Maverick Health Policy

MYMAVERICK RECAP

April 13, 2023

NEWSLETTER CONTENTS

Digital Health

DIGITAL HEALTH INVESTMENTS

- **Canaan**, a California-based venture capital firm, raised $850M for its Canaan XIII fund targeted at healthcare and technology companies in the seed and series A stages.
- **Northrim Horizon**, a private equity firm not historically invested in healthcare companies, raised $153M in a second funding round with intent to target healthcare.
- ·**Weight Watchers** acquired **Weekend Health**, (also called Sequence), a subscription telehealth platform with access to chronic weight management providers.
- **Oshi Health**, a virtual specialty care gastrointestinal health company, raised $30M in series B funding.
- **MedArrive**, a mobile-integrated care management platform expanding at-home care, raised $8M in new funding to scale its business into new markets.
- Precision medicine company **Function Oncology** finished a $28M Series A funding round to expand its CRISPR-based genomics platform.

ARTIFICIAL INTELLIGENCE NEWS

- To develop policies that will engender trust in AI, the Department of Commerce's National Telecommunications and Information Administration (NTIA) released a request for comment (RFC) on potential AI regulations.
    - Assistant Secretary of Commerce Alan Davidson announced a new U.S. AI accountability initiative at the University of Pittsburgh's Institute of Cyber Law, Policy, and Security.
- ChatGPT creator **OpenAI** launched the "Bug Bounty Program" to ensure the safety and security of their AI technologies. The company offered incentives to anyone who identifies vulnerabilities, bugs, or security flaws in their systems.
- Yann LeCun, chief AI scientist at **Meta**, and Andrew Ng, the founder of **Deep Learning**, challenged the open letter which called for a 6-month ban on AI development, arguing government intervention would stifle innovation.
- FDA's Sentinel Innovation Center partnered with **Cerner Enviza** and **John Snow Labs** to develop AI tools supporting automated queries of patient data and clinical notes from an EHR to further utilize unstructured real-world-evidence for improved drug safety.
- Chris Carmody, chief technology officer at **UPMC**, is exploring how the health system can use AI tools like ChatGPT.
- **The Center for Digital Health Innovation (CDHI)** at **UCSF Health** and **H2O.ai**, who partnered to create a workflow automation AI model, received "Best Use of AI in the Public Sector" and "Best Use of Intelligence Automation" awards from the *AI Journal* for their model, which is estimated to save over 25,000 hours of staff time annually.
- An article in *Forbes* discussed the potential for AI to address physician burnout by streamlining administrative tasks and reducing physicians' workloads.

ARTIFICIAL INTELLIGENCE INVESTMENTS

- **Availity**, an administrative support company, entered into a definitive agreement to acquire **Olive AI's** utilization management business unit and solution for payers.
- **Clearday**, developer of an AI-based platform of robotic companion care for seniors, entered into a definitive merger agreement with **Viveon Health Acquisition Corp.**, a special purpose acquisition company (SPAC), with an expected valuation of $370M.

Interoperability & Health IT

FEDERAL NEWS

- ONC released a notice of proposed rulemaking (NPRM) for public comment beginning April 18, 2023, (see here, here, here), that would update certification requirements for health IT developers (i.e., E.H.R. developers like Epic and Cerner), including:
    - Modifying and expanding exceptions for information blocking (ONC narrowed the definition of what it means to "offer health IT" so that doctors do not restrict themselves from sharing patient information unnecessarily);

o   Adding several reporting requirements, including reports on how individuals access their electronic health information, like third-party apps, and how well E.H.R. systems are tracking discharge and referral notes to create a complete medical record so that care is coordinated across a patient's providers;

o   Requiring technology developers who want HHS certification of their predictive clinical decision support tools to be more transparent with health systems about how their AI works, and adopt and document risk-management practices and offer real-world testing plans. The agency is also asking whether patients should be told about the use of AI too.

o   Adopting version 3 of the U.S. Core Data for Interoperability (USCDI), which adds a number of data elements to the current required standards of E.H.R. data collection and interoperability.

o   AHIP released a statement expressing disappointment that the proposed rule did not require developers to include electronic prior authorization, urging ONC to "quickly issue a second rule with ePA as a criterion for CEHRT on a timeframe in line with the CMS' final requirements for health insurance providers to make available ePA."

o   In addition to this proposed rule, ONC is developing two related proposed rules:
- Establishment of Disincentives for Healthcare Providers Who Have Committed Information Blocking (here)
- Patient Engagement, Information Sharing, and Public Health Interoperability (here)

- ONC released three new FAQs to illustrate how information blocking and HIPAA rules interact with each other.
- An ONC-sponsored survey in *JAMIA* found over 40% of hospitals observed practices they believed fell under information blocking protections in 2021, with reported incidents more likely to be against a healthcare provider than health IT developers.

INDUSTRY NEWS
- **Civitas Networks for Health**, a collaborative interoperability organization, released its Health Data Utility (HDU) Framework to guide stakeholders in designing and implementing an HDU to integrate comprehensive health data in support of whole-person care delivery.
- **Intermountain Health** tapped data management company **Kyruus** for an extended partnership to reduce administrative burden and expand online provider scheduling tools.
- An op-ed in the *Harvard Business Review* advised hospitals to use patient data to "understand, design for, and meet consumer preferences and needs" – citing **Amazon** or **Walgreens** as a template for success.

PUBLIC HEALTH DATA
- An op-ed in *The Hill* explained AI experts' recent call for a six-month moratorium on AI research, highlighting the risk AI poses for public health and emphasizing the need to incorporate more "representative data" from marginalized populations into AI models.

DATA PRIVACY AND SECURITY

- OCR reminded HIPAA-covered entities that data privacy compliance for telehealth services will be enforced after the PHE ends.
- In response to complaints since the U.S. Supreme Court decision in *Dobbs* overturned *Roe v. Wade*, the HHS Office for Civil Rights issued a proposed rule to strengthen HIPAA Privacy Rule protections by prohibiting the use or disclosure of PHI to investigate or prosecute patients, providers and others involved in the provision of legal reproductive health care. When health plans or providers receive a request for PHI potentially related to reproductive health care as part of health oversight activities, judicial proceedings, or law enforcement purposes, the proposed rule would require them to obtain a signed attestation that the use or disclosure is not for a prohibited purpose. Comments due by June 16, 2023; fact sheet here.
- We reported last week that a study published in *Health Affairs* found that third-party tracking tools are used on nearly 99% of hospital websites, and that OCR will be investigating for HIPAA violations. In a video interview with Information Security Media Group, two privacy attorneys explained that health systems may not have realized their pixel tracking technology was sending patient data to third parties, or even been aware they were running the tools on their websites.
- BCBSA is partnering with **Cyversity** to create a mentorship and training program for future cybersecurity professionals.
- A Moody's report found that hospitals and health systems are lagging behind other industries in implementing cybersecurity measures and need to increase their investments to better defend against attacks.
- An HHS threat brief warned healthcare organizations against cyberattacks on their EHR systems and proposed strategies to mitigate EHR cybersecurity risks.
- The Health Sector Cybersecurity Coordination Center issued two alerts on distributed denial-of-service (DDoS) attacks last week, warning healthcare organizations of the threats to security and system availability.
- Tennessee-based **Community Health System** is the latest to self-report following the massive third-party **Fortra** GoAnywhere data breach in January. The health system informed 962,884 patients that their personal health information was at risk.
- The scope of last year's **CommonSpririt's** data breach appears to be more far-reaching than originally disclosed. According to a company notice, dozens more organizations are implicated in the cyberattack than the original two announced in October.
- OCR launched an investigation into a February IT security incident at **Tallahassee Memorial Healthcare** that affected 20,376 patients.

Payers & Providers

DRUG PRICING

- HHS finalized the 2024 Medicare Advantage and Part D Final Rule, which will implement a key Inflation Reduction Act provision to lower prescription drug costs. Specifically, CMS is expanding eligibility for the full low-income subsidy benefit (also known as "Extra Help") to individuals with incomes up to 150% of the federal poverty level who meet eligibility criteria.

Beginning January 1, 2024, eligible enrollees will have no deductible, no premiums (if enrolled in a "benchmark" plan), and fixed, lowered copayments for certain medications under Medicare Part D. More on the rule here.

- Law firm McDermott Will & Emery published an article explaining the CMS Medicare Part B Negotiation Program guidance issued in March and the list of the first 27 drugs to be subject to inflation rebates.
- According to *Politico,* on April 19 the Senate HELP Committee will mark up a new bipartisan bill focused on generic drugs and PBMs.
- Mark Cuban's Cost Plus Drug Company is collaborating with Zócalo Health, a virtual health care company focused on Latino the Latino community, to allow members of Zócalo to have access to prescription drugs at a lower cost.
- On March 31, federal court in Maryland upheld CMS' definition of a "new formulation" under the Medicaid Drug Rebate Program that requires drug-makers to offer a per-unit Medicaid rebate if they increase their prices greater than the rate of inflation. Law firm Hyman Phelps explains how this could have wider implications than just the Medicaid rebate program.

HEALTHCARE TRANSPARENCY

- On April 10, 2023, the group Patient Rights Advocate released its fourth semi-annual price transparency report detailing the results of an analysis of the websites of 2,000 U.S. hospitals. It found that only 24.5% of the hospitals fully complied with the hospital price transparency rule to post prices, compared with 16.5% in the group's last report in August 2022.
- The President and CEO of the American Health Care Association stated the CMS rule released in February 2023, that would require disclosure of private equity ownership of nursing facilities, does not target the 'real issues,' and argued there is a need for strategic investing.

PAYERS AND PROVIDERS

- On April 10, President Biden signed a bill to end the COVID-19 national emergency effective immediately. The national emergency allowed the government to take steps to respond to the virus and support the country's economic, health and welfare systems.
  - The national emergency declaration is different from the HHS-declared Public Health Emergency, which will still end as planned on May 11. Read more here.

PAYERS

- Health insurance stocks are rallying after a slow start to the year amid concerns about Medicare Advantage, according to a *Wall Street Journal* report.
- An AHIP report found that in 2020, 54% of Medicare enrollees without additional coverage chose Medicare supplement plans. The percentage of individuals purchasing supplemental benefits grew overall from 35% to 41% from 2017 to 2021.
- A federal judge rejected **UnitedHealth Group**'s attempt to nullify physician staffing firm **TeamHealth's** lawsuit after UnitedHealth claimed New York's surprise billing arbitration model bars providers from recovering underpayments.

- Georgetown Professor Sabrina Corlette explained the consequences of the recent federal district court decision in *Braidwood*, which would -- if not overturned on appeal -- remove the ACA requirement to cover and waive cost-sharing for multiple preventive services.
  - Read more about the court decision here.
  - The DOJ is seeking an injunction to block the ruling.
  - Three universities and the Wakely Consulting Group published their evaluation of the ACA's individual plan preventive care offerings, finding that despite covering common preventive services for no fee, patients were still subject to high same-day costs for preventive services.
- The U.S. Office of Personnel Management is seeking bids from health plans for a new health plan for U.S. Postal Service employees that needs to be separate from other Federal Employees Health Benefits Program offerings.

PROVIDERS

- CMS released the Inpatient Prospective Payment Systems (IPPS) and Long-Term Care Hospital Prospective Payment System proposed rule, which includes changes to payment rates – including a 2.8% increase in inpatient payments to eligible hospitals – and new health equity measurements.
  - The AHA expressed concerns over the proposed rule, saying that the adjustments are inadequate in light of inflation, increased costs and negative operating margins for hospitals.
- The AHA and Alliance for Rural Hospital Access voiced their support for the Rural Hospital Support Act, which Senators Bob Casey and Chuck Grassley reintroduced last month. The bill would provide more financial stability for vulnerable, Medicare-dependent hospitals.
- The bipartisan Strengthening Medicare for Patients and Providers Act that was introduced last week would tie physician payment rates to inflation. This comes after numerous physician groups petitioned Congress to address Medicare physician payment rates.
- According to a report from The Joint Commission, serious patient safety events in healthcare facilities in 2022 increased by 19% from 2021, which the Commission attributed to issues with communication, teamwork, and adherence to policies.
- An article in *Axios* reported on hospital off-site fees, and the steps Congress and states may take to curb or regulate this practice. While hospitals claim the fees cover the costs of equipment and providers, others argue that these off-site fees increase cost of care and incentivize consolidation.
- A study from the **Lown Institute** found that 77% of nonprofit hospitals have unusually high "fair share" deficits, suggesting they are not using their tax savings effectively to invest in communities and charities. According to the institute, the collective $14.2B "fair share" deficit would be enough to cover the medical debt of 18M Americans.
- *STAT News* reviewed five tech startups that are working to address the healthcare workforce shortage.
- A **CHW Advisors** study found that in light of staffing shortages, healthcare providers are increasingly turning to outsourcing revenue cycle management processes to optimize financial efficiency and reduce costs.

- **Zocdoc**, an online scheduling platform, expanded its marketplace to include more Federally Qualified Health Centers (FQHCs) to improve access to care for underserved Medicare and Medicaid populations.

PAYERS AND PROVIDERS (M&A)
- **Signify Health's** CEO Kyle Armbrester discussed the **CVS** deal, noting that it will improve Signify's services, and announcing that the company will continue to partner with more hospitals on analytics in the future.
- **Optum** finalized yet another acquisition by quietly purchasing the multispecialty physician group **Crystal Run Healthcare** on February 22.
- In an article in *Chief Healthcare Executive,* Ross Nelson, National Healthcare Strategy leader at **KPMG**, noted that there will be an increase in hospital mergers and partnerships as systems attempt to maintain financial stability.
- Longevity technology company **Clearday** and **Viveon Health** completed a $370M merger to innovate and expand access to tech-based care for seniors.

VALUE-BASED CARE
- CMS extended the Medicare Advantage value-based insurance design (VIBD) model for an additional five years, moving the program into its third phase.
- An **Avalere** survey found 58% of payers used outcomes-based contracts with PBMs in 2022, with 35% having 10 or more contracts to tie drug reimbursement to clinical or claims-based outcomes.
- **Bain and Company** published a report on the future of value-based care (VBC), finding 80% of PCPs, as well as a growing number of specialists, want to pursue VBC but are hindered by administrative obstacles.
- An article in *AJMC* considered the benefits of value-based primary care, and how primary care practices can implement VBC models.

HEALTH EQUITY & SDOH
- **TruLite Health**, which developed one of the first health equity platforms, partnered with Morehouse School of Medicine to establish a Health Equity Coaching Certification program.
- **Duke Health** and **SAS**, an analytics firm, partnered to develop new artificial intelligence-powered cloud products that use data analytics to improve health outcomes and advance health equity.
- The United Network for Organ Sharing (UNOS) partnered with MIT to develop an AI-driven algorithm framework, which was released last month, making organ transplants more equitable.
- A *JAMA* study found that Medicare enrollees who are above the federal poverty level and are therefore ineligible for Medicaid supplemental insurance, face greater barriers to care because of high out-of-pocket costs, a trend which disproportionally impacts Black and Hispanic populations.
- A study published in *The Lancet* found that Black women in the least vulnerable regions of the U.S. are at a higher risk of maternal mortality and poor birth outcomes compared to White women living in the most vulnerable areas.

- *Newsweek*'s list of the 'Greatest Workplaces for LGBTQ+ 2023' included six payers – **Aetna**, **Cigna**, **Humana**, **Elevance Health**, **UnitedHealth Group**, and **Health Care Services Corp**.

MEDICAID
- A *KHN* article explains that MACPAC and GAO are urging CMS to better monitor how states are issuing "directed payments" to Medicaid managed care organizations by states, saying there is a lack of quality metrics and transparency about the billions of dollars in this funding stream.
- HHS' Office for Civil Rights sent a letter to state health officials reminding them of their obligation under federal civil rights laws to provide language and communication resources for individuals with limited English proficiency or disabilities during Medicaid renewals.
- An analysis published by Kaiser Family Foundation explored potential implications and solutions for Medicaid Managed Care Organizations (MCOs) during the Medicaid unwinding period.
- A *Health Affairs* article highlighted the importance of Medicaid, arguing that it is just as important to maintain Medicaid's structural and financial stability as it is Medicare's, given the number and type of people it serves and the positive impact it has on our health system.
- A study published in *Health Affairs* found that Medicaid reimbursement for psychiatric services was 20 percent lower compared to traditional Medicare.
- Kaiser Permanente's Medicaid policy executive director posted a blog on KP's website saying that Medicaid outreach flexibilities that are being granted during the redetermination process should be made permanent.

Virtual Health

FEDERAL NEWS
- Three former executives at health tech startup **Outcome Health** were convicted on multiple counts of fraud which involved ~ $1B in fraudulently-obtained funds.

NEW LAUNCHES AND PARTNERSHIPS
- **Weight Watchers** acquired **Weekend Health**, (also called Sequence), a subscription telehealth platform with access to chronic weight management providers.
- **Oshi Health**, a virtual specialty care gastrointestinal health company, raised $30M in series B funding.
- **Care.ai,** which is developing a virtual care technology to increase clinician productivity and delivery of timely care, partnered with **Google Cloud** to add its platform to the Google Cloud Marketplace.
- **Arkansas Children's** partnered with **Elemeno Health** to create an app that reduces clinical workload by educating clinicians on hospital best practices and digital communication strategies.
- **Walgreens** pharmacists and **Cariloop** coaches partnered to expand cloud-based care options for multiple sclerosis patients and caregivers.

OTHER TELEHEALTH NEWS

- **Aetna** partnered with virtual digestive health platform Oshi to provide care management for gastrointestinal chronic diseases.
- Digital health startup **Ayble Health,** which focuses primarily on chronic GI conditions, released a direct-to-consumer app which offers nutrition counseling and treatment plans from GI health professionals.
- **Pear Therapeutics** – a prescription app developer which created prescription therapeutics to treat conditions such as substance use disorder and insomnia – filed for bankruptcy and laid off over 90% of its workforce.
- **AristaMD** released its unified care transition platform, which helps coordinate patient care when patients transition from their primary care provider to a specialist.
- **Lehigh Valley Health Network** launched a telehealth program to streamline emergency department triaging to reduce wait times and improve quality of care.
- A RAND Corporation study published in *JAMA* examined the role of in-person, audio-only and video visits during the pandemic, noting that many areas are still facing difficulties in adopting video telehealth and instead favor audio-only visits – especially safety-net settings.