governments. For instance, the Office of the Inspector General of the U.S. Department of Health and Services agency (OIG) recovered \$2.7 billion from criminal and civil actions in Fiscal Year 2022. The U.S. Department of Justice (DOJ) recovered \$2.2 billion from False Claims Act cases in FY22. Additionally, OIG issued an alert that emphasized the inherent fraud and abuse risk associated with providers entering into arrangements with telemedicine companies; while hospitals and healthcare systems are reaching settlements in billing errors cases, etc.
- Private equity (PE), which is highly invested in healthcare, is having a public relations problem that is prompting scrutiny and expanded government oversight; and enforcement actions targeting PE are likely.
- Cybersecurity challenges are on the rise, with healthcare organizations across the world averaging a 74% increase in attacks from 2021 to 2022, according to [Check Point Research](#).
- While healthcare deal activity is down (compared to record transaction levels of 2021), there are still a lot of significant transactions underway. At the same time, federal antitrust challenges and state level oversight of transactions are on the rise.
- The Pharmacy Benefit Management industry is likely looking at an involuntary overhaul, with the Federal Trade Commission in the midst of an industry study and the U.S. Senate considering legislation, specifically the Pharmacy Benefit Manager Transparency Act, which would impact PBM practices and institute reporting requirements on certain lines of revenue.

## TOP TAKEAWAY

The list could go on for pages, but the point is change and challenges are underway. **My single biggest takeaway from the conference is this: make sure your house is in order, proactively. It’s the only way you will achieve your business goals.** Those with a defensive approach will never catch up.

If I were in the driver’s seat of a healthcare company, I would be pulling together my executive leadership team and the following questions would be among those at the top of my list:

- Workforce issues are a challenge on many fronts; so how is the morale of our existing team? We cannot succeed without them.
  - Do they trust leadership, do they feel empowered to make decisions, raise concerns and bring new solutions to the table? Do they feel heard, respected?
- What’s our growth strategy and how are we preparing our organization for these moves?
  - Are we forging relationships with disruptors and investors? How will we structure those partnerships? How will we prepare to handle any scrutiny we might face for horizontal or non-horizontal mergers? What

is our ‘why’ for growth and how will we stave off increasing antitrust challenges?

- Cybersecurity is one of the greatest threats our organization faces, are we prepared?
  - o Have we had an independent party come in to assess our readiness and identify our weaknesses? Do we have a step-by-step crisis plan? Do we know the first five calls we would make if attacked?
- How confident are we in our compliance policies to protect us against growing regulatory requirements and scrutiny?
  - o Do we have up-to-date policies in place that take into account the ever-changing regulatory landscape in which we operate? Are staff trained in all of our policies so we can avoid billing errors, anti-kickback statute violations, etc.? Are our telemedicine agreements safe from fraud and abuse? If we have compliance issues arise, do we have a response plan in place?
- And last, but certainly not least, what is our story?
  - o Not just our vision, but what is the ‘why’ behind that vision. How will staff, patients, families, the community, our partners, the industry, and the nation (maybe the world) benefit? What will it take to achieve success, and what role must we all play? If we’re not proactively sharing our story and asking people to join us, others will create the narrative for us and if that happens, we will never achieve our goals.

## CONCLUSION

To all of the healthcare attorneys, strategists, and leaders I connected with and learned from at the conference, thank you. For those of you who were not with us, know that there is an army of champions – inside healthcare organizations and external partners (lawyers, consultants, and experts) – all working to make healthcare better for everyone.

## ACKNOWLEDGMENTS

We would like to thank Magi Curtis for providing insight and expertise that greatly assisted this research.

[Magi Curtis](#) is an Executive Vice President and leads J.S. Held’s Healthcare Sector Services. She has spent her career in healthcare, in both the policy and business sides of the industry. She has guided some of the nation’s leading health systems and provider-based organizations as they navigated enterprise level change management initiatives, strategic partnerships and post-merger integration, strategic positioning, government relations and significant issue campaigns, crisis events, and internal and external engagement efforts. She has also worked closely with the founders of emerging healthcare companies to scale their business and establish operational structures to maximize productivity and enable growth. Prior to joining J.S. Held, Magi was a partner at a top national healthcare consulting firm. Magi also worked in Washington, D.C. in health policy as a staffer in the U.S. Senate, at Navigant Consulting, and the Children’s Hospital Association.

Magi can be reached at [magi.curtis@jsheld.com](mailto:magi.curtis@jsheld.com) or [+1 615-626-0023](tel:+16156260023).

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