

# Engineering the Second Curve in Health Care: “The Role of the Health Care Attorney in Creating a Healthier Community”

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According to the American Hospital Association in their report entitled *Hospitals and Care Systems of the Future*, “hospitals and health systems in the United States face unparalleled pressures to change in the future. Industry experts have projected that multiple, intersecting environmental forces will drive the transformation of health care delivery and financing from volume-based to value-based payments over the next decade. These influences include everything from the aging population to the unsustainable rise in health care spending as a percentage of national gross domestic product.

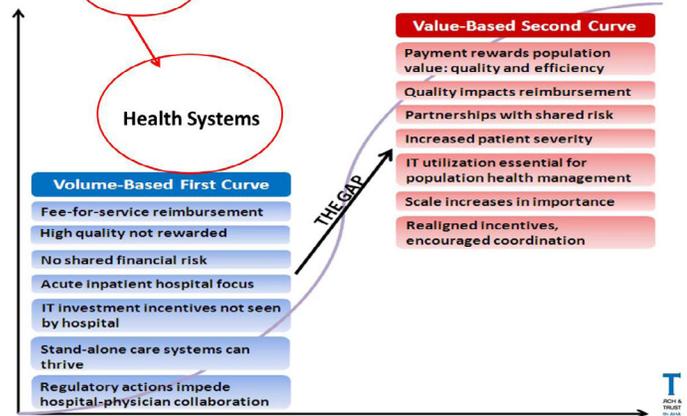
Economic futurist Ian Morrison believes that as the payment incentives shift, health care providers will go through a classic modification in their core models for business and service delivery. He refers to the volume-based environment hospitals currently face as the **first curve** and the future value-based market dynamic as the **second curve**. Progressing from **first curve** to the **second curve** is a vital transition for hospitals. This is analogous to having one foot on the dock and one foot on the boat - at the right point, the management of that shift is essential to future success.” Over the last several years, many organizations are exploring innovative ways to shift to this second curve through interventions focused on disease management and improving the health of a designated population.

Health care attorneys can play a vital leadership role in facilitating this transition in four ways:

**1. Understand the vision of the Affordable Care Act and what it means in terms of engineering the “new” health care delivery system.** Many attorneys are focused on the compliance aspects of the IRS ruling that each nonprofit hospital must conduct a Community Health

## First-Curve to Second-Curve Markets

How will hospitals successfully navigate the shift from first-curve to second-curve economics?



Needs Assessment (CHNA) every three years because of the threat of losing their tax exempt status. While compliance is important, the “spirit of the law” is to move hospitals and health systems toward population-based programs by forcing them to measure the outcomes and impact of their intervention strategies. The CHNA and its implementation strategies should not be separate activities that hospitals do because they have to, but they should be strategic activities that are used to drive strategic planning, integrate prevention and intervention efforts across the continuum of care and evaluate the outcomes and impact of these efforts.

**2. Ensure your clients are adopting innovative thinking in program development and creating contractual and other relationships (toward a sustainable population-based planning business model).**

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Some health systems recognize that their employee population is a significant “captive audience” where health status improvement efforts can make a huge impact. Although some argue that you can’t legislate behavior, using a “carrot and stick” approach, Excelsa Health in Westmoreland County, PA has achieved 93% participation in their employee wellness program, was named one of the healthiest employers in the US (number 34!), and saved \$5 million in premium costs (over 3 years). They are engaging other major employers in the community to do the same. Other health systems are forming regional partnerships to create community paramedicine programs to offer at home chronic disease monitoring programs and provide lower cost alternative forms of transportation to decrease Emergency Department utilization and readmission rates.

**3. Help to facilitate (and even encourage) new and creative corporate structures that will encourage shared risk and shared reward between and among providers, payers and the post-acute continuum of care players.** “You don’t have to own it all” to create a risk-sharing care delivery network. Rigorous selectivity, identifying partners with compatible cultures and collectively managing performance allow hospitals and health systems to partner with other entities across the post-acute continuum of care. Health care systems can share risk with providers and invest in management service organizations that allow opportunities gainsharing, while standardizing practice across a network.

**4. Identify regulatory and legislative barriers to change and connect to or recommend advocacy efforts to change.** Health care attorneys, without being told or understanding the strategic context, will generally answer the question they are asked. This often results in a legitimate answer of “you can’t do that” because, in doing so, some existing law, statute or regulation would be violated. However, in today’s transitional environment, it is important for attorneys to be proactive and understand the environment and strategic context and to assist health care leaders to think creatively and strategically about the barriers that exist, whether they can be worked around or if the rules need to be changed, in order to implement strategies that improve population health.

Leaders are often told, “***be the change you want to see in the world.***” During these turbulent economic times, health care attorneys are encouraged to utilize their important role as trusted advisors to help catalyze change and improve community health by helping hospitals and health systems create the new structures through which that change happens.



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## About Debra Thompson

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