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LABORATORY ECONOMICS

Competitive Market Analysis For Laboratory Management Decision Makers

PALMETTO LIKELY TO REVISE MDx TEST PRICING

There is good news for molecular diagnostic laboratories! In recent meetings with The California Clinical Laboratory Association (CCLA), Medicare carrier Palmetto GBA has indicated that their new gap-fill rates for 100+ new molecular diagnostic test codes are preliminary and could be revised before being submitted to CMS.

"We are now cautiously optimistic that Palmetto will engage in a more transparent process going forward. We have submitted additional data to Palmetto on behalf of CCLA and individual labs will be submitting additional data," says Mike Arnold, executive director of CCLA.

"The original pricing we have seen is an initial foray and they are open to receiving comments and supporting cost data, which apparently they have been getting a lot of," adds Rina Wolf, vice president at the billing management firm XIFIN Inc. *Continued on page 3.*

AURORA DIAGNOSTICS HIRES "CRISIS MANAGEMENT" EXPERT

Jon Hart has resigned as the president and CEO of Aurora Diagnostics (Palm Beach Gardens, FL) effective March 11. Aurora has hired Daniel Crowley, age 65, as its new president and CEO. Crowley is the founder and principal of Dynamic Healthcare Solutions (DHS-Sacramento, CA), a consulting firm that specializes in corporate turnarounds, managing crises and restructuring debt. *Continued on page 2.*

BIO-REFERENCE BUYS TWO LABS IN FLORIDA

Bio-Reference Laboratories Inc. (BRLI-Elmwood Park, NJ) has purchased two small clinical labs in Florida: Florida Clinical Lab and Meridian Clinical Lab. The acquisitions coincide with the launch of BRLI's new laboratory service, Laboratorio Buena Salud, aimed at the Spanish-speaking population. The Hispanic population in Florida is the third largest in the nation. More than 4.2 million Hispanics reside in Florida, representing 23% of the state's population. "We're buying in Florida because we really thought it was a good place to build out a Spanish-first service," Marc Grodman, MD, chief executive of BRLI, told investors on a February 28 conference call. In addition, Grodman noted that with the Affordable Care Act, tens of thousands of people in Hispanic communities across the country will have access to health insurance, and Bio-Reference will now have an infrastructure in place to deal with this new demand. *Continued on page 2.*

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BIO-REFERENCE BUYS TWO LABS IN FLORIDA (*cont'd from page 1*)

BRLI acquired Florida Clinical Lab (FCL-Melbourne, FL) on December 31. Established in 2002, FCL specializes in drug screening, paternity testing and nursing homes. The Purchase price was $7 million, including $6 million in cash plus $1 million in deferred payments (paid $500K after 9 months+$500K after 18 months). A $150,000 bonus will be paid if FCL keeps its BCBS of Florida contract for at least 18 months. FCL former owners, Gregg Sargent and Craig Deligdish, MD, have signed 5-year non-compete contracts.

BRLI said in documents submitted to the Brevard County Commission that it is considering expanding in Melbourne, adding 130 jobs within the next year with additional hiring possible in the following two years. The company also proposed expanding their lab by 15,000 square feet and making an $11 million capital investment, including $1 million on building improvements and $10 million on new laboratory equipment.

In a separate deal, BRLI acquired Meridian Clinical Lab (Miami) on December 21 from owners Maria and Carlos Acosta. The purchase price was $1.85 million, including $1.6 million cash and $250,000 deferred for 1 year. In addition, BRLI will pay $250,000 more if Meridian maintains its BCBS of Florida contract for at least 18 months. Meridian is a routine clinical lab established in 2000.

Importance of BCBS Contracts

BRLI's two recent acquisitions underscore the importance of insurance contracts. Last year, the Blue Cross Blue Shield Assn. and many of its member plans placed new billing requirements on out-of-network labs.

Previously, BCBS plans allowed a lab test to be billed where the test was performed. This allowed a reference lab to receive an out-of-state patient specimen and then bill and receive payment from their local BCBS plan. This allowed reference labs to operate with contractual relations with their local Blues plan only. However, BCBS plans now require lab tests to be billed where the specimen was drawn, rather than where they are performed. The change in payment policy has been especially hard on reference labs that market their services nationally and receive samples from distant BCBS members. These labs are finding it hard to collect payment from BCBS plans that they are not contracted with.

BRLI's two acquisitions in Florida give it a platform for the company's new Laboratorio Buena Salud program and also ensure in-network status with BCBS of Florida.

AURORA HIRES "CRISIS MANAGEMENT" EXPERT (*cont'd from page 1*)

In connection with the hiring of Crowley, Aurora has agreed to pay DHS a monthly fee of $100,000. In addition, DHS will receive a "success fee" if Aurora is sold.

Aurora is struggling. In the nine months ended September 30, 2012, the company reported a net loss of $116.1 million on revenue of $211.2 million. The company has more than $300 million in long-term debt outstanding requiring interest payments of more than $30 million per year. The company held only $5.7 million of cash as of September 30.

Aurora is a physician practice management firm that owns 21 pathology practices and employs more than 100 pathologists. Aurora is owned by the private equity firms Summit Partners and KRG Capital Partners.

PALMETTO LIKELY TO REVISE MDx TEST PRICING (*cont'd from p. 1*)

Arnold says that one of the most important revelations which came to light during a March 14 teleconference with Palmetto was that the carrier had revised some of the coding for MDx tests without any laboratory input or justification.

"What that means is that the 'stacking codes' used for individual tests were changed to leave out some of the steps which the lab community feels are essential in performing the particular tests. Thus, the pricing level was adjusted downward due to the change in the number of procedures in the 'code stack' that are needed to perform a test. Such changes, without laboratory input or some other type of empirical justification simply makes no sense. We are hopeful Palmetto will correct this approach by returning to the coding used by the industry—with pricing reflecting that coding," says Arnold.

Laboratory Economics has calculated that Palmetto's initial MDx test pricing was, on average, 25% to 30% below the median reimbursement labs had previously received under code-stacking (see *LE*, February 2013, p. 1).

Meanwhile, CGS Administrators, which processes Medicare Part B claims in Ohio and Kentucky, has priced the new MDx test codes, on average, at approximately 20% below the code-stack median.

And it appears as if Noridian Administrative Services has simply priced the new MDx codes at 90% of the CGS rates. Noridian is the Part B carrier for 10 states, including Oregon, Washington, Utah and Arizona. In addition, Noridian is scheduled to replace Palmetto as the Part B carrier in Jurisdiction E (California, Nevada and Hawaii) later this year.

Part B carriers have been asked to submit their gap-fill MDx test prices to CMS by April 1. CMS is scheduled to post interim contractor-specific amounts on the CMS website by April 30.

MDx Test Price Comparision

CPT Code	Test Description	Code-Stack Median	Cahaba	CGS	Noridian	Palmetto
81210	BRAF Gene Mutation	$84	$123	$58	$51	$58
81223	Cystic Fibrosis Full Sequence	1,365	1,200	NA	NA	1,554
81225	CYP2C19 Genotype	386	305	135	121	135
81226	CYP2D6 Genotype	563	50	148	132	148
81227	CYP2C9 Genotype	344	50	97	87	97
81235	EGFR Mutation Analysis	523	123	116	104	116
81256	Hereditary Hemachromatosis	82	50	70	63	70
81275	KRAS Mutation Analysis	284	235	226	202	226
81291	MTHFR DNA Analysis	82	50	93	83	93
81301	Microsatellite Instability	311	235	321	287	321
81350	UGT1A1 Genotyping	108	123	NA	NA	59
81401	TPMT Genotype	117	140	278	NA	103

Source: *Laboratory Economics* and XIFIN Inc.

AMA, McKESSON PARTNER TO PINPOINT MDx TESTS FOR PAYERS

McKesson and the American Medical Association (AMA) have entered into a licensing partnership to create a registry for the growing list of molecular tests. The agreement calls for McKesson to group and index its Z-Code Identifiers with their corresponding molecular pathology codes in the AMA's Current Procedural Terminology (CPT) code set.

"The combination of Z-Codes and CPT codes will take confusion out of the market," says Robert Musacchio, PhD, senior vice president, business products and services at the AMA. He says that molecular test coding has become a top priority at the AMA. "Sixty-five percent of the business discussed at the last AMA meeting was about molecular diagnostics," says Musacchio.

McKesson began assigning Z-Codes (5-character, alpha-numeric codes starting with the letter Z) to molecular tests in January 2012. To date, approximately 3,000 unique Z-Codes have been assigned to 3,000 unique tests offered by labs, according to Matt Zubiller, vice president, decision management at McKesson Health Solutions. He estimates that there are a total of more than 10,000 unique molecular tests being offered by labs today.

Zubiller says the new reference guide will help payers make coverage and reimbursement decisions. For example, he notes that there are dozens of different cystic fibrosis genetic screening tests being marketed by labs today. The Z-Codes provide added information on the method and analytes tested by each CF test to help payers distinguish between tests, according to Zubiller.

The integrated Z-Code/CPT guide will be available for payers to license sometime in early 2014.

DIGNITY HEALTH TO SELL ITS OUTREACH LAB BUSINESS

Dignity Health (San Francisco, CA) has put its clinical laboratory outreach service up for sale. Hospital-based labs will not be involved in the sale. Dignity said the service line is more likely "to stay competitive" in a post-health reform environment if the labs are run by an organization that focuses exclusively on lab services.

Dignity Health, formerly named Catholic Healthcare West, operates 40 hospitals in California, Nevada and Arizona.

Dignity's outreach business is centered at HealthCare Clinical Laboratories (HCCL-Stockton, CA). HCCL is a department of Dignity's St. Joseph's Medical Center. HCCL operates a 26,000-square-foot central lab in Stockton with more than 350 employees. HCCL serves as the reference lab for 37 Dignity Health hospitals as well as for physician offices, nursing homes, IPAs, and dialysis centers throughout California. Estimated collected revenue is $30+ million per year.

Potential buyers could include LabCorp and Sonic Healthcare. Quest Diagnostics might also be a potential buyer, although antitrust issues could hinder any potential acquisition in California, observes *Laboratory Economics*.

Dignity Health said that additional information should be available in the next few weeks.

PATHOLOGY INSTITUTE HIGHLIGHTS

Nearly 175 pathologists and executives gathered in Fort Lauderdale, February 28-March 1, for the second annual Pathology Institute conference put together by *Laboratory Economics* and G2 Intelligence. The conference featured revealing presentations from some heavy hitters in pathology. Here are some highlights:

Vivek Khare, MD, Business Manager for **The Delta Pathology Group** (Shreveport, LA), said Delta Pathology has increased its histology volume from 60,000 cases in 2003 to 155,000 cases in 2012—an average growth rate of more than 10% per year. Delta Pathology also processes about 60,000 Pap tests per year and has an affiliated clinical lab, Omega Diagnostics, which performs 1.4 million billable tests per year.

Vivek Khare, MD

Khare said that Delta Pathology has grown despite competition from the national labs, insourcing by specialty groups and Medicaid reimbursement cuts. You didn't have to be too business savvy to be successful when the outpatient pathology market was growing by 7% per year, but the next few years will be a lot tougher, according to Khare.

Khare said that Delta will consolidate its four main labs into three labs to mitigate the 52% rate cut in the technical component of CPT 88305. He estimates that the cost savings from consolidation will offset 70% to 80% of the revenue loss from the rate cut.

He said that Delta will also continue to acquire clinical labs from hospitals. Over the past 10 years, Delta has acquired seven clinical labs from hospitals in Louisiana. Late last year, it acquired the hospital lab at West Jefferson Medical Center. Khare said that Delta continues to look for both anatomic and clinical labs to acquire.

Khare noted that Delta Pathology has funded its growth without incurring debt or raising money from outside investors. Delta has 31 pathologists and is wholly physician-owned. It is managed by an executive committee comprised of eight pathologists.

Delta Pathology at a Glance

Histology cases per year	155,000
Pap tests per year	60,000
Omega Diagnostics: billable tests	1.4M
Employees	500+
Pathologists	31
Hospital contracts	50+

Source: Delta Pathology

Karim Sirgi, MD, President of **Unipath PC** (Denver, CO), sold its histology lab operations to American Pathology Partners (APP-Brentwood, TN) in late 2008. APP acquired the technical lab and signed a 15-year contract for professional services with Unipath's pathologists. APP provides and bills for technical services, while Unipath's pathologists provide and bill for professional services. Hospital contracts are still held by Unipath PC.

Karim Sirgi, MD

Prior to the APP deal, Unipath had buyout offers from several interested parties, according to Sirgi. But he said the proposals all sounded the same: "We buy you, we own you, and we set the agenda for the future."

APP's acquisition offer allowed pathologist independence to be preserved. Sirgi said that Unipath PC has maintained its autonomy and the practice determines pathologist compensation and productivity parameters. Sirgi said APP and Unipath PC collaborate on operational and strategic matters through a Joint Strategic Board with equal representation and membership.

Since the transaction, APP invested $1.4 million to build a new molecular lab and enlarged the flow cytometry lab in Denver. APP has also expanded the sales team from six reps to 21 reps and hired additional pathology assistants and grossing technical staff.

Since 2008, Unipath PC has hired seven pathologists and now has a total of 28 pathologists, including new specialists in renal pathology and GI. Unipath currently processes more than 100,000 histology cases per year.

Sirgi said, "Yes. We would do it again." However, Sirgi did note that there are challenges and questions. These include: 1) although the technical lab was sold, management duties of the PC leadership have increased, necessitating allocation of administrative time to the leaders; and 2) APP is owned by private equity investors and its "exit strategy" is not well-defined and often a topic of inquiry from new pathologist recruits.

And how will APP and Unipath adjust to the new reimbursement environment? Sirgi said APP/Unipath will continue to grow despite the 88305-TC rate cut. "We have no plans for head-count reductions at this point, but are managing our operating expenses very carefully and diligently."

Unipath/APP at a Glance

Pathologists	28
Supporting staff	170
Sales and marketing	21
Hospital contracts	12
Surgery centers	7
Referring doctors	1,541

Source: Unipath PC

John Cochran, MD, Medical Director at **Chestatee Pathology Associates PC** (Atlanta, GA), said, "An in-office pathology lab, like any lab, is only as good as the pathologist behind it." Chestatee has helped open 15 physician office labs over the past five years, including 11 clinical labs and four anatomic pathology labs.

Cochran founded Chestatee Pathology in 2004. The group specializes in podiatry, oral/ENT and GI pathology, and currently includes nine pathologists and a neurologist.

Chestatee Pathology helped open its first in-office pathology lab at Village Podiatry Group (VPG-Smyrna, GA) in 2007. VPG received slide-prep services from Emory Adventist Hospital and Chestatee Pathology read slides onsite at VPG's office. Previously, VPG had sent its pathology work to Quest and LabCorp. The benefits of having an in-office lab included faster TAT and greater communication between clinician and pathologist, according to Cochran.

Cochran and some local investors bought VPG's in-office lab business in December 2009 and now operate it as an independent freestanding lab named Pathology Lab of Georgia (PLG-Decatur). Initially, PLG focused on podiatric pathology, but has expanded into Oral/ENT and GI pathology and now has several hundred clients from around the country.

Cochran believes that Aetna's new accreditation requirement for in-office pathology testing (CAP or Joint Commission, effective April 1) will ensure that these labs meet or exceed CMS standards. He is hopeful that other insurers (e.g., Cigna and WellPoint) will follow Aetna's lead.

"My contention is that in-office pathology labs are not going to go away any time soon, that the recent barriers to entry (cuts in TC, accreditation requirement, etc.) are good for the system, and that pathologists need to consider these entities as viable adjuncts to their legacy hospital contracts and independent labs," according to Cochran.

Philip Chen, MD, PhD, Chief of Clinical Pathology and Director of Pathology Informatics at **University of Miami**, said the new model of healthcare payment that is approach-

ing quickest is bundled payment by episode of care (inclusive of hospital, professional, lab, imaging, pharmacy and ambulatory care services). The accountable care organization (ACO) model is more complex and will be harder to implement, according to Chen.


Philip Chen, MD, PhD

The big question, of course, is "How will providers be paid under a bundle payment system?" Chen said payment "bundles" will result in reduced fees with payments to providers likely to be based on some form of IPPS/DRG's and OPPS/APC methods.

He urged pathology groups and labs to develop automatic flagging systems and critical results and evidence-based test ordering algorithms. "If we don't, our colleagues and competitors will," warned Chen.

Tom Rehwald, Chief Financial Officer at **InCyte Pathology** (Spokane, WA), said that InCyte and Eastside Pathology (Bellevue, WA) merged effective January 1. Goals of the merger include growth in the greater Seattle market, economies of scale and greater depth in sub-specialties (e.g., hemepath and dermatopathology). The combined company has 35 pathologists and 200 employees. The new board of directors has six members from InCyte and three from Eastside.


Tom Rehwald

Rehwald said that one of the biggest hurdles was agreeing on the new compensation, benefits and bonus program at the merged company. Near-term goals include selection and installation of a digital pathology system, the addition of flow cytometry, and expanding the molecular test menu. In addition, InCyte's inhouse billing staff will integrate Eastside's billing (now outsourced to PSA/McKesson).

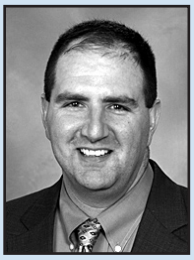
Dan Angress, Chief Commercial Officer at **PathCentral** (Irvine, CA), said the typical pathology group has 1-5 pathologists and is dependent primarily on their hospital contract(s). He added that although the typical pathology group has the capacity to add work, most do not have an active marketing or sales program.


Dan Angress

Angress said a small pathology group could hypothetically hire a sales rep and start a marketing program for less than $150,000 per year. He said that the revenue added by winning just one new physician group client of three doctors would be an estimated $150,000 to $300,000 per year.

So why don't more small pathology groups actively market their services? "Inertia. They've got a head-in-the-sand mentality," answered Angress.

Keith Kaplan, MD, Chief Information Officer at **Carolinas Pathology Group** (Charlotte, NC), said that right now the FDA views digital imaging systems as a Class III device requiring premarket approval. But he said that there is growing recognition by regulators and payers that digital pathology images are at least equal to or better than the traditional microscope-based pathology. Kaplan is hopeful that the FDA may someday view digital imaging systems as a Class II device, which would allow labs to use digital pathology for primary H&E diagnosis as a self-validated laboratory-developed test (LDT).


Keith Kaplan, MD

However, Kaplan said that digital pathology will never eliminate histology or glass slides, and payers are not likely to provide any extra reimbursement for slide scanning.

Several digital pathology manufacturers have

received FDA 510(k) clearance for specific quantitative IHC assays, including HER2, ER/PR, Ki-67 and P53. "I think we are just skimming the surface for digital pathology applications in IHC quantification," said Kaplan. In particular, Kaplan said that digital pathology allows a pathologist to look at multiple IHC stains on a single slide.

Kaplan believes the next IHC image analysis assay to reach the lab market could be for EGFR. He also sees potential for digital pathology tests linked with targeted therapies, including ALK-1 for lung cancer and p16 for cervical, head and neck cancers.

Carolinas Pathology, which includes 28 pathologists covering 12 hospitals in NC and SC, currently uses digital pathology for immediate fine needle aspiration interpretations, peer review, expert consultation, quality assurance, management conferences, tumor boards, case archival and image analysis.

Diana Voorhees, President of **DV & Associates** (Salt Lake City, UT), shed light on the new interim code G0452 for physician interpretation of a molecular test. She noted the reimbursement rate was $19-$20 with no APC allowable. The interpretation must be requested by the patient's attending physician and result in a written narrative report in the patient's medical record. Geneticists and non-physician lab personnel cannot bill for G0452. Voorhees noted that CMS is monitoring utilization of G0452 and plans to reassess whether this temporary code is necessary, and if so, in conjunction with which molecular tests.

Diana Voorhees

James Crawford, MD, PhD, Senior Vice President for Laboratory Services at **North Shore-LIJ Health System** (Long Island, NY), noted that the recent sale of UMass Laboratories to Quest Diagnostics shows that even academic medical center labs are not sacrosanct.

James Crawford, MD, PhD

"You have to have competitive costs and the benchmark is the national labs," said Crawford. He said that North Shore-LIJ has a goal of reducing its lab expenses by 30% over the next five years.

Ray Sukumar, MD, Medical Director at **Doctors Pathology Services** (Dover, DE), ended his contract with Beebe Medical Center in 2003 in order to gain freedom from working under the bureaucracy of a hospital and pursue his vision for mobile pathology services.

DPS currently operates a 10,000-square-foot freestanding lab as well as four CLIA-certified vans that provide intraoperative consultations at 25 ambulatory surgery centers (ASCs) in Delaware, New Jersey, Maryland and Pennsylvania. DPS has 50 employees, including five pathologists.

Sukumar said it costs more than $200,000 to purchase and equip each Mercedes-Benz Sprinter Cargo Van. Each van is equipped with a Leica Cryotome cryostat, cabinet (grossing), cabinet (special waste), microscope with vibration control, staining equipment and two large fans for fresh air. The vans are driven by the pathologist and generally visit one ASC in the morning and a second ASC in the afternoon.

Services provided by the DPS mobile vans, or mobile intraoperative consultation service (MICS), include frozen sections, fine needle aspiration biopsies and STAT IHC for sentinel nodes. Sukumar said that the onsite service allows surgeons to increase patient volume and revenue. As a result, ASC clients typically send all the rest of their pathology work to DPS's freestanding lab, according to Sukumar.

DPS bills insurance carriers directly for its mobile pathology services. Sukumar noted that DPS saves payers money because there is no hospital facility fee.

DPS has patented its mobile pathology service and is now marketing it to other pathology groups.

PATHOLOGY INSTITUTE M&A HIGHLIGHTS

Pathology Institute 2013 also featured a Mergers & Acquisition Workshop that focused on valuation trends and the legal details that go into the sale of a pathology lab. Here are a few highlights from some of the speakers:

Tim Johnson, managing director at the private equity firm **England & Company** (Washington, DC), said private equity investors have become more selective over the past year and pathology lab valuations have declined. He said that labs need to have at least $10-20 million of annual revenue to get interest from private equity investors.

Tim Johnson

Johnson noted that acquisitions have always fueled growth at Quest Diagnostics and LabCorp. But there are only seven publicly traded lab companies left for Quest Diagnostics or LabCorp to buy.

When considering acquisitions, Quest and LabCorp focus on revenue that can be consolidated into lower-cost operations. Gaining access to insurance contracts has also become extremely valuable to buyers, according to Johnson.

Johnson advised lab sellers to think past the payday at the transaction close. "How will you feel if your lab is shut down or if you're working for people you don't necessarily like?" he asked.

Rick Cooper, member at the law firm **McDonald Hopkins**, said the biggest concern of buyers is that they'll acquire a lab with a regulatory or compliance "ticking time bomb." He noted that in stock-for-stock mergers, the buyer is liable for every compliance problem at the company they acquire—even those that occurred prior to the acquisition close date. The dollars at risk can be incredible given the penalties for false claims, kickbacks and Stark rule violations, said Cooper.

Rick Cooper

Proper licensure is also a key issue. "If your lab is receiving specimens from a particular state, then you need to be licensed in that state," noted Cooper.

Another big concern is proper financial accounting. Buyers want to see that reported revenue matches the amount of cash that is actually going into the bank, said Cooper.

He advised sellers to "Take care of any problems now. Don't leave it up to the buyers to find out during due diligence. It will damage a deal."

John Hennegan, Vice President, **Shore Capital Partners LLC** (Chicago), said his private equity firm met with 50 different pathology groups and labs before choosing ClearPath Diagnostics (Syracuse, NY). Shore Capital began negotiations with ClearPath's three pathologist partners in June 2010 and finalized the transaction in September 2011.

ClearPath is focused on Pap testing and related add-on tests. Since the transaction, ClearPath has upgraded its LIS, added sales reps and expanded its IHC test menu, according to Hennegan. Late last year, ClearPath hired a new chief executive, Jack Finn, former CEO of Centrex Clinical Laboratories.

If you can grow your lab to annual revenue of $25 million or more, then you get on the radar screen of most private equity investors, said Hennegan. "And the larger the lab company, the higher the multiple that will be paid for it."

MERGER & ACQUISITION SUMMARY FOR 2012

An estimated $460 million was spent on 15 lab acquisitions in 2012. LabCorp spent a total of $332.2 million on acquisitions last year. Its biggest transaction was the purchase of Medtox Scientific (St. Paul, MN) for $241 million in July 2012.

Quest Diagnostics completed one deal last year, buying SED Medical Labs (Albuquerque, NM) for $50.5 million in January 2012.

Bio-Reference Labs completed the acquisitions of two labs in Florida late last year (*see pages 1-2*).

Together, Quest and LabCorp have spent a total of $8.9 billion on acquisitions over the past 10 years. Acquisitions accounted for the majority of revenue growth at each company between 2003 and 2012.

Laboratory Merger & Acquisition Summary, January 2012-January 2013 ($ millions)

Date	Buyer	Target	Purchase Price	Acquired Revenue	Price/ Revenue
Jan-13	Initial Public Offering	LipoScience	$125*	$55	2.3
Jan-13	Quest Diagnostics	UMass Labs	NA	NA	NA
Jan-13	Access Genetics	OralDNA Labs	NA	NA	NA
Jan-13	InCyte Pathology	Eastside Pathology	NA	NA	NA
Dec-12	Sterling Reference Labs	SECON of New England	NA	NA	NA
Dec-12	Sterling Reference Labs	Graham-Massey Analytical Labs	NA	NA	NA
Dec-12	Ascend Clinical LLC	PathCentral Lab	NA	NA	NA
Dec-12	Selah Genomics	Lab21 (South Carolina labs)	NA	NA	NA
Dec-12	Bio-Reference Labs	Florida Clinical Lab	7	NA	NA
Dec-12	Bio-Reference Labs	Meridian Clinical Lab	1.9	NA	NA
Dec-12	OPKO Health	Prost-Data/OURLab	40	NA	NA
Jul-12	LabCorp	Medtox Scientific	241	108	2.2
Jun-12	Genova Diagnostics	Metametrix	NA	NA	NA
Apr-12	Waud Capital	Sterling Reference Lab	NA	15	NA
Apr-12	US Clinical Labs	Prestige Laboratory	NA	NA	NA
Mar-12	PathGroup	Atlanta Dermatopathology	NA	5	NA
Feb-12	Sonic Healthcare USA	Bridger Pathology Labs	NA	NA	NA
Jan-12	LabCorp	Millennium Laboratory	NA	10	NA
Jan-12	Quest Diagnostics	SED Medical Labs	50.5	50	1.0

*Market value of LipoScience at IPO price of $9 per share

Source: *Laboratory Economics*

LABCORP SEEKS TO PREVENT UNION VOTE

LabCorp has filed a lawsuit against the National Labor Relations Board (NLRB) to try to prevent the labor board from enforcing a previous order allowing a union organizing election among some workers in northern New Jersey. The case (1:13-cv-00276-RBW) was filed in the U.S. Court of Appeals for the District of Columbia on March 1.

In mid-January, the National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO (District 1199J) filed a petition with the NLRB seeking to be certified as the exclusive bargaining representative of patient service technicians and patient center site coordinators employed by LabCorp in northern New Jersey. District 1199J's proposed bargaining unit consists of 276 employees, approximately half of whom work in individual physician offices and half of whom work in LabCorp PSCs.

LabCorp contends that NLRB and its delegates lack the authority to order an election or certify an election because of a federal appeals court decision that found President Obama's NLRB board appointments unconstitutional. The court ruled in January that the president violated the Constitution when he bypassed the Senate to fill three board vacancies, making his appointees illegitimate and leaving the board without a quorum.

On February 26, a regional NLRB director denied LabCorp's motion to dismiss 1199J's petition. The regional director "strongly disagree[d]" with the D.C. Circuit's holding that the NLRB board lacked a quorum, and concluded that the board was able and should continue to perform its functions. LabCorp was ordered to provide a list of eligible employee voters and their addresses within 7 days. The decision indicated that an election date would be set by an additional forthcoming order.

LabCorp claims that the NLRB's regional director did not have the authority to order an election and is causing harm to LabCorp for several reasons, including creating a division between the company's patient service center employees and management. LabCorp has asked the D.C. Court of Appeals to enjoin the NLRB from enforcing its February 26 order until such time as it has the authority to do so.

TENNESSEE IS LATEST STATE TO BAN EHR DONATIONS

Tennessee Attorney General Robert E. Cooper, Jr., has confirmed that the Tennessee Medical Laboratory Act prohibits a clinical lab from making an electronic health record (EHR) donation to a referring physician and that the federal safe harbor for EHR donations does not preempt the state's anti-kickback law.

"A medical laboratory licensed by the State of Tennessee may not lawfully make a monetary donation to a physician to cover the cost of software designed to manage a physician's electronic health records when the physician's office that receives the EHR donation either continues an existing referral arrangement with the donating laboratory or subsequently initiates an arrangement," wrote the Tennessee AG.

The AG issued the opinion in a letter to Tennessee State Senator Doug Overbey. The College of American Pathologists (CAP) and the Tennessee Society of Pathologists appealed to Senator Overbey for assistance after the Tennessee Clinical Laboratory Board, which held two hearings on the matter, did not issue an opinion.

Seven states, TN, WV, NY, NJ, PA, MO and WA, now limit or forbid EHR donations. The federal safe harbor for EHR donations is scheduled to sunset December 31, 2013.

LAB STOCKS UP 1% YTD

Ten lab stocks have risen by an unweighted average of 1% year to date through March 18. In comparison, the S&P 500 Index is up 9% and the Nasdaq is up 8%. The top-performing lab stocks so far this year are NeoGenomics, up 42%, followed by LipoScience, which had an IPO on Jan. 25 and is up 10%. LabCorp shares are up 2% and Quest Diagnostics is down 5%.

Company (ticker)	Stock Price 3/18/13	Stock Price 12/31/12	Price Change	Market Capitalization ($ millions)	P/E Ratio	Price/ Sales	Price/ Book
Bio-Reference (BRLI)	$26.95	$28.63	-6%	$745	17.3	1.1	3.2
CombiMatrix (CBMX)	3.40	5.28	-36%	4	NA	0.7	1.3
Enzo Biochem (ENZ)	2.72	2.70	1%	107	NA	1.1	2.3
Genomic Health (GHDX)	28.40	27.24	4%	855	113.6	3.6	6.9
LabCorp (LH)	88.38	86.62	2%	8,228	14.1	1.5	3.1
LipoScience (LPDX)	9.86	9.00	10%	141	NA	2.6	NA
Myriad Genetics (MYGN)	25.80	27.25	-5%	2,056	17.5	3.9	3.2
NeoGenomics (NEO)	3.51	2.48	42%	169	NA	2.6	17.2
Psychemedics (PMD)	11.61	10.75	8%	60	20.0	2.4	5.4
Quest Diagnostics (DGX)	55.52	58.27	-5%	8,784	12.5	1.2	2.1
Unweighted Averages			**1%**	**$21,149**	**32.5**	**2.1**	**5.0**

Source: Bloomberg

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