



**Health Care Law Today Podcast**  
**Episode 11: Behavioral Health in the Time of COVID-19**

In this episode, Foley Partner [Chris Donovan](#) sits down with [Daniel Risku](#), Executive Vice President and General Counsel at [Beacon Health Options](#) to discuss how COVID-19 has influenced and changed the environment of behavioral health from a private equity and transactional standpoint.

*Please note that the interview copy below is not verbatim. We do our best to provide you with a summary of what is covered during the show. Thank you for your consideration, and enjoy the show!*

**Chris Donovan**

Today's focus is behavioral health and if there's an area in health law today that is hot, I would say definitely it's that. I was looking at some of the deal statistics for the first quarter of 2020, notwithstanding the COVID pandemic, and we've had over a dozen transactions in the behavioral space with private equity, strategic investors, and operators.

I think hearing and reading about behavioral health generally, there's a lot of speculation, which is probably more fact than speculation, that we really are at an inflection point with behavioral health culturally—the stigma associated with behavioral health, I think has gone away—certainly payer expansion—which we're going to talk about a little bit today—access to care, and finally technology and telemedicine, which has provided a significant tailwind to the expansion of behavioral health, particularly in the COVID crisis.

My guest today is Dan Risku. Dan is the Executive Vice President and General Counsel of Beacon Health Options. They're one of the largest plan managers and providers of behavioral health in the United States. Dan, welcome to today's show, it's a pleasure to have you on. Would you like to introduce yourself and Beacon for a minute or two, and then we can get into our Q&A?

## **Dan Risku**

Thank you, Chris. Dan Risku, as Chris said, General Counsel at Beacon Health Options where I've been the General Counsel for about eight years. Been in the health care side of the legal business for most of my career and in various states around the country and operating nationally to a large extent.

Beacon Health Options, as Chris noted, is and has been in the behavioral business its entire existence. It's about a 40-year-old company and it is totally focused on behavioral health. The mission of the company is to help people live their lives to the fullest potential. I have to tell you; the employees of this company really have that in their heart and that's why they come to work at Beacon.

The company was founded by clinicians and it actually evolved out of a psychiatric hospital company decades ago with the first carve-out contract by the military, which is now known as the TRICARE program. They did a behavioral health carve-out related to mental health substance use benefits many years ago and that's how Beacon Health Options was founded.

We serve about 40 million people throughout the country and that's in a variety of government, health plan, and commercial employer types of account businesses. In that, we have many programs, but we keep them focused on core behavioral management programs, such as care and case management, care coordination, and utilization management. We've expanded into total health management, including the medical side, as well as behavioral.

Now in that context, we do tend to work more with the highest acuity populations, especially in the Medicaid government business and those members frequently have serious mental illness issues, different substance use issues, including opioid use, intellectual developmental disabled individuals, autism, and we work throughout that.

The other two areas that we spend a good amount of our time is in our Beacon Wellbeing area, and we'll talk further later on this. That's for primarily employee assistance programs for employers of many sizes and shapes. Then the last area, which is bringing us back to the beginnings of the company, is getting back into direct care services where we have a subsidiary Beacon Care Services where we are doing direct counseling and access care services for individuals.

As I mentioned, we operate nationally. We have over a hundred thousand providers in our networks across the country, and this is all done through over 4,500 employees, more than a thousand of those are clinicians. We have joint ventures with providers in many areas of

the country in addition to the networks. That's a quick overview of a very interesting part of the health care business.

### **Chris Donovan**

I do a lot of deal work at Foley nationally and certainly behavioral health, just the volume of investment activity and transaction activity, some of which is coming from private equity community, and some of which is strategic just seems to be at really an unprecedented level. Some areas, for example, autism, I almost feel like there's a new autism platform being announced by a private equity firm every other week, but we do seem to be going into a phase of significant investor interest and indirectly provider expansion.

I'm kind of curious, you've been in the business for quite some time. I'm wondering maybe using a baseball game innings analogy, where you think we are in that? Whether you think this interest is sustainable, or we're at the sort of the early stages of it, or you think that there are significant access problems still, and significant expansion of benefits, et cetera, that the sector should be able to achieve, say, in the near future? Kind of curious what your thoughts are in terms of all the activity, whether it's sustainable, and where it's headed.

### **Dan Risku**

I think it is certainly sustainable—and using the baseball analogy, and I love sports analogies I use them all the time—we're still in the early innings, at best we're in the third inning, and we have a long way to go as a country and as all of the stakeholders in health care and behavioral health. Health care is behind other industries in terms of its advancements.

I mean, while there have certainly been huge advancements throughout the health and medical side of pharmacology, medical procedures, medical devices, all of that, but from a technology perspective, we have a long way to go. We're behind other industries, such as financial services and banking that have heavy transactions, and health care has a heavy transaction component when you factor in not only the volume of services, but the way that health care is financed in this country.

I mean, we are, again, as an industry, health care is really just beginning to truly work on integrating the behavioral piece with the medical side. The mind is still connected to the rest of the human body, so it's taken us a while to really start to deal with the whole person, but we're making larger strides I think in the past few years and we'll continue to do that over the coming years. I think we're still in an early stage of its core development.

### **Chris Donovan**

That's music to the ears of all my private equity investor clients because that's certainly how they see it. I think you're right because one data point that I keep hearing about when

we look at the space and the data rooms, et cetera, that target companies, are opening up for people to look at is network adequacy. This is probably something you've seen in the TPA and plan management work that Beacon does.

Just anecdotally you hear stories about friends or relatives who want to have access to behavioral health services, but finding a clinician that in a network on the plan can sometimes present challenges,, which I think reinforces what you just said, which is that we're in the early innings, but I'm wondering if you had any observations with respect to sort of network adequacy and access with respect to behavioral health and where you see that generally headed into the future?

### **Dan Risku**

I think network access adequacy is an area that is beginning to receive attention and necessary attention for many aspects. There are certainly regulators around the country who have begun to focus on it, but providers, patients, us as consumers, we are in need and demanding more access.

I mean, we've had provider networks of all shapes and sizes again, for many decades. that includes individual sole practitioners, different types, whether it's psychiatrist, psychologist, licensed clinical social workers, different types of facilities, all the way up to acute care facilities, but there's still a shortage. There is a shortage of behavioral health providers in this country and there's many reasons for that. It's not going to get solved overnight, but with increased attention to everything that goes into that equation, we can make progress over the coming years.

Now, a lot of that involves improved coordination from all sides. It includes improved education of members, the patients in how to use providers the right way. It involves technology and using the efficiencies of technology as part of the solutions. We're living through that right now with the COVID-19 epidemic. Telemedicine was growing slowly on the behavioral health side, similar to the medical side, and all of a sudden it has exploded overnight.

Everyone from providers to patients have realized that receiving many forms of services via some form of telemedicine actually works. It's more efficient, it's more effective, people like it, and that includes not only the patient, but the provider. I see telemedicine continuing to grow.

One of the reasons that we established Beacon Care Services was to assist in improving access. In our various business lines, we have seen shortages of providers and gaps in

areas where we knew that additional attention could be brought, while not solving the entire issue or problem, could at least begin to solve some of the gaps.

And so we've created Beacon Care Services and not to deal with severe behavioral and mental health issues, but to provide an additional avenue of counseling services for individuals and families, on a more simple and in a form of delivery that is truly accessible where it meets the family member or the individual in a way that serves them best for their lifestyle, whether that is going to a more retail type of setting or an employment-based setting at an employer site, or through telehealth modes of delivery.

We're still in the very early stage of that, but it is showing some true results and we will continue to put more resources behind it. We developed it with use of analytics and outcomes reporting. We are doing it with evidence-based practices as one of the foundation blocks. It's early stage, but it's very promising, and again, it's one of many opportunities to improve access and accessibility for patients.

### **Chris Donovan**

That's interesting, Dan, looking at access issues and networks, it's interesting to see that we've seen that in the health care space with other companies that are kind of straddling the provider plan paradigm and acting effectively in both capacities. We're seeing a lot of M&A activity in the behavioral health space. I think one of the byproducts, or one of the goals of that, as I understand it from the investment community, is to establish more of a national platform or providers who can then go to the plans, the payers and offer what's obviously a more comprehensive, simpler, administratively simpler at any rate, network to offer to plan beneficiaries. I guess, a question, do you see that consolidation trend on the provider side continuing? Is that going to facilitate from the plan side broader and perhaps simpler access to plan benefits for plan beneficiaries?

### **Dan Risku**

I think it can. I think that's a primary goal of that activity on the behavioral side. It is still large. It is the behavioral provider network so to speak from a greater perspective is largely unconsolidated. It is local, very local in nature. There are disparate practitioners for many reasons, and there's many reasons behind that. So again, going back to a baseball analogy, that is still very much early stage.

I think it can bring some rationality. It needs to have the patient as primary focus and how that improves access and adequacy for the patient. At the same time helps to streamline the administrative aspects for providers, for payers. I think that there's a good amount of room for growth and further rationality as we move forward.

### **Chris Donovan**

That makes a ton of sense. I think that what you're saying supports a lot of the capital. We're seeing that in other sectors of health care, traditionally, for example, home health and certain areas, certain physician practices where, as you said, it's local, I wouldn't say mom and pop, but local practices. I think in the behavioral space, you see that even I think, to an extreme in some cases.

But just shifting a little bit over, more to the payment side, you mentioned something about evidence-based treatment and evidence-based protocols. One of the things that we've been talking about internally at Foley's for years, I guess mostly on the Medicare side, there's been a lot said about and acted on with respect to value-based reimbursement and delivery models, for example, ACOs and bundled payments and different types of risk sharing arrangements.

I think with the COVID crisis, we've kind of put that aside for obvious reasons, and a lot of the regulatory requirements associated with the Stark Laws and some of the compliance issues that we regularly deal with as health care lawyers have been put on hold temporarily with the public health emergency.

Then I read the cases and et cetera about it, it does seem to me, and I'm curious what your opinion is, that really the way is to get back into value-based models and away from fee for service. If in fact that's where things are headed, which I tend to think they are, is that payers are going to be looking, as you said, for evidence-based clinical protocols that show favorable outcomes based upon various therapies, for example.

I think it's unfortunate, but I think this is an area where maybe some of those statistics are harder to prove than medical procedures. For example, unlike if you have a hip replacement and X number of people are re-admitted to a hospital, how do you actually measure progress in certain areas like ABA and others?

I'm curious what your view is as to where kind of the payment paradigm, where respect to behavioral health is going. I understand you can't speak for your health plans. You're not necessarily going to be able to do that, but I'm kind of curious where you think things will be headed. If providers are listening out there, what they should be doing to kind of take advantage of some of those hoped for more value-based reimbursement delivery models.

### **Dan Risku**

I think we are behind the medical side on all of those fronts, and that being behavioral, it's behind the medical side, that made a good amount of progress over the past two, three decades. There are areas where there's fairly solid evidence-based treatment protocols on the behavioral and substance use side. They've been in place for a while and are

continuing to make advancements on that front. Payers and providers are both getting behind and supporting those efforts.

I think that both the providers and payers are looking at doing more on the different payment models with regard to some form of shared risk models. At Beacon, we've been involved with those types of models, literally for decades. Some of that is just on the behavioral side. There are more initiatives around the country right now, where it includes behavioral, where we have shared risk models, and others where it's the total medical expense.

We are also involved in shared service, a shared risk models on the total medical expense equation. I see that continuing to grow over the coming years and there will be other forms of just simple capitation models to other risk corridor type of models with not only larger provider organizations but including smaller practitioner organizations. So that is a definite growth area, where the payment model does need to evolve, similar to the manner in which payment models have evolved on the medical side.

### **Chris Donovan**

Makes perfect sense, Dan. The thing that we've noticed at Foley's, some of the deals that we've worked on is focused on the integration of behavioral health at a much earlier stage and kind of an integration with primary care delivery, both on the provider side, as well as technology.

Payers seem to be very responsive to introducing behavioral health diagnostics and other preventative type treatments in conjunction with the early stage, almost like annual checkup stage of primary care because it's obviously advantageous to intervene with respect to any kind of an episode or a mental health issue in the clinical setting before it can exemplify itself in more serious patterns.

But maybe just shifting to the future and maybe wrap up with a little bit of prognosticating into the future. I just personally feel like behavioral health is, as you said, in the early innings of the ball game, nowhere near the seventh-inning stretch, but unlike the baseball season, I do think behavioral health will have a season, many seasons ahead.

But I'm just curious whether anything you're seeing now is going to prevent that from accelerating significantly over, say the next two to three years? If you care to speculate a little bit of how, for example, technology might play into this. And so, you had mentioned telemedicine for example, but I think Beacon's been involved with AI and machine learning and other sort of diagnostic tools that they've introduced into their platform, but I'm kind of

curious, what do you think the future holds and whether you think technology will be a part of that, and if so, how it will impact it?

**Dan Risku**

It'll impact it in just about everything we do. In that, I mean, taking the use of AI analytics, we're putting great efforts into advancing our capabilities. We use that data to help with patient care to begin with. Using the COVID pandemic as an example, through the use of analytics, we were able to identify members highest at risk and then start to coordinate outreach to those members with their treating providers, if they had them, or find other ways to outreach to the members, to make sure that they were both receiving any necessary care during this pandemic, as well as coordinating any other physical health issues with their providers.

That's just one type of example, digital technologies in terms of how members, patients get information, data that will continue to expand. The use of smartphones will become an increasing way that care is diagnosed, delivered in some settings, not all, but some settings. So all of that again is at its earlier stages.

The care integration again, it's something that Beacon has been doing for decades. One of our strong clinical underpinnings is in coordinating and helping case manage the behavioral side with the patients' physical health needs. We have a variety of programs in place where we do that on a not only consistent basis, but a quality based basis in helping to coordinate care with the individual's primary care physician or other treating provider.

**Chris Donovan**

Fantastic. My conclusion is your job security is secure for the indefinite future, Dan. I don't see this space in any way going away. So first of all, I want to thank you, Dan Risku, for being our guest today. Some terrific insights by you in a super dynamic area. So thanks, I really appreciate your joining us.