

## COMPETITOR SEEKS MEDICAL RELEASE

RELEASE: August 11, 2014

With millions of newly insured people covered by Obamacare, some doctors are seeing more patients than ever.

But other doctors are choosing to practice what's called "concierge medicine," which allows them to keep patient rolls small by charging a retainer in exchange for more individualized care. It's aimed at those able and willing to pay up.

The trend of concierge medicine has created a growing opportunity for companies that help doctors adopt that model. So much so that they already are fighting for market share.

SignatureMD in Marina del Rey casts itself as the David in a battle with industry Goliath MDVIP of Boca Raton, Fla.

Nationwide, SignatureMD has about 70 doctors who have 13,500 patient members in the network. That's about 6 percent of all concierge program members. MDVIP has about 700 doctors and 200,000 members for about 86 percent of the market.



**Niche Sector:** Matt Jacobson at SignatureMD's office in Marina del Rey. Photo by Ringo Chiu.

SignatureMD has struggled to grow in markets such as Boston; Atlanta; and Fort Lauderdale, Fla. The company's chief executive, Matt Jacobson, believes that's because MDVIP has locked doctors in those markets into constricting contracts that limit competition.

SignatureMD alleges in a recent antitrust suit that MDVIP operates as a monopoly in many markets and constrains doctors to contracts that make them permanent clients.

MDVIP spokeswoman Nancy Udell said SignatureMD's lawsuit is baseless.

SignatureMD signs doctors to eight-year contracts.

The company does not have a noncompete at the end of the term, but a doctor who opts out early is forbidden from practicing concierge medicine with another company for the duration of the deal, Jacobson said. SignatureMD doctors see at most about 600 concierge patients, but can also keep a larger practice of other patients that see other care providers in the office.

### Doctor deals

MDVIP declined to disclose terms of its contracts with doctors to the Business Journal. However, in the suit, SignatureMD alleges MDVIP's deals with doctors include five-year contracts, followed by an automatic five-year renewal and a noncompete that prohibits doctors from switching to another company such as SignatureMD for two additional years.

SignatureMD also alleges MDVIP charges California physicians a \$1 million breakup fee if a doctor signs with another concierge medicine company, since noncompete covenants are mostly unenforceable in the state.

Jacobson said doctors are continually bound to MDVIP. That's because participating doctors cut their practice to 600 patients at the most, from about 2,000. As a result, if they dropped the concierge business they would not be getting enough revenue to keep the lights on. It would take them a long time to build up their patient base to the point where they could.

### **Growth market**

A squabble such as this might seem inevitable given the suddenly growing market.

Michael Tetreault, editor-in-chief of trade publication Concierge Medicine Today in Atlanta, said concierge medicine received a shot in the arm from the Affordable Care Act, which expanded the number of people with medical coverage.

"A lot of doctors were looking into concierge medicine over the last several years, waiting for the shoe to drop," he said. "And the shoe has dropped."

Concierge medicine offers consumers improved access to a doctor for a fee of about \$1,800 a year for SignatureMD or MDVIP care. (That charge comes on top of their insurance coverage and any other costs not covered by insurance.)

In effect, patients agree to pay up in order to get greater access to a less-stressed doctor. Features of the service include a yearly physical exam and same-day or next-day appointments. Other perks: You can text your doctor a picture of what ails you or connect your physician with your personal trainer.

Concierge doctors winnow their loads down to perhaps 200-300 patients but at most about 600, much less than the 2,000 or so many other physicians carry.

The concierge companies put doctors' practices through a screening process to determine if the switch will work. That process includes polling patients to find out how many would be willing to pay. The companies take a portion of the quarterly or annual fee – often about 33 percent – in exchange for services to doctors including marketing and legal support.

SignatureMD has 25 employees and has grown quickly. The company expects to generate total fees from patients of \$27 million this year, up from about \$5 million just a few years ago.

"The whole market has grown," said SignatureMD's Jacobson. "This is a niche market, but a growing niche market."

Jacobson launched SignatureMD in 2007 with \$300,000 after leaving his previous job at Zenith Insurance Co., an L.A. workers' compensation insurer.

It's unclear whether the rules of engagement in this new market might be changed by the lawsuit.

Max Blecher, an antitrust lawyer and founding partner at Blecher Collins Pepperman & Joye in downtown Los Angeles and who is not involved in the case, said MDVIP could be a candidate for antitrust scrutiny based on its high market share. But he added that SignatureMD will need to rely on more than the noncompete to make its case.

"Normally, monopolizing behavior would be more than a covenant not to compete," he said.

Regardless of the companies' feud, Concierge Medicine Today's Tetreault said the future of concierge medicine will depend on whether patients find it worth the money.

"What is going to drive concierge is consumer demand," he said.