

# The ACA Moving Target: How and When Will Health Reform Impact Employee Benefits



Presented by:

Tom Jacobs/MedHQ CEO &

John Merski Jr./MedHQ EVP of HR Services



# About Tom Jacobs

- ▶ President of MedHQ
- ▶ Works with over 50 physician affiliated organizations
- ▶ Current administrator of endoscopy center
- ▶ MBA, University of Notre Dame

# About John Merski Jr.

- ▶ Executive VP of HR Services
- ▶ Responsible for more than 1,000 employees at client facilities
- ▶ 30 years of experience in HR
- ▶ Master's of education with a specialization in administration, Bowling Green State University

# How and When Will Health Reform Impact Benefits

- ▶ Transition confusion
- ▶ Is my surgery center subject to the employer mandate?  
(Hint: depends on # of employees; but that's not all)
- ▶ If not, how else might my ASC's benefits plan be impacted?
- ▶ If a company must offer coverage, then "to whom must it be offered"?

# How and When Will Health Reform Impact Benefits (Cont'd)

- ▶ Insurance premium impacts
- ▶ Coverage design impacts
- ▶ Alternate strategies
- ▶ Marketplace uncertainty and other consequences
- ▶ What to look for in the days ahead

# Delays and Confused

- ▶ Nov. 15, 2012: Exchange deadline delayed — a decision it announced just one day before the original deadline.
- ▶ **July 2, 2013: Employer mandate delayed.**
- ▶ Nov. 21, 2013: Open enrollment delayed for 2015 enrollment season
- ▶ **Nov. 27, 2013: SHOP exchanges delayed indefinitely.**
- ▶ Dec. 12, 2013: Enrollment deadline extended for 1/1/2014 effective date.
- ▶ Dec. 24, 2013: Enrollment deadline for 1/1/2014 effective date extended.
- ▶ Jan. 14, 2014: High-risk pools extended for a second time.
- ▶ **Feb. 10, 2014: Employer mandate delayed for medium-sized businesses.**
- ▶ March 14, 2014: High-risk pools extended (third time).
- ▶ March 25, 2014: Final enrollment deadline extended.

# What is an Employer To Do?

- ▶ Figure out whether you're an “applicable large employer” (ALE)
- ▶ Figure out when you must comply (or face penalties)
- ▶ Decide whether you will comply
- ▶ Keep your eyes on the tea leaves

# Are you Small, Medium or Large?

- ▶ To determine your company's compliance circumstances, first determine if you're an "ALE"
  - Take the following steps:
  - Metric #1: Count total number of employees
  - Metric #2: Count total number for full-time employees and FT Equivalents



# Are you Small, Medium or Large?

## Metric #1

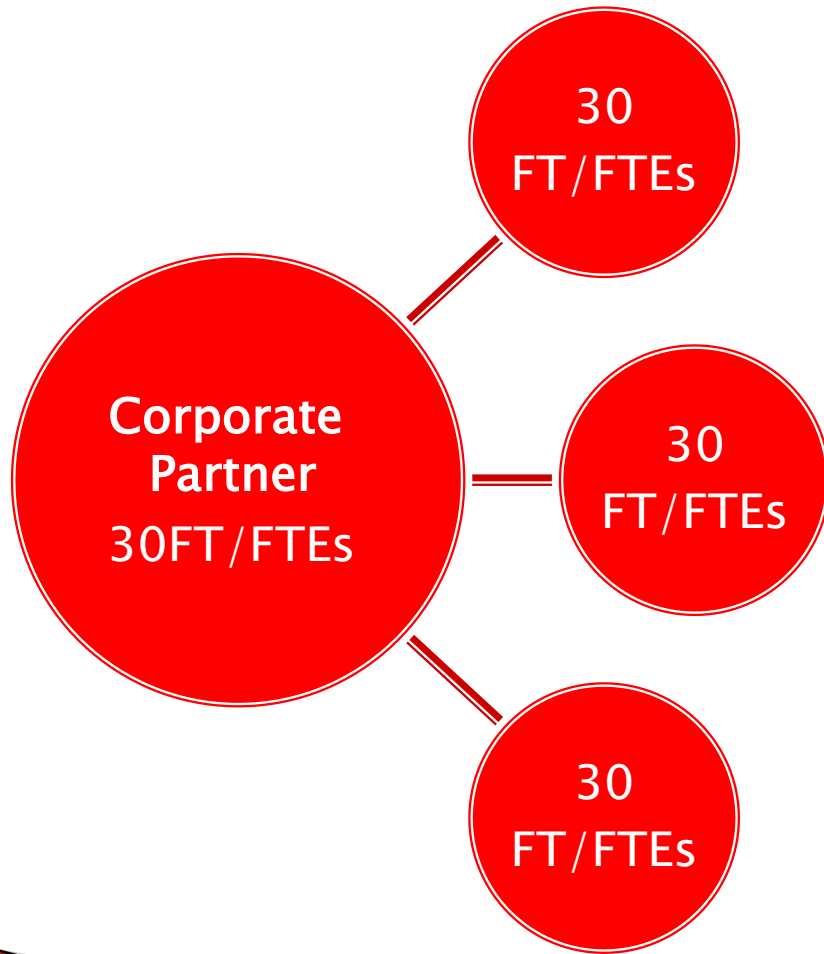
- ▶ **Determine whether you, as an employer, have access to the “large” or “small” group health insurance market**
  - Determine employer size based solely on # of common law employees, regardless of hours worked

# Are you Small, Medium or Large?

## Metric #2

- ▶ **Determine when and/or if you, as employer, have obligations under the employer mandate and related tax reporting requirements**
  - Determine employer size based on # of full-time employees and FT Equivalents
- ▶ **Also will determine employer's ability to participate in federally-facilitated SHOP exchange**

# Are these four companies ALE's? If so, when?

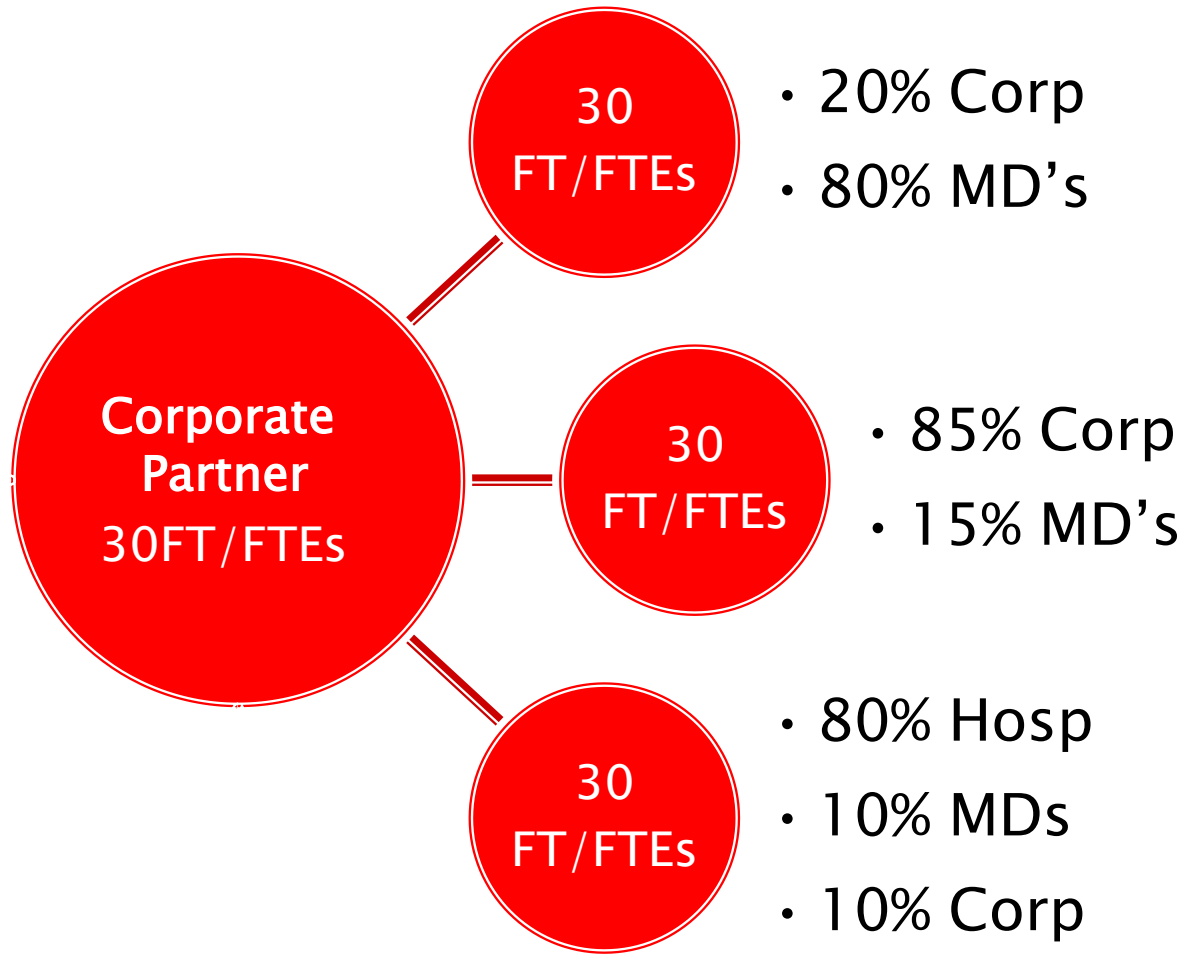


- 1 / 1 / 2014: Individual
- 1 / 1 / 2015: ALE  $\geq$  100
- 1 / 1 / 2016: ALE  $\geq$  50

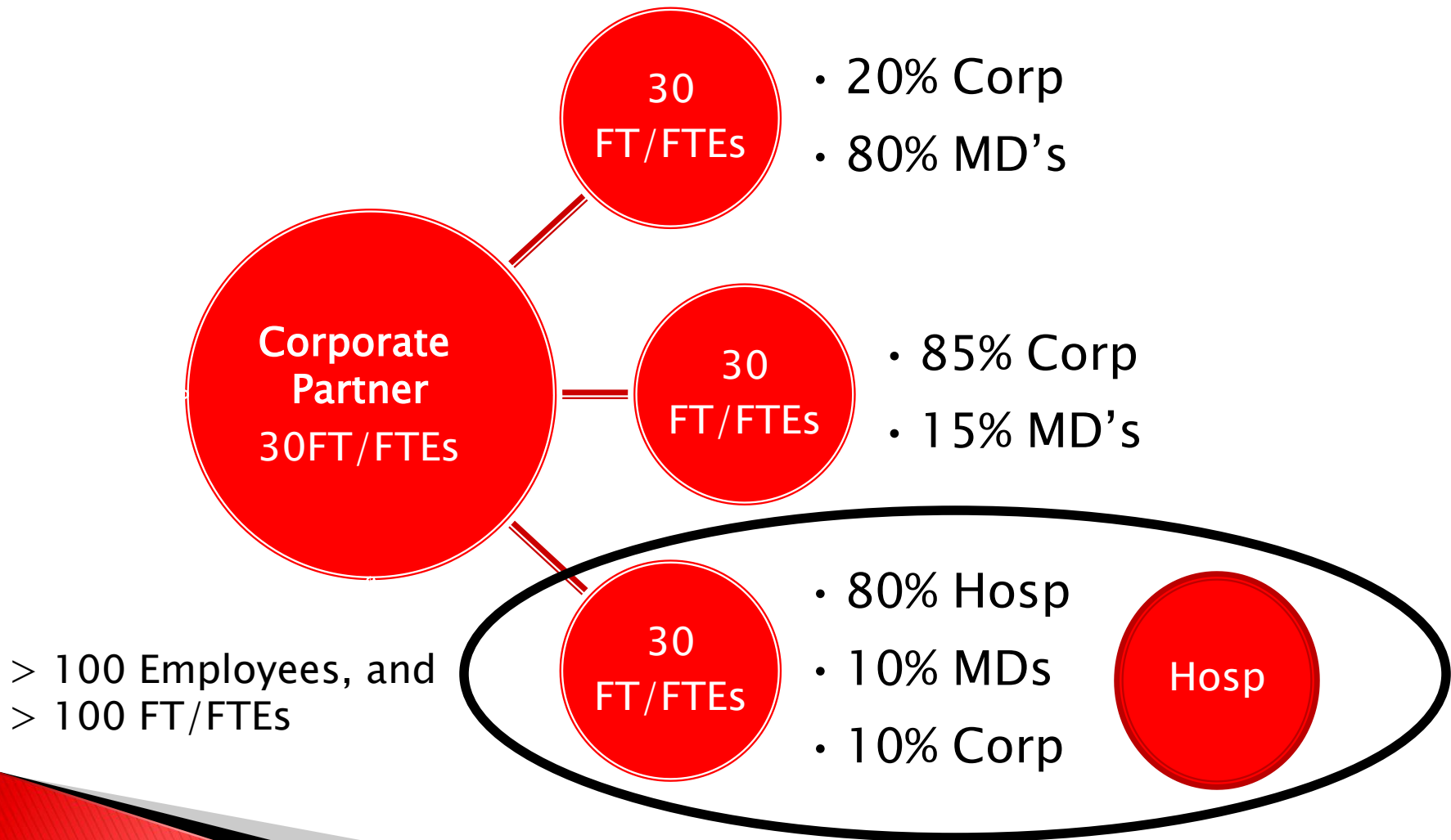
# But Wait! There's More!

- ▶ **However, we must take into account the “control group” issue:**
  - If one entity has at least 80% ownership of another entity
    - Must apply “control group” rule
    - Similar to 401(k)/pension plans

# Now, who's an ALE? (Given the following ownership %'s)

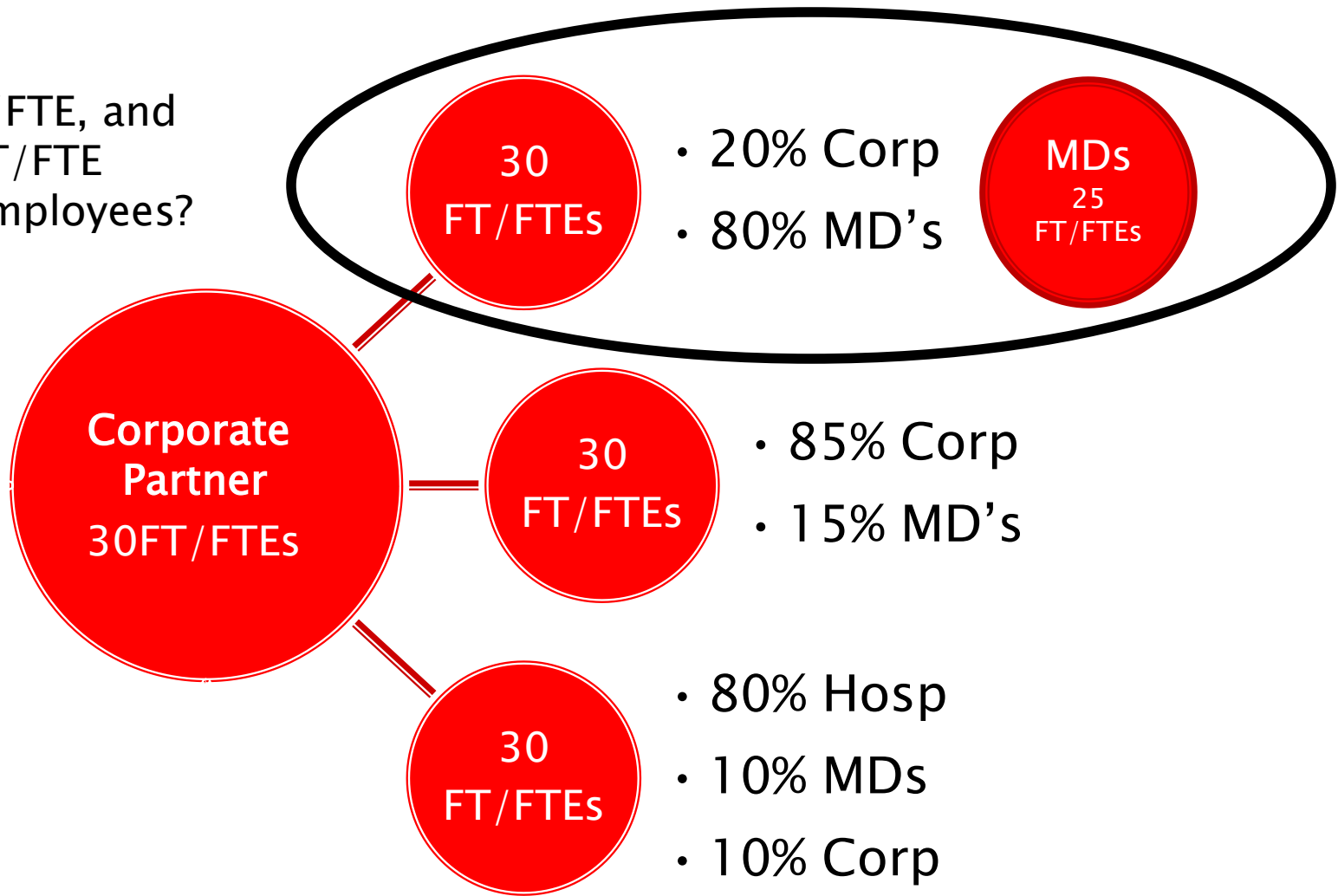


# Who is an ALE?



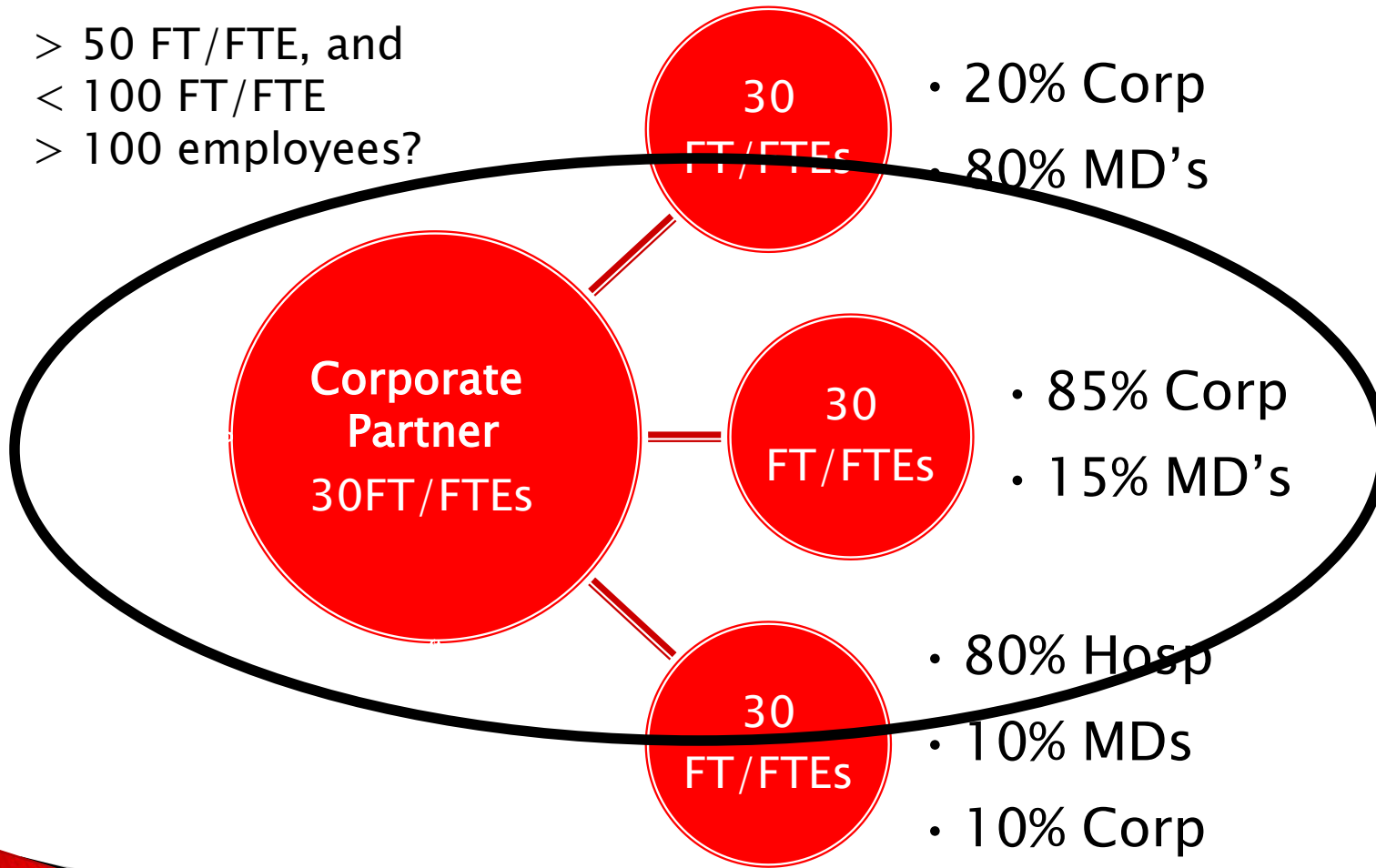
# Who is an ALE?

- > 50 FT/FTE, and
- < 100 FT/FTE
- > 100 employees?



# Who is an ALE?

- > 50 FT/FTE, and
- < 100 FT/FTE
- > 100 employees?





# And still, There's more...

## Metric #2

- ▶ **How to determine employer size under:**
- ▶ **Need to take the following steps:**
  1. For each calendar month last year:
    - Determine the client employer's number of full-time employees across its controlled group
    - Determine the client employer's number of full-time equivalent employees
  2. Add up the number of FTs and FTEs for all 12 months of last year and divide by 12

# Metric #2: FTs/FT Equivalents

## •Example:

FT = 120 hours/month

	Preceding Calendar Year												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
# Full-Time Employees	34	42	53	51	37	39	41	44	50	51	48	46	N/A
# FT Equivalents	12.6	12.9	10.3	10.5	14.2	12.3	9.3	10.0	10.3	13.2	12.8	13.2	N/A
Total Number	46.6	54.9	63.3	61.5	51.2	51.3	50.3	54.0	60.3	64.2	60.8	59.2	677.6
# of Full-Time Employees/Equivalents During the Preceding Calendar Year:													
677.6 divided by 12 = 56.47													

# Are you Small, Medium or Large?

► “Pay or Play” mandate originally @ 50+ EEs

<i>SEE NOTE BELOW</i>	Small (0–49)	Medium (50–99)	Large (100+)
Employer mandate	No	Yes 1/1/2016	Yes 1/1/2015
Individual mandate 1/1/2014	Options That Help Individual Comply with Mandate:		
	1. Small Group 2. Self Funding	1. Large Group 2. Self Funding 3. Skinny Plans	1. Large Group 2. Self Funding 3. Skinny Plans
M.E.C. (6055) tax reporting	Small Group: Insurer Self Funding: Employer	Large Group: Insurer Self Funding: Employer	Large Group: Insurer Self Funding: Employer
ER Mandate (6056) tax reporting	No	No reporting , but must file “cert of eligibility” for delay	Yes, applies to employer in all circumstances
Other	May offer HIPAA–Exempt Coverages; SHOP–eligible	Avoid small group rules; May offer HIPAA–Exempt Coverages; Might be SHOP–eligible	Limited transition relief for fiscal year plans

Note: This is “introductory” material. Specific details need thorough evaluation.

# What if I'm a large employer, but do not offer qualifying coverage?

- ▶ **Penalty #1** – If an applicable large employer does not offer ACA-compliant coverage to its full-time employees “(and their dependents)”, the employer must pay:
  - \$2,000 times the total number of *full-time employees* (FTE), minus 30.
  - If at least one FTE is receiving a premium assistance tax credit

# What if I'm a large employer, but do not offer qualifying coverage?

- ▶ **Penalty #2 – If a large employer offers coverage to their full-time employees and their dependents but is “unaffordable” or does not provide minimum value, employers face a penalty of:**
  - The lesser of \$3,000 x the number of FTs receiving a premium assistance tax credit or \$2,000 x the total number of FTEs
- ▶ Offer of coverage is enough; enrollment is not required

# Whom Must Be Offered Coverage?

- ▶ If you are an applicable large employer (ALE), you must offer coverage to full-time (FT) employees
  - *Different Definition!*
- ▶ Need to provide coverage to any full-time employee that works at least 30 hours per week *on average* for the month.

# Will PPACA Survive?

- ▶ Dramatic insurance premium increases
- ▶ Alternate strategies
- ▶ Marketplace uncertainty and other consequences
- ▶ What to look for in the days ahead

# Insurance Premiums Increase

- ▶ Individual market premiums see big increase in 2014:
  - 39% for individual coverage
  - 56% for family coverage
- ▶ For small groups, CMS Actuaries estimate 65% of them will be hit with higher premiums
  - Due solely to ACA rules requiring Guaranteed issue; Guaranteed renewability; and Rules that allow premium variances only for the following reasons:
    - Individual or family enrollment.
    - Geographic area
    - Age (variations cannot exceed 3:1 for adults)
    - Tobacco use (variations cannot exceed 1.5:1)



# Alternate Employer–Sponsored Health Plan Strategies

- ▶ Self–funding strategy
  - 71% of employers are either considering, or have adopted, a self–funding strategy
  - May avoid some minimum coverage requirements (EHBs)
  - Obama administration and some in Congress are trying to change ERISA to keep smallest employers out of self–funded arrangements.
- ▶ Private exchange strategy
  - 50% of employers are either considering or have adopted a private exchange strategy
  - A.K.A. defined contribution plans
- ▶ “skinny plans”
  - Provide Essential Health Benefits (EHB’s)
  - Considered “unaffordable”; and/or do not provide “minimum value”
  - Avoid penalty#1 (above), but not penalty#2

# PPACA Transition Confusion

- ▶ Relief for employers with more than 50 but fewer than 100 workers
- ▶ Definition of FT Employee changes for each purpose, and is complex
- ▶ Employers near 50 FTEs on 12/31/2014 have 3 months before determining if they fit in large employer category
- ▶ Scrutiny from Fed Gov for reducing size to <100 workers

# PPACA Transition Confusion

- ▶ Length of break in service required before a returning employee can be treated as new has doubled
- ▶ No clarity on when separation occurs in temp staffing industry
- ▶ Companies without dependent coverage have been given extra time to add dependents to plans

# Marketplace Uncertainty

- ▶ Consumer reaction to PPACA remains negative
  - Enrollment is difficult to nail down
  - Government is not reporting on premium payment status
  - Economists have no consensus on how PPACA will work in long-term.
  - Consensus building that major changes are needed
  - Congress still rigorously debating alternatives at this point; election-year stalemate
- ▶ Consumers don't understand HSAs
- ▶ SHOP exchanges not functioning in many states

# Marketplace Uncertainty and Unintended Consequences

- ▶ Property and casualty insurance markets affected
- ▶ What else?

# Developments to watch

## Direct Impacts:

- ▶ Individual and small group insurance rate increases are looming
- ▶ How many “young invincibles” will sign up?
- ▶ Will HHS give insurers flexibility with respect to bronze, silver, gold, platinum plan designs?
- ▶ Will Obama admin continue to water down the mandate?

# Developments to watch

## Indirect Impacts

- ▶ How big (or small) of a dent will be made in the population of uninsured Americans?
- ▶ Share price of big insurers; how much support from transition reinsurance fund?
- ▶ Will a plan emerge from Congress that attracts public support?
- ▶ Will employers stop offering company-sponsored health insurance?

# Developments to watch

## Emergent/Entrepreneurial Developments

- ▶ Emerging wellness product offerings and other (private) health plan market responses
- ▶ Will physicians and other providers (ASCs?) drop out of managed care networks?  
Concierge Medicine?



# Thank You



Presented by Tom Jacobs  
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708-492-0519

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4/2/2014