4sight Health Roundup Podcast
Market Power of Epic, AMA Comes Under Fire
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[Intro and outro music by C. Ezra Lange]

David Burda:

Welcome to the 4sight Health Roundup Podcast. 4sight Health's podcast series for healthcare revolutionaries. Outcomes matter, customers count, and value rules. Hello again, everyone. This is Dave Burda, news editor at 4sight Health. It is Thursday, August 20th. There are two types of people in this world. There are people who stay until the end of a ballgame, no matter what the score. Stay until the movie credits are over, and stay until the end of mass. Then there are those who leave in the seventh inning to beat traffic home and miss a historic ninth inning rally. Leave before the movie credits end and miss a bonus scene or two during the credits. And leave right after communion and burn in hell. Well, maybe not burn in hell, but why take a chance for an extra five minutes? Turns out it's also true if you listen to podcasts. If you listened until the end of our July 23rd podcast on hospital investment portfolios, you would've known that the Federal Trade Commission's antitrust dogs were sniffing around Epic. And if you listened until the end of our August 6th podcast on AI and productivity, you would've known that Moderna was coming out with a new flu vaccine based on mRNA technology. Today, we're gonna talk more about Epic and separately about CPT codes with Dave Johnson, founder and CEO 4sight Health, and Julie Murchinson, partner at Transformation Capital. But listen until the end because I'm not sure what they're gonna say. Hi, Dave. Hi, Julie. How you two doing this morning? Dave?

David W. Johnson:

I am doing just fine. Summertime and the living is easy, , particularly when there are no jets buzzing downtown Chicago anymore <laugh>

like there were last week when they were preparing for the air and water show.

Burda:

Yeah, nice and quiet. The, kids went back to school in my school district, so, , yeah, you could hear, hear the birds sing again. It's great. <Laugh> Thanks, Dave. Julie, how are you?

Julie Murchinson:

I'm well. I just took another trip around the sun yesterday, which, , you know, too many of these.

Burda:

Oh, happy birthday.

Murchinson:

Thank you. I'm not gonna say too much…

Burda:

I'm not gonna ask, but, happy birthday.

Murchinson:

Thank you, thank you. It was fun.

Johnson: :

It was somebody else's birthday yesterday, famous person's birthday yesterday.

Murchinson:

Bill Clinton.

Johnson:

Bill Clinton, right - Oh, yeah.

Burda:
Right in front. He's old, way older than you are.

Murchinson:
And Tipper Gore, by the way. I mean, they shared a birthday, so big day. <Laugh> I'm pretty sure it was Tipper. Yeah.

Johnson:
And I guess they shared Al Gore too.

Murchinson:
Yeah, they did.

Johnson:
And had the same outcome.

Murchinson:
Oh, sadly.

Burda:
All right. , Okay. Before we talk about Epic and CPT codes, let's talk about what kind of person you are. , Dave, do you stay until the end of the ballgame, no matter what the score?

Johnson:
I always, , stay to the end of the baseball game. I even keep score. , Sort of likewise, I almost never stop reading a book before I finish it, even if it's not that good. Probably explains why I've been married for 42 years. Damn it.

Burda:

There you go.

Johnson:

Yeah. <laugh>

Burda:

All right. We'll just, , end that, , response there. Thanks, Dave. , Julie, do you stay for all the credits after the movie ends?

Murchinson:

I only stay for the credits after the movie ends when my kids tell me that there's some sort of, you know, outtake or whatever they call it. Yeah, that's about it. Yeah.

Burda:

Yeah. Yeah. They give you the heads-up. Yeah. Yeah.

Murchinson:

Well,

Burda:

I go back to the Pew after communion and kneel and then stand until mass is over. There's no way I leave early, you know? I'm not disrupting the status quo when it comes to eternal life. Well, some people are disrupting the status quo of the eternal life for Epic and for the American Medical Association in their transition.

Johnson:

Oh, that was a mouthful, Dave.

Burda:

Yeah. Yeah. That was a hard one. <Laugh> I had to practice that. I'm gonna read two headlines, which I though I'd never see, which, by the way, was the topic of our, , July 30th podcast. And I'll ask for your reaction. Here's the first headline, Courtesy of the Washington Post on August 13th. Group sues AMA seeking transparency over medical billing codes. And here's the second headline, Courtesy of the Reuters News Service a day later on August 14th. Exclusive. FTC probes Health Records Giant Epic Systems Sources Say. The AMA, of course, is the American Medical Association, and the group suing the AMA to make public the AMA's proprietary billing codes that the entire industry uses is patientrightsadvocate.org. The FDC, of course, is the Federal Trade Commission. And Epic is the industry's dominant electronic health record system vendor and wannabe dominant healthcare artificial intelligence vendor. Dave, what's your take on these? , How do they threaten the industry's status quo? And how could we or should we come out on the other side?

Johnson:

Any regular listener to the Roundup knows my belief that Epic uses its monopolistic pricing power to put a stranglehold on its competition. , Recently, a very prominent health system CEO told me in confidence that Epic is the single largest impediment to innovation in healthcare.

Murchinson:

Wow.

Johnson:

And I couldn't agree more. , But I bang that drum enough. , So I'm gonna use my time today to focus on the AMA lawsuit. Do either of you know Cynthia Fisher, the founder and CEO of Patient Rights Advocate? , She did that in 2018. That's the organization suing the AMA.

Burda:

I do not. No.

Johnson:

Well, she's a force of nature. , Biophysicist, , and Harvard Business School, , graduate, , serial life sciences entrepreneur. , You know, and talk about [00:39:00] being in the right social circles. She married the founder of the Boston Brewing Company. , That's the company that brews Sam Adams Beer. And since she founded PRA in 2018, she has just been a tireless advocate for health data interoperability and pricing transparency. So it wasn't a surprise to me at all that the PRA is behind this lawsuit. , But silly me, , , I thought I knew everything about healthcare. <Laugh> There's always, , something else, , under a rock. I didn't know the AMA had cornered the market on CPT codes. , But I'm not surprised. Most of my attention, , on the AMA focuses on how it, , , divvies up the, , CMS payments, Medicare payments among specialty groups. And it's always done in a, a dark room under a cloud of darkness. , But let's, , let's dive into the muck, , of CPT codes. , And first thing is, , there's a difference between ICD-10 diagnostic codes and CPT payment codes. , You can't have CPT codes without ICD-10 codes. You know, I like T-shirts, so I, I have a T-shirt that's covered with outrageous ICD-10 codes. My favorite is V91-10. , It's a burn due to water skis on fire. <Laugh> Just ridiculously intricate. Okay. And so what, what providers do is they take these diagnostic codes and they align payment codes with them in order to generate revenue. The AMA determines the CPT codes and charges for their use. , The codes themselves are baked into payment mechanics at the federal and state level. So providers have to use them, , in order to, , generate, a bill and get paid. And in return, the AMA makes as much as $300 million from selling these rights. , The gist of the lawsuit is that these codes should be open, free, and accessible in the public domain. , Very, , very apropos with how Cynthia thinks about things. , Trying to put this in context, , I'm reminded of kinda two other types of codes. , From my days in an investment banker, , QCIPs, , the American Banking Association's codes for identifying types of financial transactions, , private organization, , , determining the codes and, and requiring users to, to pay for them. And the second is various kinds of building codes, , produced by private organizations. You know, think of fire codes, , that are developed by, , by these private organizations and then baked into regulations. , The CPT codes have both features. They're privately developed and sold, and they're also baked into law. That should make, , PRA's case stronger. Of course, the AMA's gonna argue that it can't afford to maintain the codes without selling access to them. , That's essentially what the courts are gonna decide one way or the other. But the whole, , this whole process obscures the, the elephant in the room, which is just the ridiculous complexity and opaque character of healthcare pricing and payment mechanics. It allows intermediaries like the AMA not only prosper, but to profiteer. And the whole who gets how much for providing which services to whom is the soft and very ugly underbelly of US healthcare. , It also happens to be <laugh> the, the force that's allowed Epic to rise to its, , market dominance.

, See what I did there? Yeah. -

Burda:

Good connection, good segue! I like it.

Johnson:
Yeah. I'm, I'm gonna end, but I, I have a T-shirt, it's got the pie sign, , screaming, "Get real," at the, , square root of negative one that responds, "Be rational." And when it comes to healthcare pricing and transparency in the United States, we have to get real and be rational before the system causes even more harm to our people and our economy.

Burda;

You know, I just read that the, , the AMA came out with new CPT codes for obstetrics care. Instead of one code for a global, , delivery of a baby, now everything is a la carte, right? So, - <laugh>

Johnson:

And it'll be cheaper, right?

Burda:

Oh right. It'll be cheaper because of that. Yeah, just like the tappings on my pizza, right? <Laugh> So, same principle. Thanks, Dave. Julie, any questions for Dave?

Murchinson:

Well Dave, great analysis on the AMA front, because I think this flies under most people's radar, including mine. , I'm surprised you didn't talk more about Epic, honestly, but, , Epic, you know, has built its dominance without ever acquiring another company, which is amazing for its size. Do you think that makes the antitrust case harder to win? Or does it prove the theory that, that data lock-in is the new merger?

Johnson:

<Laugh> , yeah, I, I, I think how Epic got to its, , dominant market position is, is really immaterial. , Most of the time, you know, monopolies become monopolies by acquisition, as you're talking about, but it's the ability to control, , pricing, to exercise monopoly pricing power. That's the real determination. And when you get into the mechanics of how Epic operates in the marketplace, , it appropriates intellectual property from companies through its, , through its app orchard and its contracts. , It doesn't negotiate on price with clients, and it, you know, , charges very high fees and then provides free, quote unquote, free added-on services that are often suboptimal, usually suboptimal, , which prevents competitors from, , from coming into the

marketplace. So if Epic acts like monopoly and quacks or threatens like monopoly, it's a monopoly.

Burda:

Thanks, Dave. Okay, Julie, it's your turn. , What was your reaction when you saw these two stories break? How do they disrupt the status quo? And what outcome would you like to see when the dust settles?

Murchinson:

Well, my reaction with Epic in particular was elation. <Laugh> Because as you know, I sent this to you on a Sunday morning and you weren't the only one I sent it to. I - Yeah. I think I, I spent some quality time copying that article into my tech strings. So, you know, I, I have a little disbelief that it took this long, to be honest, but, , I mean, a lot of disbelief also to see the headline. It was, it was shocking. On the AMA front, I have to agree with Dave. I didn't quite realize the control they had and the amount of money that they were making. And just frankly, like, I'm still trying to reconcile what is appropriately their role versus Highway Robbery versus, you know, the way they've institutionalized so much of our infrastructure issues around position dominance and fee-for-service. It's, it's quite something when you really dig into it. So thank you, Dave. I think what you just did was helpful. You know, both these institutions have operated for decades. Like the laws of market gravity don't apply to them. So this is, it's been a week. , Listen, the, the fact that the AMA pulls in north of $300 million a year as a private trade association charging doctors, hospitals, vendors to speak the language that the government requires them to speak. I mean, it, it is, it's very different, I think, than the way the government interacts with other, like, expert organizations that create, , you know, create pieces of the payment structure. I, it's, it's amazing the control that they actually have been able to, to wield with this. And on the Epic side, and I don't know, we've talked about this so much. I mean, they're not even, Dave, they're not even, like, a company that has grown.They've just simply become the infrastructure. It's not like really many other industries, except you can think about the Visa network and, , like, really large-scale networks that are sort of akin to Epic and, and the degree to which it's just everywhere. So this is pretty, pretty startling in some ways. , The status quo question, Dave, you know, I, , this patient rights advocate isn't just asking the court for a favor. They're, , Dave, as you talked about, they're arguing that, that the CBT can't be both law and proprietary at the same time. So it, it seems that, you know, the government has a, a pretty logical question in front of them, and it'll be interesting to see if the AMA can get away with what's happening. I don't know that this much light could be shown on something and have it remain the same. And back to the Epic side, like, I think, , the FTC isn't just poking. Like, I think they've done a lot of work. And I've heard this from people throughout the industry that they have really started to look at where have they gone after interoperability in the past? And where are they taking swipes now at Epic based on the APIs and certain places in the tech stack where they can actually really prove the point around inter- interoperability? And, you know, if you pair this with the executive departures and the AI strategy doubts, , I know you've got a company that's entering its highest visibility moment this week. It was really - <laugh> Yeah. It was great to see the timing. I mean, Epic's got a lot on their plate right now. So I don't think I've seen them in this much hot water in a long time. So, , you know, I don't know what happens when the dust settles, to be honest with you. , I hope on the Epic side, I wanna see interoperability theater <laugh> in, in a way that we haven't seen it in a way that people actually understand because, , nobody with subpoena power was checking the math on how Epic talks about its interoperability, and somebody finally is. So it's great to see.

Burda:

I think a lot of emails are being deleted right now in a lot of different offices. <Laugh> , thanks, Julie. Dave, any questions for Julie?

Johnson:

Well, Dave, you know what the difference between email and true love is, right?

Burda:

I don't. Tell me.

Johnson:

Email lasts forever. So, , <laugh> they, they will be fine. Julie, that was, that was great.You did mention that, Epic had its big user group, , meeting this week. It ends today. And it is August, , when state fair attendees in Wisconsin and other Midwestern states can eat deep-fried butter and other equivalent culinary design and delight. In a play in all this corn, , Epic's conference theme this year was Meet Me at the Midway with the tagline that the UGM is the closest thing to the future on a stick. Ba-Da-Dum. It really is amazing what people eat at these state fairs. , In our keynote address on Tuesday, , epic founder and CEO, Judy Faulkner, stayed resolutely on message, , only talking about the company's product roadmap and client accomplishments. No mention of the recent high-level departures, nor the rumored F- FTC probe. , Disappointing, but not a surprise. , Julie, , I'm just, I'm gonna let you, , , do some, , play acting here. , If, if you were Judy, how would you have handled these twin and probably related crises, , the departures and the FTC probe?

Murchinson:

I don't know if I could ever imagine playing Judy Faulkner on TV. It'd be kind of fun. <Laugh> Listen, I'm actually shocked that she didn't lean into, like, two big pieces of this in very quick statements. Strategy and succession. And, you know, as a CEO, you don't have to acknowledge, you shouldn't, you shouldn't have to acknowledge lawsuits that companies get sued all the time. But this is perhaps the biggest and most meaningful [00:54:00] lawsuit that has come out, or investigation, right, that's come out against a company that, Dave, to your point, has been a, a big lead up. So I would've leaned into strategy and leaned into their leadership and interoperability and their, you know, that they don't engage in anti-competitive behavior and, you know, pivot hard into the product from there. Like just reinforce that strategy. And on the leadership, I mean, that's, it's almost weird not to mention, especially. Okay. Companies don't have to acknowledge big leadership changes. They just, they don't. But she's 80-something. So I would've spun this up into succession and spun this into, you know, reorganizing Epic so it's built to last, to live forever, right? So I, I don't know why she didn't actually just lean into that a little bit too. Again, quick hits, reinforcing message, move on.

Burda:

Missed opportunity plus no danger of affecting share price, right? Really, really interesting. , That's great, Julie. Thank you. Well, I'm rooting for the, , protagonist in each story. And I'm gonna stay until the very end to see how it turns out. So, , hope you guys stay with me.

Murchinson:

This time, yes. <Laugh>

Burda:

Now, let's talk about other big healthcare news that happened this week. , Julie, what else happened that we should know about?

Murchinson:

Well, , we are seeing a little bit of activity on the M&A front, R1 that is not a company that has grown up, , organically. <Laugh> It's been through plenty of M&A. Yeah. Is acquiring Humada, , which is, , Jeremy Friese's business. And he, , this is his second time at that. So congrats, Jeremy. Interesting to see R1 in action.

Burda:

And that's what AI and prior authorization, I think I read.

Murchinson:

Yeah.

Burda:

Yeah. No, that, that's interesting.

Murchinson:

Back to Delaware.

Burda:

Yeah. Yeah. Exactly. , Dave, what's your big healthcare news of the week?

Johnson:

Zeke Emmanuel and, , some co-authors included Venid Coastlaw published a commentary in JAMA that indicated AI [00:57:00] alone is more effective than AI with doctors, basically debunking this whole idea that doctors in the loop will yield better, , solutions. ,what if they're right? , And what does it mean?

Burda::

Yeah. I read that. And there go the CPT codes. <Laugh> Yeah. Right? [00:57:30] So if AI could do that instead of doctors, , thanks, Dave. And thank you, Julie. That is all the time we have for today. If you'd like to learn more about the topics we discussed on today's show, please visit our website at 4sighthealth.com. You also can subscribe to the Roundup on Spotify, Apple Podcast, YouTube, or wherever you listen to your favorite podcast. Don't miss another segment of the best 20 minutes in healthcare. Thanks for listening. I'm Dave Burda for 4sight Health.