AMERICAN BANKRUPTCY INSTITUTE

Southeast Bankruptcy Workshop

Health Care Panel

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CONCURRENT WORKSHOP

2025

DISTRESS IN THE HEALTHCARE SECTOR

ABI Southeast Conference

July 2025

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INTRODUCING OUR PANEL

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PANEL ROADMAP

- How Big is the Problem?
- Causes of Distress
- Impact of Private Capital Investment via Equity and Debt (and Alternative Lenders)
- Case Studies and Examples of What Worked, and What Didn't…

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HEALTHCARE REMAINS CHALLENEGED

- Spike in Healthcare Bankruptcies: The average annual number of bankruptcies from 2023-2025 increased considerably by 68% (64) compared to the annual average from 2020 to 2022 of 38 per year
  - Healthcare is playing a significant role in overall commercial Chapter 11 filings and out of court workouts
  - There has been a rise in commercial healthcare bankruptcies, with 27 filed so far in 2025
  - Healthcare bankruptcies in Q1 2025 rose 40% over historical averages
- Counting Chapter 11 filings alone does not come close to capturing the amount of distress in the healthcare space
- Practitioners focusing on healthcare insolvencies are spend significant of their time working on
  - Out-of-court workouts
  - State or federal court receiverships
  - Distressed M&A, ABCs, Article 9 Foreclosures
  - Other types of liability management, recapitalization transactions, and lender-led strategies
- Given the high cost of Chapter 11 restructurings, for every healthcare company that ends up in Chapter 11 there are countless other deeply distressed debtors seeking to resolve their financial situation via other means, and these restructurings generally are achieved with lesser visibility

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DISTRESS ACROSS SEVERAL SECTORS

- **PPM Dominance In Distress Land:** In 2024 alone, more than 50% of healthcare bankruptcies involved providers and services companies (PPMs), including hospitals, physician groups, and ancillary care facilities.
  - Financial strain was driven by reimbursement pressure, failed roll-ups, labor shortages, and high leverage
  - 70–80% of PE-backed PPM platforms formed in the last 20 years fail within five year
- **14+ hospital and health system bankruptcies YTD 2025**, driven by labor costs, margin pressure
- **Increasing trend of private equity and private ownership acquisition in the healthcare sector**
  - Dual-track PE and private credit strategies on the rise in middle-market transactions
  - Private equity firms saw significant opportunities in select sector and aggressively pursued leveraged acquisitions, generally paying significant EBITDA multiples for practices/assets
  - Private ownership of long-term care facilities oftentimes results in similar or better standards of care than nonprofit ownership; Currently 300+ PPMs/DSO platforms controlled by private equity funds
  - California's SB 351 and AB 1415 aim to sharply restrict PE influence in PPMs/DSOs, reinforce clinical independence, and add regulatory review (nationwide trend toward limiting PE control in healthcare)
- **SNF bed prices down consistently 2023/2024 driven by driven by a flood of underperforming properties hitting the market.** 2025 is slowly starting to see indications of potential price stabilization.
  - Cost containment, labor stabilization, and capital scarcity remain key challenges in 2025
  - Private owners and private equity entering the long-term care space experiencing regulatory scrutiny and standards of care demands
- **Behavioral Health** limited insurance coverage, long timelines, and reimbursement rates not fully covering costs

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DRIVERS OF DISTRESS IN THE HEALTHCARE SECTOR

- Significate Private Capital Deployment in the Sector
  - Private Aggressive Leveraged Buy-and-Build Strategies
  - Highly Accommodating Private Credit Market
- Regulatory and Compliance Actions
  - Enforcement Action
  - Financial Penalties
- Reimbursement Rates
  - Private and Public Payor Rates
  - Cuts to Programs
- Tort Litigation
  - Targeted Litigation
  - Overall Exposure
- Impact of Patient Care v. Financial Pressures / Patient Care Ombudsman
- Resolution…Profit v. Not for Profit Healthcare Bankruptcy Cases
  - Fiduciary Duties / Absolute Priority Rule / Highest and Best Determination / Regulatory Impact

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PRIVATE CAPITAL REFLECTS SIGNIFICANT SECTOR INVESTMENT

- Controversial Topic – does it achieve long-term objectives in the sector?
  - 2024 Estimated deal value $115 billion globally
  - Traditional Private Equity Goals v. Health Care Goals
  - For-profit allows for adoption of best practice software tools and clinical governance protocols
  - Critics argue that the profit-driven motives of private equity firms can compromise the quality of care, as cost-cutting measures are often implemented to maximize returns.
- Areas of Focus
  - Physician Practices/DSOs; Hospital Systems; Senior Living
  - A June 2024 Axios Pro Rata report cites PitchBook's data: "There are around 650 physician companies in private equity portfolios."
- Reaction by Regulators
  - Stakeholders are calling for increased oversight and regulation to ensure that nursing homes prioritize resident care over profits.
  - CMS minimum staffing ratio (vacated by a Texas court on April 7, 2025) established min staffing requirements for nursing homes to improve care quality - court decision to vacate this regulation has raised concerns among advocates insufficient staffing leads to poorer care outcomes for residents
- Implications of PE Investment
  - Decision Making
  - Financial pressure from debt/dividend recaps

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STRATEGIC ALTERNATIVES FOR TROUBLED HEALTHCARE ASSETS

- Status Quo
  - Not viable in many situations – operational profile and capital structure unworkable
- Restructure/Recapitalization/ Liability Management/Debt-for-Equity Swap
  - Seek to extend runway for value capture optionality
  - Optics in the market
- Sale: In-court vs. Out of Court strategies; lender trade of debt to value-add buyers
  - Improvements available to owner - value capture to drive value improvement
  - Extent if liquidity availability and profile
  - Fire sale dependent on liquidity runway; all or Sum-of-the-Parts approach
  - Quality of leadership team to effectuate change
- Closure/Wind-Down
  - All or select assets if outlook is grim and limited market appetite
  - Liquidation of remaining asset base
  - Asset-light business recoveries at risk of significant impairment
  - Prior owners having sold into a busted roll-up

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HOSPITALS REMAIN IN DISTRESS

- Shift to Outpatient Settings - elective procedures, diagnostics, and even surgeries are increasingly being performed in ambulatory surgery centers (ASCs), urgent care, and other outpatient sites at a more cost-effective surgery and convenient for patients
- Many distressed hospitals in America are being impacted by declining or stagnant government reimbursement rates, increased costs (particularly labor), and difficulties with its REIT landlord
- Increased labor costs and burdensome regulatory compliance
- Legal challenges, including malpractice lawsuits affecting financial stability
- Hospitals are facing a complex and burdensome regulatory environment. Compliance with new regulations can be expensive, requiring investments in new systems, training, and reporting mechanisms
- Hospitals may face costly lawsuits related to malpractice, negligence, or other legal matters
- Dealing with the political landscape - the interaction of a hospital with its community is often highly political.

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HOSPITAL CASE STUDY STEWARD HEALTHCARE

- Overview: Largest physician owned hospital network in US with over $9 billion in total debt; operated over 30 hospitals. Formerly owned by private equity.
- Why filed?
- Case Status:
  - Five have permanently closed, two paused services.
  - One regulator seized a hospital and forced a transition to another buyer.
  - Multiple sale processes, very few competing buyers.
- Poster child for dangers of private equity in healthcare
- During restructuring, Steward sought to reject MPT's master leases; MPT negotiated takeover by interim operators to stabilize hospitals and later pursued litigation settling rent claim
- Perspectives on Sharon Regional
  - The hospital closed in early 2025; after a legal settlement between PA AG and MPT, Sharon Regional was transferred to a nonprofit (Tenor Health Foundation) and reopened under new ownership

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ELEVATED ONGOING DISTRESS IN SENIOR HOUSING

- Nursing homes and other types of senior housing make up a very high percentage of healthcare insolvencies
- Even before the COVID-19 pandemic, senior living was a challenging industry due largely to thin profit margins caused by high costs of care coupled with insufficient and stagnant reimbursement rates and strict regulatory scrutiny. The pandemic greatly exacerbated financial distress in the industry and distress remains stubbornly high
- The extreme downward impact that Covid had on occupancy caused immediate financial distress across the industry, leading to numerous business failures.
- the need to comply with COVID protocols and fundamentally adjust the way the facility did business pre-pandemic increased cost
- Even after the pandemic the industry has failed to bounce back for several reasons – return of occupancy and very high the cost of labor
- Continuing Care Retirement Communities and the challenges with the entrance fee model (incl. refunding challenges and claim exposure)
- Ownership transfers of SNFs/ALs/ILs from not-for-profit to for for-profit operators that come with benefits and issues
    - Since 2020, over 50 senior care and SNF providers have filed for bankruptcy, including 11 in 2024 alone
    - Receiverships allow control of distressed facilities to be transferred to fiduciaries, enabling court-supervised sales or transfers, often at lower cost and greater speed compared to Chapter 11

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SENIOR HOUSING CASE STUDY AMSTERDAM HOUSE CCRC

- Overview: Entrance Fee CCRC with municipal bond debt of $173mm; $90mm in refund obligations owed to residents and former resident families. Why filed?
- What Happened? Sale Case with Competing Bids:
    - Credit bid of $173mm in bond debt that would wipe out $90mm in refund obligations, closure of community and conversion to housing
    - Asset bid of $63mm in cash plus $41mm from former sponsor, assumed $90mm in refund obligations, continued as CCRC
    - Debtor and Committee picked for profit operator to keep as CCRC
- Court denied the sale motion but provided a framework a transaction with similar economics as the $63mm asset bid with operating as a going concern.
- Lessons Learned:
    - Cognizant of regulatory issues, pre-approval from regulators
    - Impact of charitable mission as a sale factor
    - Impact of prior Chapter 11 bankruptcy
    - No appraisal that showed fair value worth more than highest cash bid

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PPM AND DSO CONTINUED STRUGGLES

- PPMs and DSOs are a segment of the healthcare industry currently experiencing significant distress. Over the last ten years, private equity funds have utilized the PPM/DSO structure to purchase a significant number of physician and dental practices
- Private equity firms saw significant opportunities in the physician space and aggressively pursued acquisitions, generally paying significant EBITDA multiples for practices. Multiple PPMs are in financial distress due to:
  - High leverage from private equity roll-ups
  - Provider burnout and attrition
  - Medicare/Medicaid reimbursement pressure
  - Poor post-acquisition integration
  - Increased labor costs coupled with increased interest rates and liquidity challenges have prevented PPMs from acquiring additional practices over the last several years
- Many private equity funds are now seeking to negotiate amendments/extensions with their lenders to provide enough time to operationalize their businesses in order to grow organically in lieu of the ability to grow through acquisitions
- Why PPMs struggle to survive bankruptcy
  - CPOM laws - PPMs inability to own the medical practice, limiting restructuring options
  - Fragility of physician control - Doctors can terminate MSAs and walk, gutting revenue
  - Legal & financial separation of assets - physician PC with the PPM → core assets outside of the estate
  - Asset-light model – challenges in monetizing or restructuring remaining operations

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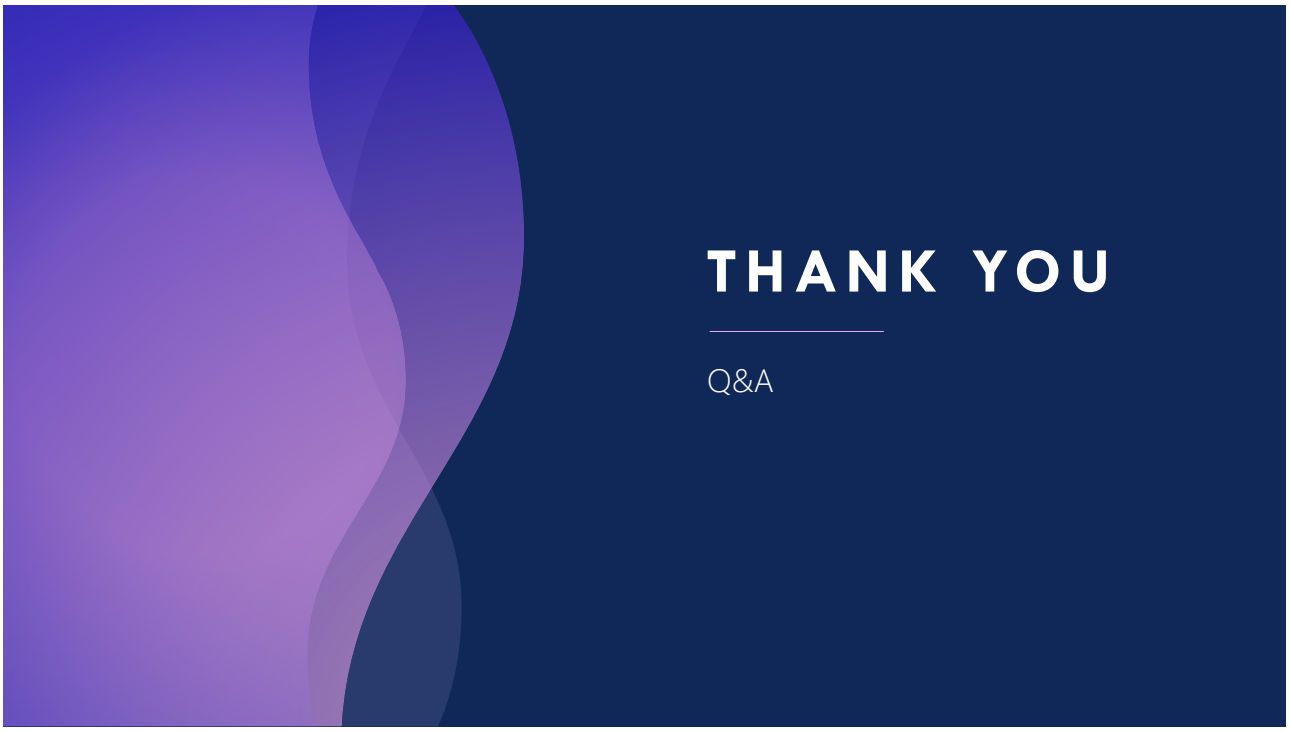
BEHAVIORAL HEALTH CHALLENGES

- Mental health crisis: The increasing mental health crisis, driven by factors such as the pandemic, societal changes, and economic hardship, puts pressure on emergency services and inpatient psychiatric facilities, which are already operating at capacity
- Treatment programs and limited insurance coverage often require extensive resources and have long timelines, while reimbursement rates for addiction treatment may not fully cover the costs
- Many behavioral health providers, especially those that serve low-income or underserved populations, face low reimbursement rates from Medicaid and private insurance
- Shortage of trained professionals contribute to financial strain
  - Sector is struggling to meet this increased demand due to a shortage of providers, inadequate funding, strained facilities, and a significant shortage of trained behavioral health professionals, including psychiatrists, psychologists, therapist
- Behavioral health providers face higher operational costs compared to other medical services due to the intensive nature of care, the need for specialized facilities, and provider training and certification
- Complex regulations and licensing and accreditation: To qualify for funding, some behavioral health providers must meet rigorous licensing and accreditation standards
- Asset-light model
- Promises Malibu restructuring enabled financial stabilization and leaner operations, at the cost of dissolving its flagship identity, confronting legal baggage, and undermining the luxury promise that once defined it


THANK YOU
Q&A

Faculty

Jeremy R. Johnson is a shareholder with Polsinelli PC in New York and Chicago, and represents distressed companies and other stakeholders in the insolvency process. Although his restructuring and insolvency practice spans various business sectors from retail to manufacturing, he has experience representing distressed health care businesses or participants in distressed M&A processes. Mr. Johnson's recent engagements in health care include senior living owners and operators (including continuing care retirement communities and skilled-nursing providers) and acute, post-acute and behavioral health providers. Working closely with Polsinelli's health care and corporate teams, he helps provide complete solutions for companies experiencing financial distress. In the last 15 years, Mr. Johnson has led several large company-side engagements and helped managed distressed situations for clients. In addition to company-side and distressed M&A representations, he represents other stakeholders in the restructuring space, including landlords, committees, individual creditors, trustees and other parties in interest. Mr. Johnson received his B.A. in 1996 from the University of Iowa and his J.D. in 1999 from Boston University School of Law, where he served as editor-in-chief of the *American Journal of Law & Medicine*.

Raoul Nowitz, CIRA, DBV is a senior managing director with SOLIC Capital Advisors, LLC in Atlanta, where he focuses on providing investment banking and restructuring advisory services to middle-market companies in a variety of industries, with a strong focus on the health care sector. His experience includes restructurings, recapitalizations, acquisitions and divestitures, and capital-raisings. Mr. Nowitz's roles have included executing distressed M&A and recapitalization transactions; developing restructuring initiatives to improve operations and profitability, as well as performing analyses leading to capital restructurings; preparing liquidity forecasts; and preparing and assessing complex financial projections and business plans, facilitating capital-raisings on behalf of clients. His client base includes companies, financial sponsors, senior lenders and other parties-in-interest in the health care, hospitality, energy, real estate, building products, business services, power and aerospace industries. In the healthcare restructuring arena, Mr. Nowitz has represented health care entities in a CRO capacity as well. Prior to joining SOLIC, he was a senior restructuring advisor with Navigant Capital Advisors and an investment banker at Macquarie Capital (and its predecessor firms) for more than 10 years, where he originated and led transactions primarily in the firm's Restructuring and Investment Banking Group. Mr. Nowitz's professional experience also includes Giuliani Capital Advisors and Ernst & Young Corporate Finance, both predecessor firms of Macquarie Capital, and Grant Thornton International's Accounting, Audit & Tax Division. He is a Chartered Accountant (South Africa) and is FINRA Series 7 and 63 licensed. Mr. Nowitz received his Bachelor of Commerce and Postgraduate Bachelor of Accounting from the University of the Witwatersrand, South Africa, and his M.B.A. from the Goizueta Business School of Emory University, where he qualified for Beta Gamma Sigma recognition for honors achievement in business study.

Nancy A. Peterman is a shareholder at Greenberg Traurig and chairs its Chicago Restructuring & Bankruptcy Practice. She focuses her practice on complex corporate restructurings and M&A transactions involving distressed companies. Ms. Peterman represents private-equity funds, debtors, sellers, purchasers, investor groups and creditors in these matters. She also has deep experience in health care restructuring. Ms. Peterman assisted in drafting the health care bankruptcy provisions of Public

Law No. 109-8 (the 2005 amendments to the Bankruptcy Code). She is a Fellow of the American College of Bankruptcy and is Board Certified in Business Bankruptcy Law by the American Board of Certification. Ms. Peterman has been heavily involved with ABI throughout the years, including serving as a member of its Board of Directors and the Executive Committee, and serving a co-chair for multiple committees. She also was co-editor-in-chief of the *Wiley Bankruptcy Law Update*, assistant editor for West's *Norton Bankruptcy Law and Practice* treatise, and an assistant editor and a contributing author for *ABI's Health Care Insolvency Manual*. Ms. Peterman is listed in *Chambers USA* and *The Best Lawyers in America*. She received her B.A. in 1988 from the University of Michigan and her J.D. in 1991 from the University of Michigan Law School.

Michael J. Sarrao and the Law Office of Michael J. Sarrao in Irvine, Calif., is Of Counsel with McNeil Tropp & Braun LLP in Newport Beach, Calif. He has more than 16 years of experience handling complex business litigation in state courts in Orange, Riverside, Los Angeles and San Bernardino Counties and in federal courts throughout California. Mr. Sarrao has represented Prime Healthcare Services, one of the largest health systems in the nation, and its subsidiaries and affiliates, as general counsel. He also served as chief legal officer in the acquisition and financing of multiple hospitals with total consideration in excess of $750 million. Mr. Sarrao's representations have extended to handling disputes involving health plans, independent practice groups, insurance companies, regulatory agencies and billing reimbursement. He serves as both general and outside counsel to health systems, hospitals and physician groups. Mr. Sarrao currently serves as executive vice president and general counsel at Alecto Healthcare Services, where he oversees all legal, compliance and regulatory matters across the organization. He received his B.A. in 1991 in quantitative economics and decision sciences from the University of California, San Diego and his J.D. in 1996 from the University of San Diego School of Law.