

Health Law and Transactions



The market demands for high quality, cost-effective healthcare legal services are on the rise. Constantly evolving trends, legislative and regulatory activity and litigation at the state, regional and federal levels require providers and other healthcare industry organizations be vigilant and proactive.

Jackson Lewis P.C. attorneys have extensive insight into the workings of the healthcare industry, allowing us to anticipate and respond to the complex rules governing the delivery, financing and regulation of providers and other healthcare industry organizations. We serve as collaborative business partners and advocates for our clients and strive to provide practical, innovative and solution-driven advice on challenging issues they face.

We regularly advise healthcare industry clients on the full range of health law issues listed below, and, critically, how those issues uniquely affect strategy and operations in all types of healthcare organizations and businesses.

Physician Arrangements

- Advising and counseling with respect to hospital/physician relationships in matters such as credentialing, hospital/medical staff governance, physician peer review, hospital/physician joint-employment issues and physician practice arrangements
- Drafting and interpreting various physician arrangements including employment, call-coverage, medical director, independent contractor, physician recruitment and exclusive provider arrangements
- Interpreting and navigating complex health laws such as the federal Anti-Kickback Statute (AKS) and Stark laws (Stark) applicable to physician arrangements

Corporate/ Regulatory Compliance

- Reviewing, preparing and operationalizing effective corporate compliance programs unique to the client's business
- Performing risk assessments and developing internal monitoring and auditing mechanisms based upon the client's unique risk areas and preparing corresponding plans of correction
- Conducting internal investigations relating to potential compliance violations, including whistleblower actions
- Assisting clients with regulatory audits, self-disclosures, enforcement actions, detection and return of overpayments

Health Care Transactions and Contracting

- Creating innovative solutions in healthcare transactions to assure compliance with applicable federal and state healthcare laws such as AKS, Stark, False Claims Act (FCA), EMTALA and CMS conditions of participation
- Representing healthcare providers purchasing or selling a medical practice, shares of a professional service corporation (PC) or membership interests of a professional limited liability company (PLLC)
- Advising hospitals, physicians and other healthcare providers with regard to commercial leasing
- Preparing management services agreements for captive or friendly arrangements
- Advising, counseling and negotiating contracts with clinical providers, vendors, subcontractors and other entities with whom our clients do business

Patient Care and Ethics and Privacy/ Confidentiality

- Advising and counseling clients on difficult patient care matters pertaining to patient consent, advance directives, surrogate decision-making, end-of-life decision-making, guardianships, mandatory reporting and the implications of laws protecting vulnerable populations
- Addressing social determinants of health in the health care setting and beyond
- Collaborating with health industry providers to address population health management issues
- Advising on HIPAA/HITECH/state law compliance concerning data privacy and security, including risk assessments, policy drafting, training, data breach response
- Representing and advising clients in Office of Civil Rights investigations

Health Care Controversies

- Prosecuting and defending adversarial proceedings, including litigation and administrative proceedings involving healthcare providers, credentialing and disciplinary proceedings, employment non-competition and non-solicitation agreements, employee raiding claims, unfair competition claims and other employment-related business torts
- Representing healthcare providers in matters of reimbursement, compliance and other regulatory matters before state and federal regulators in areas such as Patient Protection and Affordable Care Act compliance programs, AKS, Stark, FCA, EMTALA and off-label marketing
- Counseling and navigating Medicare/Medicaid fraud and abuse matters involving agencies such as Office of Medicaid Inspector General, Office of Inspector General, Medicaid Fraud Control Unit, Department of Health and the Office of the Attorney General
- Representing healthcare providers before state licensing boards and managing the collateral impact of state licensing agency and National Practitioner Databank reporting

Corporate and Business Law Matters

- Forming PCs and PLLCs, including preparation of all incorporation and governing documents
- Advising and counseling clients on corporate structures to be in compliance with corporate practice and fee-splitting prohibitions, including captive or friendly PCs or PLLCs and creating professional employer organizations or, if available, obtaining waivers
- Forming not-for-profit entities and obtaining tax-exempt status
- Representing not-for-profit entities in mergers, dissolutions, transfer of assets or other affiliation relationships
- Advising and counseling clients on matters relative to corporate governance and authority to act
- Drafting and maintaining organizational documents and corporate records, and conflicts of interest and whistleblower policies
- Providing highly effective and engaging education and training for Boards, senior leadership, management and medical staffs
- Advising not-for-profit clients regarding corporate reorganization

Employment

- Advising clients on mitigating joint-employer risk in connection with their subcontractors and temporary staff such as emergency department physicians and anesthesia service arrangements, dining and environmental services contractors, travelers and other temporary staff arrangements, including locum tenens
- Advising on OSHA compliance in the healthcare setting, addressing enforcement initiatives targeting nursing homes and long-term care facilities (e.g. ergonomics, tuberculosis and blood borne pathogens)

Members of our Health Law and Transactions Practice Group have extensive knowledge of legal, compliance and regulatory matters as a result of many decades of both in-house and outside-counsel experience. We serve as counselors and advisors to all types of healthcare providers and supporting organizations, including, hospitals, health systems, physicians and physician practices, health centers and clinics, nursing homes, long term care and senior services, health care payors, mobile health and technology developers, data analytics companies, home care agencies and healthcare trade associations.

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