# Doctors Sue to Collect Unpaid Bills from Failed Health Care Provider

*Litigation over La Vida Medical Group, which served 100,000 patients, could test state oversight.*

By Emma Gallegos
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At its peak, La Vida Medical Group was responsible for the health and wellness of more than 100,000 patients in Southern California and the Central Valley, but just who was responsible for those patients when the group's finances soured is the issue in a lawsuit filed by the emergency room physicians who treated La Vida patients.

Set up like many other doctors groups, La Vida attempted to keep costs down by playing some of the roles traditionally performed by health plans. The health plans paid the doctors group a fixed amount, passing on some of the financial responsibility of caring for patients, as well as the professional responsibility.

La Vida snapped under the pressure of that risk. By 2007, the suit says the group was already showing signs of stress. The Department of Managed Care was working with the group to get it back on track, but the medical group was dealt a fatal blow when its main lender declared bankruptcy in October 2009 and demanded immediate repayment on its line of credit. By June, all of the major insurers terminated their contracts with the group, putting it out of business.

La Vida's closure left in its wake many health care providers claiming they were stiffed, including the emergency room physicians who filed a lawsuit this month against the major health plans that contracted with La Vida, claiming they are owed $5 million in unpaid bills. The suit alleges the health plans knew La Vida was having trouble paying providers and continued to underpay the group. *Centinela Freeman Emergency Medical Associates v. Health Net* BC449056 (L.A. Super. Ct., filed Nov. 5, 2010).

Their suit could be a test of how the state, through the Department of Managed Care, will regulate physician groups that take on more risk. These questions could become more important as the state moves more patients into managed care — and into physician groups that could take on more financial risk.

When failing doctors groups were stiffing providers a decade ago, the plans argued successfully in court that they shouldn't have to pay twice for services. The fixed sum they paid upfront was supposed to cover all of a patient's bills from providers.

"We don't have authority to dictate the contracts or a second payment," said Dennis Balmer, deputy director of the financial solvency standards board that monitors doctors groups at the DMHC. "But that could change in a heartbeat."

The specter of the late 1990s and early 2000s looms over the state to this day. That's when the last big wave of new doctors groups snapped under the pressure of too much financial risk. More than 700,000 patients were abandoned — some in the middle of care — and some of those patients' medical records were locked away forever.

Since then, the department created a board to keep tabs on doctors' groups that take on some of the responsibilities of health plans. When the department starts to see red flags — not enough cash, fewer referrals to specialists, more complaints from patients and providers — it works with the group to restore its financial health.

If that doesn't work, it notifies health plans, which then cancel their contracts with the group.

Industry observers say these regulations helped to stabilize the market, but they could mean the department has more responsibility when physician groups' finances sour.

"Because the department formulated regs ... then perhaps the ER physicians have a claim," said Jill Gordon, a partner at Davis Wright Tremaine who represents hospitals and physician groups.

The emergency room physicians say that they're stuck between a rock and a hard place with the failure of a group like La Vida.

They are legally obligated to see any patients who come before them — whether or not they are members of a group on the brink of collapse.

Because of a state Supreme Court decision last year, *Prospect Medical Group v. Northridge Emergency Medical Group*, they also are barred from billing the patients that they treat for the difference, 2009 DJDAR 347.

While the ER physicians are suing the major health plans — Health Net, Anthem Blue Cross, Pacificare, Blue Shield, Cigna and Aetna — they also have the Department of Managed Health Care in their sights.

"I think the [DMHC] fell down in [its] job as a regulator," said Andrew Selesnick, a partner at Michelman & Robinson who represents the ER doctors. "Health plans have an obligation to make sure that these contracted entities do their job, because the patient is the one who pays the price."

While the ER physicians who treated La Vida patients said they would have liked the state to step in earlier as La Vida was floundering, Balmer said that would have virtually assured the bankruptcy of the group.

"If we cut off parts of the contracts, it can almost ensure failure," Balmer said. "Nothing is risk-free."

La Vida had been limping along for years before the DMHC finally notified the health plans and they canceled their contracts in June. The DMHC was reluctant to cut off La Vida too soon, particularly since many of its patients were on Medi-Cal, Balmer said.

"The safety-net providers have twice the incidence of financial difficulties of their commercial counterparts," Balmer said. "They're operating on leaner margins, to say the least."

La Vida was one of the top 35 biggest groups in California that took on Medi-Cal patients, so its fall causes concern among people watching the state's attempt to move Medi-Cal patients into managed care.

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