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Polsinelli's health care practice has expanded from Washington, D.C., to Los Angeles. But will the move to high-cost markets harm its midwestern price advantage?

HEALTHY LIVING

By Ross Todd

PHOTOGRAPHS BY COLBY LYSNE

CHICAGO HEALTH CARE PARTNER Fredric Entin was frank with the Polsinelli leaders who came up from Kansas City, Missouri, in an attempt to lure him away from Foley & Lardner in 2008: He hadn't even heard of their firm prior to receiving a call from a headhunter. But Entin listened to Polsinelli's plan to take advantage of the firm's concentration of lawyers in low-overhead markets, such as Kansas City and St. Louis, to compete for price-sensitive health care work.

The firm had 18 health care lawyers in Missouri and only occasionally handled assignments outside the Midwest. But if they could offer more comprehensive services than regional firm—and at lower rates than national firms—Polsinelli's leaders thought they could grow the practice area. The pitch was aspirational, to be sure, but Entin bought it and joined Polsinelli in April 2008.

The hire of Entin, the firm's first health care lawyer in Chicago, was clearly a milestone for Polsinelli. Five years later, the firm's health care practice has about 80 lawyers spread across offices from Washington, D.C., to Los Angeles—including nine other former Foley lawyers who have joined in Chicago since Entin's move.

The practice accounts for about 20 percent of annual revenues, up from 2 percent in the middle of the past decade. Health care is home to some of Polsinelli's most important client relationships, including the practice's second-largest client, Irvine, California–based St. Joseph Health. Entin, who brought St. Joseph with him from Foley & Lardner, says, "In five years I've seen [the health care practice] go from trying to convince people to come to us to now, where we're a destination, and people are seeking us out."

That's not the only important change the firm has seen in the last few years. While many large law firms retrenched postrecession, Polsinelli has dramatically added to its ranks [see "The Haves and Have-Nots," page 38]. In early 2009, longtime firm chair W. Russell Welsh oversaw a transformative merger with 180-lawyer Kansas City neighbor Shughart Thomson & Kilroy, bolstering the firm's countercyclical litigation practice and expanding the firm westward into Denver and Phoenix. (Polsinelli already had offices in St. Louis, Washington, D.C., Chicago, Wilmington, and New York, as well as small regional outposts in Kansas, Missouri, and Illinois.)

The firm's Kansas City cost structure and focus on representing middle-market clients also helped recruit laterals from larger firms seeking relief from rate pressure, including bankruptcy, private equity/M&A, and patent litigation partners from K&L Gates; environmental, litigation, and health care partners from Bryan Cave; and individual partners from Hunton & Williams, McDermott Will & Emery, and McGuireWoods. Polsinelli has been one of the most acquisitive firms in The Am Law 200, ranking among the top 10 firms in lateral partner (Polsinelli calls them "shareholders") hires in the past two years.

This explosive growth in footprint and head

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count has paid off. In 2008 Polsinelli posted gross revenue of $113.5 million and had fewer than 300 lawyers. Gross revenue hit $275.5 million last year, up nearly 150 percent since 2008. As of May 1, the firm had 645 attorneys. Polsinelli's compound annual growth rates for revenue per lawyer and profits per equity partner over the same period—5.7 percent and 7.6 percent, respectively—have noticeably outpaced the Second Hundred averages of 1 percent and 1.8 percent. (Still, Polsinelli's current RPL of $480,000 and PPP of $610,000 sit below the Second Hundred averages of $611,658 and $695,576.)

The firm hopes to get even bigger despite the risks involved. Polsinelli's strategic plan includes growing health care by a few dozen additional lawyers as well as increasing its real estate, science and technology, energy, and business litigation practices. While the firm wants to expand into higher cost markets, such as Chicago, New York, Los Angeles, Dallas, and Washington, D.C., those hires will be limited. To maintain its advantageous cost structure, Welsh says the majority of Polsinelli's growth will likely be in the firm's lower-cost locales of St. Louis, Denver, and Phoenix. "Lateral candidates ask us all the time, 'How can you continue to grow at this rate?' " Welsh says. "It's the pace we've come to live with."

THE POLSINELLI FIRM has always stood out in Kansas City. In 1972 James Polsinelli and colleagues set up shop at Country Club Plaza, or "The Plaza," as locals call it. The firm was the first to move to the open-air shopping district about four miles south of downtown. "We're not tradition-bound," says business chair Frank Ross Jr., who joined the firm as its ninth lawyer in 1980. "It's not like [we say], 'Well, we've always done it this way,' because the fact is, we may never have done whatever 'it' is."

In 1986 the corporate-focused firm recruited Welsh, then a litigator at Lathrop & Gage predecessor Gage & Tucker to help build the firm's trial practice. There was some concern among partners that his practice focused on product liability work rather than commercial litigation. "They were struggling over [it, saying], 'We don't want to grow over 25 lawyers,' and 'This will make us too big,' " says Welsh, grinning at the irony. A little more than a decade later, in 1998, partners elected Welsh the firm's second managing partner. Now 63, he campaigned on a growth platform with plans to hire patent lawyers to serve a new research institute in Kansas City and to expand the firm's St. Louis office.

Early in Welsh's tenure, Polsinelli recruited an eight-lawyer group from Lathrop led by Daniel Flanigan. His team handled everything to do with debt—from origination to securitization, from servicing loans to enforcing them in bankruptcy proceedings—and Polsinelli allowed Flanigan to build an entire department dedicated to financial services. The practice became the first at the firm to show that Polsinelli could serve a national client after Flanigan's chief client—Kansas City–based commercial mortgage bank National Realty Funding—was bought by Cleveland's KeyCorp in 2000. E.J. Burke, National Realty's president at the time, says his counterparts at Key told him the first thing they would do after buying his company was fire his Polsinelli lawyers. But Burke, now the executive vice president of KeyBank Real Estate Capital, says, "Thirteen years later, they're doing more work [for us], not less."

Building on that relationship, Polsinelli won work from a string of loan originators and servicers. Flanigan, 65, currently chairs Polsinelli's financial services and real estate department, home to more than 145 lawyers and about 30 percent of annual revenues. Financial services ultimately drove the firm's 2006 expansion to Chicago. The city has become an important hub for Polsinelli's national health care expansion.

Welsh says he realized that health care providers could be great clients after the firm represented the University of Kansas Hospital as it was spun out of the school in 1998. "It's a very integrating practice," says Welsh, noting that health care clients require employment, benefits, real estate, tax, and financing advice on top of their sophisticated regulatory needs. The firm had only six health care lawyers in 2002, when Ross first raised the idea of building a national practice. Consolidation in the industry and the ever-changing, complex web of regulations that govern it meant that regional firms would likely have trouble keeping up with clients' sophisticated legal needs. At the same time, the constant squeeze on Medicare reimbursements and insurance payments meant tight profit margins for health care provider clients and little appetite for increasing rates. "In the early part of the

HEALTH CARE CHAIR MATTHEW MURER SAYS THE GROUP PLANS TO ADD 30–50 LAWYERS OVER THE NEXT FIVE YEARS.

2000s, we saw that Am Law 50 firms were pricing themselves out of the market for the day-to-day work for health care clients," Welsh says. "We saw opportunity that required investment in personnel."

But it wasn't until the heart of the recession that Polsinelli's pitch gained traction with large-firm laterals. Since Entin joined in 2008, Polsinelli has hired another nine former Foley health care lawyers. In 2011 Polsinelli added 11 health care lawyers from Faegre & Benson (now Faegre Baker Daniels) in Denver and seven from Bryan Cave in 2012. Polsinelli has also added individual hires from McDermott Will & Emery and McGuireWoods, as well as partners from smaller regional firms that see consolidation in the industry making their clients's legal needs more national in scope. Health care practice group chair Matthew Murer, himself a former Foley & Lardner partner, says he expects to add an additional 30–50 health care lawyers over the next five years in specialties like the firm's compliance and health information and health technology group.

Daniel Reinberg, a former Foley & Lardner health care partner who joined Polsinelli in 2009, says that the recession and rate pressure from clients were a big reason he moved to his new firm. "A lot of clients I worked with started asking themselves, 'In a down economy, why would we ever pay rates for the kinds of work that these firms are [charging]?'" says Reinberg, whose hourly rate dropped by about $100 when he moved to Polsinelli. More importantly, he says, the rates of Polsinelli colleagues helping to serve his health care clients—many in Kansas City and St. Louis—lowered the effective blended rate that those clients pay. As these clients consolidate their outside legal work, those blended rates become more important, Reinberg says. He points to Polsinelli's current biggest client, Englewood, Colorado–based Catholic Health Initiative, a client he had previously represented at Foley & Lardner. Polsinelli won the spot as the primary outside counsel for CHI through a competitive bidding process in 2010, and Reinberg now spends about half his time managing that relationship.

CHI GC Mitch Melfi says, "A national law firm with midwestern rates—that was attractive to us." He adds, "We were looking for a firm that was willing to work with us and be creative in terms of managing the legal spend. They worked for it and have continued to work for it." Polsinelli's fixed-fee arrangement with CHI covers everything but transactions, which are budgeted individually. Melfi says that in the first two years the overall amount CHI spent on legal fees went up, in part because of a high volume of transactional work. But Melfi says CHI's cost per unit of service—an hourly rate equivalent—has dropped by 20 percent under the arrangement with Polsinelli. CHI accounts for about 7 percent of the firm's revenues, a high percentage for any such relationship, Welsh admits.

Polsinelli also has a preferred provider relationship (including transactions) with St. Joseph, Entin's largest client. (However, the health care company carved out labor and employment matters for separate bidding. Polsinelli lost out on that work to Ogletree, Deakins, Nash, Smoak & Stewart.) Still, St. Joseph's general counsel, Shannon Dwyer, says, "the intent is to have a long-term relationship, and both parties to the arrangement have the same goal in mind." Dwyer says the hospital system had a handshake agreement with firm leaders that Polsinelli would expand to Texas and California when the first two-year cycle of the relationship began in July 2010. The firm has since added four health care lawyers in Dallas and one in Los Angeles. But Dwyer says that she's had multiple conversations with Ross and Entin about striking the right balance between adding people in needed geographies and maintaining the firm's pricing structure. "A lot of [the work] can be done through the core team in the Midwest," Dwyer says. "I've cautioned them, 'Please don't go hire a bunch of high-priced California health care lawyers.' "

Welsh says the firm understands the delicate balance that it's trying to strike. "We know who we are," says Welsh, pointing out that the core of the firm's personnel and infrastructure costs are outside expensive markets like New York, Los Angeles, and San Francisco. The plan for now is to keep it that way.

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WITH THE KEYBANK RELATIONSHIP, FINANCIAL SERVICES CHAIR DANIEL FLANIGAN SHOWED THAT THE REGIONAL FIRM COULD SERVE A NATIONAL CLIENT.