



# Dialysis & Nephrology DIGEST

A monthly report by Benesch on the Dialysis & Nephrology Industry

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## Key Takeaways

Healthcare+ Nephrology & Dialysis Conference Panel



As value-based care (VBC) models continue to grow across our nation's health system and specifically within different specialties like nephrology, the costs and challenges of maintaining these models continue to rise. In response, nephrology and dialysis practices are exploring physician integration strategies and mechanisms to grow, allowing physicians to embrace the VBC model while also ensuring patients are receiving quality care.

At the Benesch Healthcare+ Fourth Annual Nephrology and Dialysis Conference, held in Chicago on June 13, 2024, we spoke to a panel of physicians who have recently engaged in a physician integration strategy about how their practice has benefited from this growth as well as the challenges they continue to face.

Panelists included M. Carney Taylor, Jr., MD, MBA, Co-President of Eastern Nephrology Associates; David Mahvi, MD, Chief Executive Officer of Carolina Kidney Partners; Hemant Dhingra, MD, President of The Nephrology Group; Martin Serota, MD, from Nephrology Specialty IPA; and Jeffrey Goodman, MD, President of Nephrological Associates, a division of Northeast Kidney Care.

Key takeaway points from the panel discussion:

1. **Growth has allowed for achievement, alignment, and security.** With the VBC model emerging, there is a dire need to create stability within individual practices, and a merger is one avenue for a smaller practice to achieve this. Dr. Taylor explained that a merger allowed his practice to have enough doctors and patients to be a single Kidney Contracting Entity (KCE). With higher revenue driven by the merger, his practice was able to defragment the healthcare market in eastern North Carolina as well as implement the pieces needed to be successful within the VBC model (i.e., care coordinators, data analysts, and an executive management team). And while the costs of implementing the VBC model are higher than the fee-for-service model, the greater revenue resulting from the merger allowed for practices to put ancillary revenue line items (i.e., vascular access centers) in place to offset costs.

*continued on next page*

## Key Takeaways (cont'd)

### Healthcare+ Nephrology & Dialysis Conference Panel

As a larger practice now, many of the panelists noted that they are having conversations and opening doors they were never able to before. Institutional payers, who cover lives over multiple states, find it very valuable if they can cover a significant volume of a class in a certain area by working with a single practice.

- 2. An independent practice association (IPA) has been the preferred structuring among the panelists.** This structure, as Dr. Mahvi states, “gets the physicians back in charge of patient care.” With an IPA, physicians control both aspects of the practice: deciding what is quality care and how to distribute the finances. Independent physician practices are more efficient and generally provide higher quality of care. Dr. Mahvi acknowledges that this model is not for everybody and, in some instances, a management services organization (MSO) is preferred, but an IPA focuses on provider engagement. Dr. Serota agreed with Dr. Mahvi and highlighted that there are two crucial components of an IPA. The first is that IPAs ensure “physicians are front and center of both care managements and professional services.” The second is that with an IPA, physicians are essentially creating an independent MSO. By doing so, there is no reliance on an outside entity and lower overhead costs, and any savings generated by the practice lie with the physician rather than the outside entity. However, Dr. Serota acknowledges that management companies allow for more contracts, market density, and a larger footprint. With a greater presence, his practice has been on “the bleeding edge for a solution in the future.” Although there is no one solution to the healthcare issues plaguing the country, Dr. Serota, and others, agreed that specialty carve-outs will be one of the solutions to help alleviate some of those issues.
- 3. Although there are numerous benefits to the different physician integration strategies, the process is not without its drawbacks.** The panelists highlighted the lessons they have learned after growing their practices and implementing the VBC model. Some noted that they underestimated the capital needed to participate in the government programs associated with these new models. Dr. Mahvi noted that the “capital needs were 3x-5x more than he expected.” Not only were the cost higher, but the time to fully execute these models was also longer than expected. Dr. Serota stated that it takes a year to get going and advised those in the audience to ensure they have enough capital to account for a year of setup. Drs. Taylor and Dhingra mimicked these thoughts while adding that the greatest hurdle with these growth strategies is bringing together multiple cultures and schools of thought into one practice. A strategic playbook is essential to meshing multiple personalities and cultures to make certain there’s a smooth transition.
- 4. A crystal ball into the future: Although likely expensive and challenging to execute, a network between nephrology and other chronic diseases needs to be established.** The panelists were all in agreement on what needs to be next for nephrology and dialysis practices in VBC. Dr. Taylor noted that it is extremely difficult to isolate the contributing factors of kidney disease. Each patient lives with multiple other complex diseases. Dr. Taylor proposed a nephrology home model, where a nephrology practice has a relationship with a variety of subspecialties that are engaged with the practice. With this kind of structure, subspecialties are also being held accountable for patient outcomes, regardless of whether they work with the practice directly.

**August 12, 2024**

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## Dialysis & Nephrology DIGEST



Please contact us if you would like to post

information regarding your upcoming events or if you'd like to guest author an article for this newsletter.

[sdowning@beneschlaw.com](mailto:sdowning@beneschlaw.com)

[jgreis@beneschlaw.com](mailto:jgreis@beneschlaw.com)

[jcilek@beneschlaw.com](mailto:jcilek@beneschlaw.com)

### Calendar of Events

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AUGUST 14–17, 2024

**AMP: The Amputation Prevention Symposium**

Chicago, IL

For more information, please click [here](#).

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SEPTEMBER 16–18, 2024

**ANNA: Nephrology Nursing Summit**

Atlanta, GA

For more information, please click [here](#).

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SEPTEMBER 18–20, 2024

**RHA 2024 Annual Conference**

Las Vegas, NV

For more information, please click [here](#).

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SEPTEMBER 27–28, 2024

**RPA Advocacy Weekend**

Washington, DC

For more information, please click [here](#).

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SEPTEMBER 28, 2024

**2024 Renal Physicians Association PAL Forum**

Washington, DC

For information, please click [here](#).

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OCTOBER 17–19, 2024

**CV Transforum Fall '24**

Denver, CO

For more information, please click [here](#).

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OCTOBER 23–27, 2024

**ASN Kidney Week 2024**

San Diego Convention Center

San Diego, CA

For more information, please click [here](#).

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FEBRUARY 7–9, 2025

**ASDIN: 21st Annual Scientific Meeting**

Grapevine, TX

For more information, please click [here](#).

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FEBRUARY 16–19, 2025

**American Venous Forum: Annual Meeting**

Atlanta, GA

For more information, please click [here](#).

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MARCH 29–APRIL 2, 2025

**SIR: 2025 Annual Scientific Meeting**

Nashville, TN

For more information, please click [here](#).

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APRIL 3–6, 2025

**Renal Physicians Association 2025 Annual Meeting**

Las Vegas, NV

For more information, please click [here](#).

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MAY 1–3, 2025

**OEIS 12th Annual National Scientific Meeting**

Orlando, FL

For more information, please click [here](#).

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MAY 1–4, 2025

**ANNA: 2025 National Symposium**

Portland, OR

For information, please click [here](#).

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NOVEMBER 5–9, 2025

**ASN Kidney Week 2025**

Houston, TX

For more information, please click [here](#).

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**August 12, 2024**

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## **Nephrology and Dialysis**

AUGUST 5, 2024

### **The FTC Rule To Ban Non-Competes is (Maybe) 30 Days Away – What You Need To Know and What You (May) Want To Do**

The hot mess known as the FTC Rule to Ban Non-Competes (“Rule”) continues to get hotter and messier as two Federal District Courts issue conflicting opinions. This conflict between the Federal Courts will not be resolved before the Rule’s “enactment” date of Sept. 4, 2024. Given the uncertainty over the Rule, this bulletin is a short Q&A follow-up to our April 23, 2024 [Client Alert](#) that provides the latest updates on the Rule and the options companies have regarding compliance.

**SOURCE: Benesch**

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JULY 24, 2024

### **Benesch: Despite legal setback, NLRB exploring options to expand joint employer risk under NLRA**

The NLRB filed an appeal with the Fifth Circuit regarding a Texas district court ruling that vacated the board’s 2023 rule expanding joint employer risk. The district court reasoned the 2023 rule’s two-element test was, in actuality, a one-element test because the second test is always met if the first one is met. In its appeal, the board reiterated its position that the 2023 rule met the procedural and substantive requirements of the Administrative Procedure Act and the National Labor Relations Act. However, the board is expected to voluntarily dismiss the appeal and plans to consider the issues identified by the lower court, as well as address several rulemaking petitions regarding the joint employer issue.

**SOURCE: Benesch Law**

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JULY 3, 2024

### **TX court imposes temporary injunction on FTC’s noncompete ban pending review**

A federal judge in Dallas [granted](#) a request from business groups, including the U.S. Chamber of Commerce, to halt implementation of an FTC rule that would effectively ban noncompete clauses from contracts. Healthcare groups, including the Federation of American Hospitals, opposed the rule, saying it would make it more difficult to recruit and retain healthcare professionals. The American Hospital Association argued non-profit healthcare systems wouldn’t fall under the FTC’s jurisdiction, which the agency denied. In ordering a temporary injunction, the judge indicated the rule is likely to be struck down when the court reconvenes on Sept. 4, noting “the FTC lacks statutory authority to promulgate the noncompete rule.”

**SOURCE: Becker Hospital Review**

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## **Dialysis & Nephrology DIGEST**

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**August 12, 2024**

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## **Nephrology and Dialysis (cont'd)**

JULY 13, 2024

### **Report: FTC investigating DaVita, Fresenius over noncompete agreements**

It's alleged the two largest dialysis providers in the U.S. make it too difficult for physicians to move to other companies or start their own practices. Politico reports the FTC probe is looking into the companies' business models, specifically whether the noncompete agreements they require doctors to sign hinder efforts by rivals to hire specialists. Fresenius and DaVita hire nephrologists to serve as medical directors in their clinics, with the contracts specifying they can't work in any competing setting in the same geographic market during, or after their contracts expire. Representatives at Fresenius declined to comment, but a DaVita spokesperson said the company is cooperating with the commission.

**SOURCE: Politico**

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JULY 19, 2024

### **DaVita: Medicare kickback scheme divulged by whistleblower results in \$34M settlement**

Dennis Kogod, a former COO of DaVita Kidney Care, alerted authorities of the scheme in which the dialysis provider illegally compensated nephrologists and vascular access physicians into referring patients to DaVita's dialysis centers. DOJ also alleged kickbacks to physicians for referrals to DaVita Rx, a former subsidiary that provided pharmacy services to dialysis patients. DaVita is settling the case for \$34.5 million, of which Kogod will receive \$6.37 million. The settlement doesn't require the company to admit wrongdoing.

**SOURCE: U.S. Department of Justice**

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JULY 9, 2024

### **OH court skeptical of DaVita subsidiary's plan to parcel out tax receipts to other states**

Total Renal Care (TRC), a DaVita company, [went](#) to court to overturn a decision by the Ohio Board of Tax Appeals denying the dialysis provider's request for services provided out-of-state to be exempt from OH's commercial activity tax. An Ohio Supreme Court judge hearing the case disagreed with TRC's assertion that laboratory and administrative services, which are performed in other states, should be taxed in those jurisdictions. The state's tax commissioner, in its [response](#) to the suit and during oral arguments, asserted the full range of services should be taxed by OH as that's where patients derive the benefit from that care.

**SOURCE: Law360 (sub. rec.)**

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August 12, 2024

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## Nephrology and Dialysis (cont'd)

JULY 18, 2024

### **Panoramic Health petitions court to toss suit by former lawyer who claims they were fired for whistleblowing**

Tempe, AZ-based [Panoramic Health](#) filed the [motion](#) saying a former assistant general counsel lacks standing to sue the company for wrongful dismissal. The former employee [alleges](#) she was let go after she expressed concerns the company was engaging in an illegal kickback scheme. Panoramic counters it implemented the lawyer's suggestions, adding she wasn't engaged in any protected activities that would give her standing. That would preclude the woman making a claim for retaliation under the False Claims Act.

**SOURCE:** Law360 (sub. rec.)

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JULY 5, 2024

### **Carlyle in discussions with Baxter to acquire kidney care spinoff Vantive**

In March, Baxter revealed it was seeking PE investors to acquire Vantive, a standalone kidney care company whose spinoff is expected to be completed this fall. One of the world's largest PE firms, Carlyle, reportedly began talks with Baxter in June. The Wall Street Journal claims the possible purchase price is north of \$4 billion, including debt. It adds a deal could come in the coming weeks.

**SOURCE:** The Wall Street Journal (sub. rec.)

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JUNE 25, 2024

### **Monogram Health forms JV with TX health system to serve patients with polychronic conditions**

Houston-based Memorial Hermann Health System (MHHS) is the largest not-for-profit health system in southeast TX. Nashville-based [Monogram Health](#) says the partnership marries its home-based care model for patients with CKD and ESKD and benefit management services with MHHS' associated medical staff and physician teams. Monogram notes this is its first venture on the TX Gulf Coast.

**SOURCE:** Monogram Health

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# Dialysis & Nephrology DIGEST

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August 12, 2024

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## Dialysis & Nephrology DIGEST

### Nephrology and Dialysis (cont'd)

JULY 17, 2024

#### **Duo Health providing value-based kidney care to AZ-based MA plan**

Chicago-based [Duo Health](#) will provide kidney care services on behalf of members of [Arizona Complete Health](#)'s MA program. Arizona Complete Health says Duo's expertise will augment its value-based nephrology offerings to patients with ESKD or CKD who have complex needs by permitting dialysis services to be performed in-home or at alternative sites.

SOURCE: Healthcare Innovation

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JULY 17, 2024

#### **IU's chief medical officer for dialysis calls ESRD-TC model 'a bust' as it favors cost-saving over patient outcomes**

Dr. Jay Wish says the ESRD Treatment Choice (ESRD-TC) was initially hailed when introduced two years ago as it sought to reduce the number of patients developing kidney failure and increase home dialysis and transplant rates. However, home dialysis rates only increased marginally in regions covered by the program compared to other regions, with no difference in transplant rates observed. Wish claims the model's failure was foreseeable as it prioritized cost savings over patient-centered care, despite its claims of promoting "person-centeredness." Also, the data suggest while home hemodialysis (HHD) offers survival benefits over peritoneal dialysis or in-center hemodialysis, only 2% of patients use HHD due to barriers like inadequate patient education and lack of infrastructure. The program is supposed to run through 2027, but Wish recommends an assessment now as payment incentives aren't leading to better outcomes.

Related: [Despite financial incentives, no growth seen for home dialysis, transplant in ESRD model](#)—Healio (sub. rec.)

SOURCE: Healio (sub. rec.)

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JULY 19, 2024

#### **RPA predicts Medicare Physician Fee Schedule to have no net effect on nephrology practices**

The Renal Physicians Association (RPA) notes a 2.6% increase in payment for vascular access procedures is proposed, while most services commonly provided by nephrologists saw either slight increases or remained stable. However, the conversion factor, which affects overall reimbursement, is set to decrease by 2.8% to \$32.36, although the RPA anticipates Congressional intervention to mitigate the reduction. Two quality metrics proposed for nephrologists relating to the number of patients placed on the waitlist for a transplant are opposed by the RPA, owing to them being outside of the control of the specialist.

SOURCE: Healio (sub. rec.)

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## Nephrology and Dialysis (cont'd)

JULY 16, 2024

### **ASN suggests model to increase kidney transplants requires more incentives for investors**

In response to the CMMI's proposal for increasing the number of kidney transplants conducted each year, the American Society of Nephrology lauds the [Increasing Organ Transplant Access](#) (IOTA) model but recommends the IOTA program include the following:

- Set performance targets at realistically attainable thresholds for IOTA participants. Instead of incentivizing the exponential growth per year as proposed, ASN recommends incentivizing growth above the national growth rate itself while stratifying into three national growth rate targets by kidney transplant program volume;
- Increase the scale of the incentives to ensure the model is sufficiently powered to attract investment. ASN recommends a \$15,125 upside risk maximum and a \$3,750 downside risk maximum;
- Affirm that pre-transplant costs associated with IOTA, such as additional resources needed to maintain an active waitlist and provide additional support for patients to complete their evaluation, would be covered through the Organ Acquisition Cost Center;
- Shift 10 points from the Achievement domain to the composite graft survival rate component of the Quality domain, reflecting the importance of ensuring successful long-term outcomes;
- Finalize the proposed 1.2-times health equity payment adjustment multiplier in the Achievement domain and consider additional multipliers to encourage IOTA participants to make gains elsewhere, such as:
  - Applying the 1.2x multiplier to the Quality domain to address long-term outcomes for eligible patient populations;
  - Adding a multiplier for the use of “hard-to-place” kidneys; and
  - Adding a multiplier for pre-emptive transplantation, scaled to reflect savings to the Medicare program;
- Support and expand the proposed waivers and patient engagement incentives, but identify a source of funding to support IOTA participants in conducting these efforts; and
- Revisit the overall savings assumptions and calculations for the model, which ASN believes are undervalued.

**SOURCE: American Society of Nephrology**

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August 12, 2024

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## Dialysis & Nephrology DIGEST

### Nephrology and Dialysis (cont'd)

JULY 11, 2024

#### **Renalogic, Lyfebulb find two-thirds of dialysis treatments unplanned, disrupting patient lives, careers**

**Renalogic** and patient empowerment platform **Lyfebulb** find 62% of dialysis treatments are unplanned, which causes disruptions in people's lives. Patients with CKD **stated** the onset of treatment caused them to miss work (54%), visit the ER or be admitted to hospital (both 50%). The survey also found that half of patients on dialysis have household incomes below \$35,000, meaning costs for hospitalizations can be prohibitive. It also suggests half of patients aren't satisfied with the care coordination between their nephrologist, PCP and dialysis provider. Other findings include:

- 23% of respondents have concerns about how staff treats patients in the dialysis center;
- 84% of respondents witnessed another patient experience a serious medical event during a dialysis session; and
- 42% of respondents aren't satisfied with the amount of time the staff at the dialysis center takes to manage patients effectively.

**SOURCE: Renalogic**

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JULY 25, 2024

#### **Evergreen Nephrology research identifies CKD 3-plus category for kidney disease management**

Nashville-based **Evergreen Nephrology** and its parent company, **Rubicon Founders**, collaborated on a **study** that finds patients with Stage 3 CKD with comorbidities (CKD 3-plus) exhibit disease progression and healthcare costs similar to those in later stages of CKD. The research also concludes in terms of cost, CKD 3-plus patients incurred medical costs averaging \$3,877 per member per month (PMPM), compared to \$1,145 PMPM for other CKD Stage 3 patients. As well, acute inpatient medical costs and admissions were five times higher for the CKD 3-plus subset versus patients with no comorbidities. The subset represents about one-third of all original Medicare recipients with Stage 3 CKD and would represent a substantial increase in the number of patients that would benefit from nephrology intervention.

**SOURCE: Evergreen Nephrology**

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**August 12, 2024**

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## **Nephrology and Dialysis (cont'd)**

JULY 23, 2024

### **Evergreen Nephrology appoints GenesisCare CEO to board of directors**

[David Young](#) is a long-time healthcare executive who was named CEO of [GenesisCare](#) last year, and prior to that, was President & CEO of Physicians Endoscopy and COO of Privia Health. [Evergreen Nephrology](#) says his expertise on its board of directors will guide the company's purpose of creating "a reimagined healthcare experience" for patients with kidney diseases.

**SOURCE: Evergreen Nephrology**

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JULY 8, 2024

### **Northwest Kidney Centers names two new members of its board of trustees**

Seattle-based non-profit [Northwest Kidney Centers](#) made the following appointments to its 12-member volunteer Board of Trustees:

- [Anthony Dorsch](#), who has 30 years of experience as a healthcare administrator, including as executive director at UW Physicians and VP of operational finance at Providence Health & Services; and
- [Karissa Marker](#), a retired KPMG partner who specialized in audit and accounting services to the healthcare industry and other sectors.

**SOURCE: Northwest Kidney Centers**

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JULY 18, 2024

### **American Kidney Fund partnering with tech company Ubie on AI kidney disease detector**

[Ubie](#), the developer of an AI-enabled diagnostic platform, is collaborating with the American Kidney Fund to train its symptom checker to look for signs of kidney diseases in users. Typically, the platform scans peer-reviewed medical papers and accepts input from a physician review panel and can provide diagnoses for 1,100 illnesses. The fund says to fine tune the platform for kidney diseases, up to 30 patients who know the cause of their ailment will be deployed to assist Ubie. Since many patients have comorbidities, Ubie will have the already-diagnosed patients run through its symptom checker to obtain aggregated data.

**SOURCE: American Kidney Fund**

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**August 12, 2024**

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**Dialysis &  
Nephrology  
DIGEST**

**Nephrology and Dialysis (cont'd)**

JUNE 26, 2024

**U.S. Renal Care recognized as one of America's Greatest Workplaces**

U.S. Renal Care says it received a five-out-of-five rating in the America's Greatest Workplaces 2024 by Newsweek [list](#). Throughout 2022 and 2023, more than 250,000 U.S. employees were interviewed for the ranking, resulting in more than 1.5 million company reviews spanning 78 individual sectors. The survey covered topics like compensation and benefits, training and career progression, work-life balance and company culture. Also named to the list was Baxter in the healthcare equipment category.

**SOURCE: U.S. Renal Care**

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**VAC, ASC and Office-Based Labs**

JULY 11, 2024

**CO interventional surgery company LifeFlow Partners names former DaVita VP as CEO**

[LifeFlow Partners](#) is a physician-owned vascular surgery and interventional care company based in Denver. It appointed [Mike Huguelet](#) as CEO earlier this year. He's a former CDO for U.S. Renal Care and served as VP for Corporate Development at DaVita. LifeFlow's business model is touted as an alternative to the PE model, allowing physicians to retain 100% equity in their practices and maintain clinical and operational control.

**SOURCE: LifeFlow Partners**

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August 12, 2024

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## Dialysis & Nephrology DIGEST

### VAC, ASC and Office-Based Labs (cont'd)

JULY 26, 2024

#### **Envision Healthcare exits CA; avoids lawsuit over PE control of medicine**

Nashville-based [Envision Healthcare](#) was owned by KKR when it won a contract for medical services at a hospital in suburban L.A. The [American Academy of Emergency Medicine Physician Group](#) (AAEM), which had held the contract, [filed](#) a lawsuit in 2021, alleging Envision's business model violates state law against corporations controlling medical practices. PE firms like KKR circumvent the statutes by setting up professional corporation-management services organizations (PC-MSO) to control physician practices, theoretically adding a layer between themselves and the decisions affecting medical care. Although it denies the court challenge has anything to do with it, Envision says it's leaving the state, rendering the case moot. While pleased with Envision's decision, AAEM is [disappointed](#) the suit ended, as it could've set a precedent relating to the corporate control of medical practices.

**SOURCE:** Modern Healthcare (sub. rec.)

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AUGUST 1, 2024

#### **Interwell Health Surpasses 2,000 Nephrologists in Provider Network**

Interwell Health, a leading kidney care management company, has expanded its Provider Network to over 2,000 nephrologists, making it the largest network in value-based kidney care. Over the past year, the company has added more than 300 physicians and 75 nephrology practices, including Dallas Renal Group (TX) and Nephrologos Asociados del Oeste (PR).

Dr. George Hart, Chief Medical Officer, highlighted the growing embrace of value-based care among nephrologists, emphasizing the company's role in reducing unnecessary hospitalizations and slowing kidney disease progression. Interwell supports practices with resources like personalized patient education, predictive models, and an interdisciplinary care team. Dr. Hari Naga Garapati of Montgomery Kidney Specialists praised Interwell for understanding the unique challenges of smaller practices and providing essential strategies and tools for success in value-based care. Interwell's comprehensive provider enablement tools and services, including clinical documentation support and customized reporting, have been instrumental in achieving deep alignment with physicians. The recent launch of the Interwell Learning patient education series has further enhanced patient engagement and outcomes.

**SOURCE:** Interwell Health

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## Dialysis & Nephrology DIGEST

For more information regarding our nephrology, dialysis  
and office-based lab experience, or  
if you would like to contribute to the newsletter, please contact:

**Jake Cilek**

[jcilek@beneschlaw.com](mailto:jcilek@beneschlaw.com) | 312.624.6363

**Scott Downing**

[sdowning@beneschlaw.com](mailto:sdowning@beneschlaw.com) | 312.624.6326

**Jason Greis**

[jgreis@beneschlaw.com](mailto:jgreis@beneschlaw.com) | 312.624.6412

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