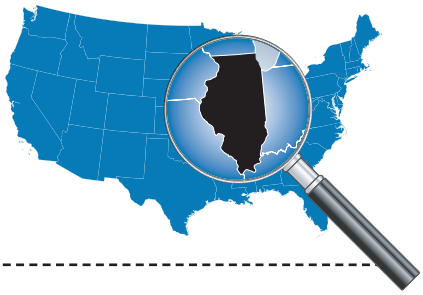
Could Your State Be Next?

ILLINOIS TAKES ON THREAT TO BILLING COMPANIES



By Kathryn Canny, CHBME

What do you do when you discover that the traditional business relationship you have with your clients is *ILLEGAL?*

Panic….

In 2006, the Fee Splitting Prohibition contained in the Illinois Medical Practice Act was interpreted by the Illinois Supreme Court to prohibit "traditional fee splitting," i.e., "a dividing of a professional fee for a specialist's medical services with the recommending physician and fee-sharing arrangements whereby a licensee divides with anyone for any service rendered to the licensee a *percentage of the monies earned by the licensee for medical services he or she has performed."*

The impact on billing companies was brought to light with the *Vine Street Clinic v. Healthlink, Inc.* decision, which prohibits the payment of fees as a percentage of revenue. Then one of the billing companies in our area actually referenced this ruling to support its defense in a case brought by a contracting physician group that didn't want to pay its bills. An Illinois court invalidated the percentage billing contract, leaving the physician's group with no remedy on its alleged claim for damages.

No one was happy with the Illinois court's stand. Illinois medical billers were being challenged by their physician clients and their lawyers to change what had made the best sense historically for all concerned in this type of business relationship—paying a percentage of monies earned as a fee for service. The prohibition affected not only medical billers, but also collection agencies, credit card companies, banks, MSO agreements, and internal relationships with other professionals, to name just a few.

Galvanizing the Grass Roots

Since Physicians' Service Center, Inc. was one of the largest privately owned companies in Illinois, several members of Illinois billing companies formed a committee to try to get the wording changed in this section of the Medical Practice Act rather than change the business models of our entire industry. I contacted HBMA with the news about our situation; HBMA leadership provided us with lists of the companies in its data base. We also contacted the American Collectors Association (ACA) on a local chapter level, as well as a national level, with the same response.

The committee included Kathryn Canny, Physicians' Service Center, Inc.; J. Dennis Mock, Medical Business Bureau, LLC (and ACA member); Keri Jennings, Margaret White, and Nikki Golden of Tenzing; Jonnae Topper, JDT Medical Billing, Ltd.; and Karen Olson, KLO Professional Billing, Inc.

We contacted attorney Sam Vinson, former state senator and a partner in Ungaretti and Harris, a law firm known to the Illinois State Medical Society (ISMS). I believe that Mr. Vinson's knowledge of the matter and its impact on members of the Illinois State Medical Society had a compelling influence over the changes that ultimately were made.

This could have been a costly venture into the world of lobbying, although far less costly than the alternatives. We had to form a new not-for-profit entity to collect money and hire the law firm ($165,000 minimum). We were not able to collect enough money to support this *(continued on next page)*

Beware of Missed Opportunities *(continued)*

project, so we returned the money that had been collected and worked on "Plan B."

The CFO of Physicians' Service Center, Inc., William Wheeler, enlisted the help of Robert Kane, the in-house counsel for the ISMS, to determine the true interest of the ISMS in the changes we saw necessary to the statute. Bill and I explained our position and the far reaching effects of the situation to Mr. Kane. He appreciated the information we supplied as well as the analysis of the financial impact that would negatively affect both physicians and billing companies.

The ISMS then took over the "heavy lifting" and the challenges brought by professional groups such as optometrists, physical therapists, trial attorneys, etc. We supported their efforts with letter writing to legislators who were in favor of the changes and to the Governor to encourage his final approval of Public Act 96-0608. That approval, which allowed percentage relationships, was granted on August 24, 2009.

This was a rewarding effort on the part of all concerned and I wish to thank all of the people who participated—whether attending meetings, writing letters, or sometimes just providing the moral support needed to keep the spirit of the corps.

Our success in changing legislation that negatively affected the billing industry is good news for any state facing unfavorable laws. I know that this problem exists with California and Florida for their Medicaid collections. Wisconsin billers are faced with a change in their abilities to call patients regarding delinquent balances…so we will have to stay tuned for the next chapter there! Others need to check on their states' rules. ▲

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