



## ***The Liability Implications of Healthcare Reform***

# About Advisen:

*Advisen Ltd. is a privately-owned, independent and unbiased provider of news, data and risk analytics to the commercial insurance industry.*

**Advisen's mission is to deliver productivity and insight to insurance professionals. Advisen brings greater success through technology and data, revolutionizing the way the commercial insurance industry functions. Our customers leverage the Advisen platform, adding power to their proprietary ability and bringing value to their clients.**

**Please locate us on: [www.advisen.com](http://www.advisen.com)**

# Many Thanks to our Sponsor!

**OneBeacon**  
PROFESSIONAL INSURANCE®

# The Liability Implications of Healthcare Reform

<http://corner.advisen.com>

- **White Paper- Coming soon!**
- Copy of these **slides**
- **Recording** of today's webinar

# Today's Moderator



**David Bradford-** President, Research & Editorial Group, Advisen Ltd.

# High Costs of Healthcare



“Your health insurance has limited surgical coverage, but you’d be amazed at what I can do with nail clippers and duct tape.”

# Today's Panelists



**Kim Holmes**, Vice President – Product Development,  
OneBeacon Professional Insurance



**Beth Berger**, Area Senior Vice President,  
Gallagher Healthcare

# Today's Panelists



## **Kim Holmes**, Vice President – Product Development, OneBeacon Professional Insurance

Kim Holmes is responsible for overseeing the OBPI Product Development process, including the design and delivery of new and revised products and coverage solutions as well as the development and oversight of consistent, efficient processes across each of OBPI's customer groups and industry segments. Kim provides technical guidance to each of OBPI's business divisions including Health Care, Professional Liability, Management Liability and Financial Services and in collaboration with division business leaders both plans and releases to market new and revised product launches.

Kim's extensive and diverse background in the industry includes tenure as the Deputy Worldwide Health Care Product Manager at Chubb Specialty Insurance from 2004-2014; Senior Claims Attorney at Chubb Specialty Insurance from 1999 to 2004, and prior to Chubb Kim was a litigation associate with the national labor & employment law firm of Jackson Lewis LLP. Kim is admitted to the Connecticut federal, state and Maine bars, and is a frequent speaker at regional and national industry conferences and training events.



# Today's Panelists



**Beth Berger**, Area Senior Vice President,  
Gallagher Healthcare

Beth Berger is the National Director for Gallagher's Healthcare Practice. She joined AJG in 1997 and has focused primarily on Hospitals, Healthcare Facilities, Integrated Programs and Complex Risks. Ms. Berger has an extensive property and casualty background serving in various commercial lines, sales, service, consulting and marketing positions within Gallagher. As a healthcare industry specialist she works with Gallagher offices across the country on providing risk solutions for Integrated Healthcare Systems, Healthcare Providers, and Healthcare Associations.

Ms. Berger specializes in tailoring casualty programs which address each client's unique exposures and complex risks. Her 25+ year insurance background includes risk analysis, program design, marketing and account coordination of conventional as well as alternative risk finance products. She has achieved her Certified Insurance Counselor (CIC) and Registered Professional Liability Underwriter (RPLU) Designations. She is part of the Risk Services Committee for the National Renal Administrators Association GPO and is currently a member of the Healthcare Finance Management Association (HFMA), the American Society of Healthcare Risk Management (ASHRM), the American Academy of House Call Physicians and the National Association of Professional Women (NAPW). Ms. Berger was recently awarded the 2013/2014 Woman of the Year Award by the NAPW for her work in the insurance industry.

***Can you outline some of the most significant changes now taking place in healthcare delivery in America, and explain what is motivating these changes?***



**Dave Bradford-** Advisen Ltd.



**Kim Holmes,** Vice  
President – Product  
Development, OneBeacon  
Professional Insurance



**Beth Berger,** Area Senior  
Vice President,  
Gallagher Healthcare

## **Changes already underway even before passage of the Affordable Care Act...**

- Increasing hospital affiliations, joint venture agreements and M&A activity
- Growth in allied health care sector
- Increasing trend of the “employed” physician
- Heightened government oversight – antitrust scrutiny & regulatory audits

***Medicare ACOs seem to be succeeding in lowering costs. Can you explain how the model works and why it may be an effective way to both improve care and contain costs?***



**Dave Bradford-** Advisen Ltd.



**Kim Holmes,** Vice  
President – Product  
Development, OneBeacon  
Professional Insurance



**Beth Berger,** Area Senior  
Vice President,  
Gallagher Healthcare

## What's an ACO?

### According to CMS:

“Accountable Care Organizations (ACOs) are groups of doctors, hospitals, and other health care providers, who come together voluntarily to give coordinated high quality care to their Medicare patients. The goal of coordinated care is to ensure that patients, especially the chronically ill, get the right care at the right time, while avoiding unnecessary duplication of services and preventing medical errors. When an ACO succeeds both in both delivering high-quality care and spending health care dollars more wisely, it will **share in the savings** it achieves for the Medicare program.”

- Types of ACOs:
  - Medicare
    - Medicare Shared Savings Program (MSSP)
    - Advanced Payment Model
  - Commercial Market (Private Insurers/Payers Health Systems)
  - Pioneer ACO's

***There was a surge in claims against MCOs in the 1990s asserting that they prioritized cost savings over quality care. Can we expect similar claims against ACOs?***



**Dave Bradford-** Advisen Ltd.



**Kim Holmes,** Vice  
President – Product  
Development, OneBeacon  
Professional Insurance



**Beth Berger,** Area Senior  
Vice President,  
Gallagher Healthcare

***Does the rapid increase in the number of hospital-employed physicians  
create new challenges for hospital risk managers?***



**Dave Bradford-** Advisen Ltd.



**Kim Holmes,** Vice  
President – Product  
Development, OneBeacon  
Professional Insurance



**Beth Berger,** Area Senior  
Vice President,  
Gallagher Healthcare

***How might the growing shortage of physicians impact ACO strategies and liability exposures?***



**Dave Bradford-** Advisen Ltd.



**Kim Holmes,** Vice  
President – Product  
Development, OneBeacon  
Professional Insurance



**Beth Berger,** Area Senior  
Vice President,  
Gallagher Healthcare



## *What liability risks may arise from new ACO payment models?*



**Dave Bradford-** Advisen Ltd.



**Kim Holmes,** Vice  
President – Product  
Development, OneBeacon  
Professional Insurance



**Beth Berger,** Area Senior  
Vice President,  
Gallagher Healthcare

***What types of new liability exposures does a more expansive concept of a hospital pose?***



**Dave Bradford-** Advisen Ltd.



**Kim Holmes,** Vice  
President – Product  
Development, OneBeacon  
Professional Insurance



**Beth Berger,** Area Senior  
Vice President,  
Gallagher Healthcare

## ***What are the benefits of EHRs? Do they create new liability risks?***



**Dave Bradford-** Advisen Ltd.



**Kim Holmes,** Vice  
President – Product  
Development, OneBeacon  
Professional Insurance



**Beth Berger,** Area Senior  
Vice President,  
Gallagher Healthcare

## **Under the HITECH Final Rule:**

Business Associates (Third Party Vendors, Service Providers) who store, transmit, and essentially handle protected health information (PHI) in any way may now be held directly liable under the HITECH Act

## **BUT...**

Covered Entities, regardless of agreements with Business Associates, always remain liable for a PHI breach

***What are the risk management and insurance implications of consolidation within the healthcare sector?***



**Dave Bradford-** Advisen Ltd.



**Kim Holmes,** Vice  
President – Product  
Development, OneBeacon  
Professional Insurance



**Beth Berger,** Area Senior  
Vice President,  
Gallagher Healthcare

***What are some of the risk management strategies used to address these liability issues?***



**Dave Bradford-** Advisen Ltd.



**Kim Holmes,** Vice  
President – Product  
Development, OneBeacon  
Professional Insurance



**Beth Berger,** Area Senior  
Vice President,  
Gallagher Healthcare

## ***How are insurance products evolving to meet the changing exposures of healthcare organizations?***



**Dave Bradford-** Advisen Ltd.



**Kim Holmes,** Vice  
President – Product  
Development, OneBeacon  
Professional Insurance



**Beth Berger,** Area Senior  
Vice President,  
Gallagher Healthcare

# Many Thanks to our Sponsor!

OneBeacon  
PROFESSIONAL INSURANCE®



# Thank You to our Panelists!



**Kim Holmes**, Vice President – Product Development,  
OneBeacon Professional Insurance



**Beth Berger**, Area Senior Vice President,  
Gallagher Healthcare

# Upcoming Advisen Webinars

Visit [http://corner.advisen.com/advisen\\_webinars.html](http://corner.advisen.com/advisen_webinars.html)  
for the 2014 Webinar Schedule

# Upcoming Advisen Conferences

Visit [http://corner.advisen.com/advisen\\_conference.html](http://corner.advisen.com/advisen_conference.html) for the 2014 Webinar Schedule



*Date: Tuesday, March 11, 2:00 PM PDT*

<http://events.Signup4.com/AdvisenCyberInsightsSanFran2014>

---



*Date: Thursday, March 27, 8:00 AM EDT*

<http://events.Signup4.com/AdvisenCasualtyInsights2014>

## How to reach us:

**Advisen Ltd.**

1430 Broadway

8<sup>th</sup> Floor

New York, NY 10018

[www.advisen.com](http://www.advisen.com)

Voice: +1.212.897.4800

Fax: +1.212.972.3999

support@advisen.com