KFF Health News

ER Doctors Vow to Pursue Case Against Envision Despite Bankruptcy

By Bernard J. Wolfson

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(MOMENT / GETTY IMAGES)

*[**Editor's note:** This article was updated at 3:45 p.m. ET on May 15, 2023, to reflect the news that Envision filed for bankruptcy protection and to add comments from the company's spokesperson.]*

Envision Healthcare announced Monday it has filed for bankruptcy protection, but a group of emergency physicians vows to continue a federal lawsuit that claims the private equity-backed company is violating California's ban on corporate control of medical practices.

THE SACRAMENTO BEE

This story also ran on The Sacramento Bee. It can be republished for free.

"I anticipate that we will ask the bankruptcy judge to let our case proceed," said David Millstein, an attorney representing the Milwaukee-based American Academy of Emergency Medicine Physician Group. "Among other things, Envision's practices violate the law, are continuing, and need to be addressed."

Envision said it filed under Chapter 11 in bankruptcy court in Houston hoping to liquidate most of its $7.7 billion in debt and restructure the business. So far, the company said, its plan has the support of creditors holding about 60% of its debt, and it expects support "to grow in coming days." The Wall Street Journal first reported on May 9 that Envision was preparing to reorganize its business, having missed an interest payment in April and failing to report quarterly financial results by a March 31 deadline.

Envision spokesperson Aliese Polk declined to comment on the emergency physicians' lawsuit but said the company is compliant with state laws. Polk said that other legal challenges to its business model "have proved meritless."

The lawsuit does not ask for monetary damages, so the physician group would presumably not have a financial claim against Envision. Instead, the doctors seek a legal finding that the company's alleged use of shell business structures to retain de facto ownership of ER staffing groups is illegal. A trial in San Francisco had been scheduled to start next January, but the date has been pushed back.

The doctors believe that a victory in their case would lead to a ban on that business strategy across California — not just in ERs run by Envision but also by TeamHealth, another private equity-owned medical staffing firm, and in other medical services the two companies provide, including anesthesiology, hospital-based medicine, and gynecology.

Many doctors, nurses, consumer advocates, and even some lawmakers, hope a legal victory would spur prosecutors and regulators in other states to take the issue of medical practices controlled by corporations more seriously.

Envision runs 467 emergency departments across the country and TeamHealth operates 511, according to Ivy Clinicians, a startup job search website for emergency physicians. Together, the two companies control more than 17% of emergency departments, the data shows.

Envision was acquired by the investment firm KKR in 2018 for $9.9 billion, making it the largest private equity deal in health care during that decade. The deal saddled Envision with about $7 billion in debt. Last September, analysts at S&P Global Ratings estimated that the company's debt was 29 times its earnings in 2022, a staggeringly high figure that raised alarms about its ability to pay its obligations.

At the same time, Envision's revenue picture has deteriorated. The federal No Surprises Act, which protects patients from unexpected bills sent by out-of-network providers, sapped a key source of revenue. The pandemic shrank patient volumes, and burnout among health care workers fueled staffing shortages that have jacked up labor costs. A fierce battle with insurance giant UnitedHealthcare over payments for patient care also hit Envision.

Envision said the bankruptcy process would allow it to shed about $5.6 billion in debt, which will either be canceled or exchanged for equity in the restructured company. Its ambulatory surgery affiliate, AMSURG, will become a separately owned firm.

Envision said it has “more than ample cash” to continue operating without interruption.

“The financial profile of the company is just not strong enough to manage the debt they have on the balance sheet, and I think that’s really what the bottom line is,” said David Peknay, a director at S&P Global Ratings.

This article was produced by KFF Health News, which publishes California Healthline, an editorially independent service of the California Health Care Foundation.

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