

## Health Care

### Related Practices

Bankruptcy, Insolvency & Creditors' Rights

Government Investigations and Corporate Compliance

### Related Industries

Dental Service Organizations Industry Group

## Overview

Our attorneys represent a broad spectrum of health care clients (including facilities, practitioners and payors) regarding federal and state legal issues. Our years of experience with the health care industry provide us with an acute understanding of providers, as well as of the related businesses that are part of the health care system. We counsel clients on matters that are unique to the health care industry, as well as the broader corporate, tax, and regulatory matters that all U.S. business entities face today.

Our industry-specific services include:

### Fraud and Abuse/Self-Referral Regulation

- Analyze and structure transactions to comply with state and federal laws
- Compliance plans and training
- Structure compliant practitioner practice arrangements

### Enforcement Actions

- Civil and criminal false claim investigations and enforcement actions
- Qui tam (whistleblower) litigation
- Representation before the FTC, Department of Justice, federal and state legislatures and agencies
- Payor audits

### Licensure and Certification

- Secure initial Medicare certification for new providers
- Departicipation proceedings/draft plans of correction
- Licensure surveys
- Coordinate licensure and certification during changes of ownership
- Practitioner scope of practice issues

### Certificate of Need

- Develop CON strategy and conduct agency negotiations
- Prepare CON applications
- Advise regarding payor "evidence of necessity" requirements

### Accreditation

- Counsel regarding accreditation standards
- Represent clients in connection with denial and termination of accreditation

## **Third-Party Payment**

- Negotiate managed care and other payment contracts
- Medicare, Medicaid and payor payment disputes (internal appeals and litigation)
- Medicare PRRB appeals
- Analyze reimbursement consequences and related compliance issues
- Counsel regarding compliance with payor requirements

## **Managed Care**

- State and federal regulation of managed care organizations, including license and reserve requirements
- Provider and subscriber contracts
- Permissible risk and payment arrangements

## **Medical Staff**

- Medical staff bylaws and rules
- Policies (e.g. impaired practitioners and codes of conduct)
- Contested medical staff proceedings
- National Practitioner Data Bank and state reporting obligations

## **Financing**

- Income and property tax advice, including tax-exemption issues
- Tax-exempt and other financing
- Analysis of private use and change-of-use limitations
- FHA-Insured financing/ HUD Section 232 loans for long-term care facilities

## **Patient Care Issues**

- End-of-life care and medical ethics issues
- Consent policies and forms
- Specialized treatment issues (e.g. mental health, substance abuse, AIDS)
- Difficult discharge planning cases

## **Clinical Research**

- IRB compliance
- Research contracts
- FDA audits

## **Emergency Services**

- EMTALA requirements and enforcement proceedings
- Medical control authorities

## Professional Liability

- Litigation defense
- Draft and review policies to reduce liability risk

With regard to general corporate counsel to health care clients, Dykema lawyers assist clients with the following:

- Reorganizations, acquisitions, mergers, affiliations and joint ventures
- Representation before the FTC, Department of Justice, federal and state legislatures and agencies
- Securing and maintaining tax-exempt status
- Antitrust counsel on mergers, consolidations, joint ventures and physician contracts
- Income and property tax advice
- Contracts, including outsourcing contracts and educational affiliations
- Employment policies and litigation
- ERISA and related issues
- Federal and state campaign and lobbying statutes
- Intellectual property, such as patents, trademarks and service marks
- Joint and cooperative ventures with a broad range of entities
- Employment practices and litigation
- Labor issues, including collective bargaining and contract negotiation
- Real estate, land use, and construction matters

## Publications

"FCA and Statute of Limitations: A Puzzle for the Supreme Court"

March 2019

*Law Journal Newsletters - Business Crime Bulletins*

"Due Diligence in Distressed Community Hospitals"

August 1, 2018

*The Bankruptcy Strategist*

"New Roles for the Physician's Assistant and Advanced Practice Registered Nurse in Michigan," Co-Author

July 5, 2018

*State Bar of Michigan: Health Care Law Section*

"Assisted Reproductive Technology in Michigan: The Story of the Legal Tortoise and the Scientific Hare"

June/July 2018

*Michigan Family Law Journal*, Vol. 48 No. 6

"The Yates Memo and the Push for Individual Accountability," Co-Author

February 2017

*Journal of Health & Life Sciences Law*, Vol. 10, No. 2

"Protect Your Dental Practice from Government Scrutiny—Watch for Medicare and Medicaid Overpayments"

February 11, 2016

*DentistryIQ*

"Medical Practices Must Be Careful When Firing Incompetent Staff"

November 19, 2014

*Physicians News Digest*

Health Care (Cont.)

"Strategic Perspectives—California 'food court' dominates 2013 food litigation on misleading and deceptive labeling claims"  
December 2013

*Wolters Kluwer Health Law Daily*

Final HHS Regulations Regarding Exchange and Issuer Standards Relating to Coverage of Essential Health Benefits, Actuarial Value, and Accreditation Standards

May 2013

"Health Care Law After the Patient Protection and Affordable Care Act"

June 2011

*Michigan Bar Journal*

## Speaking Engagements

Webinar: Telemedicine in the COVID-19 Pandemic: What Has Changed and What Has Not

April 3, 2020

Key Compliance Issues for 2019

January 24, 2019

5th Annual Definitive Conference for Dental Service Organizations

July 18, 2018

The Intersection of Healthcare and Insolvency: Where Are We Now and Where Are We Heading?

June 19, 2018

Key Compliance Issues for 2018

January 24, 2018

4th Annual Definitive Conference for Dental Service Organizations

June 15, 2017

2017 Employer Health Plan Outlook and Compliance

April 20, 2017

Into the Matrix: Cyber/Data Risks and Insurance Issues for Health Care Providers

March 7, 2017

Trends In Health Care Fraud Enforcement Seminar

January 25, 2017

Key Compliance Issues for 2017

January 20, 2017

Key Compliance Issues for 2016

March 16, 2016

*Key Compliance Issues for 2016*

January 29, 2016

Key Compliance Issues for 2015

March 24, 2015

*Michigan Continuing Care Community Disclosure Act*, Presenter and Panelist, LeadingAge Michigan Living Care Disclosure Act Symposium

February 25, 2015

*Non-Physician Practitioners - What May They Do? What May They Bill?* Key Compliance Issues for 2015 Seminar

January 22, 2015

*Negotiating Managed Care Contracts With MCOs, ACOs and for Health Exchange Products*, Strafford Publications, (Co-Presenter)

November 11, 2014

Health Care (Cont.)

*Engineering a New Model of Physician Integration in SNFs*, Health Care Association of Michigan Annual Meeting, Grand Rapids, Michigan  
September 14, 2014

*Moving Forward on Accountable Care System*, Panel Participant, LeadingAge Michigan Annual Leadership Institute  
August 2014

*Federal Regulatory Update: HIPAA/HITECH & More*, DSO Conference  
May 15, 2014

*Federal Regulatory Health Care Regulatory Update*, Institute for Continuing Legal Education, Annual Health Law Institute  
March, 2014-2010

*Federal Regulatory Hot Topics*, Healthcare Financial Management Association, Michigan Fall Conference  
2014-2010

*Peer Review Confidentiality – How to Get It. How to Keep It.*, Michigan Association of Medical Staff Services Annual Meeting  
May 2014

*Compliance Issues in Corporate Transactions*, Healthcare Financial Management Association  
April 11, 2014

*HIPAA: Complaints, Investigations, and Audits*, Healthcare Financial Management Association  
April 11, 2014

*Health & Welfare Compliance*, Hylant Group Employee Summit  
2014

*Drugs and Devices - What's New*, (Co-Presenter), Institute of Continuing Legal Education  
March 7, 2014

*Laws and Regulations that Shape the Health Care System*, Oakwood Physician Leadership Academy  
March 2014 and August 2012

*Compassionate and Compliant End of Life Care in Skilled Nursing Facilities*, American Health Lawyers Association, Long-Term Care and the Law, Las Vegas, Nevada  
February 19-21, 2014

*Health Insurance Exchanges: A Brief Overview*, Strafford Publications (Co-Presenter)  
February 5, 2014

*HIPAA/HITECH Update for Physician Practices*, United Physicians, 2014 Winter Leadership Meeting, Pontiac, Michigan, February 4, 2014; and 2013 Office Manager Meeting, Bloomfield Hills, Michigan, December 3, 2013

*HIPAA: Complaints, Investigations, Audits (and Other Things That Go Bump In The Night)*, Health Care Financial Management Association, 2014 Key Compliance Issues, Bloomfield Hills, Michigan  
January 23, 2014

*Mergers and Acquisitions*, Healthcare Financial Management Association  
January 23, 2014

*Stark Law Update*, Key Compliance Issues for 2014  
January 23, 2014

*Home the Aged Regulatory Update*, Panelist, LeadingAge Michigan  
November 2013

*Federal Regulatory Hot Topics*, Healthcare Financial Management Association, West Michigan  
November 2013

*Managed Care Contracts in the Age of Health Care Reform*, Strafford Publications, (Co-Presenter)  
October 9, 2013

*The Nuts and Bolts of Managed Care*, American Health Lawyers Association, (Co-Presenter)  
September 19, 2013

Health Care (Cont.)

*Health Care Reform Update: Employer Guidelines for 2014*, Michigan Chamber of Commerce, (Co-Presenter)  
September 10, 12 and 17, 2013

*Hot Topics - SNFs*, American Health Lawyers Association Annual Meeting, San Diego, California  
July 1-3, 2013

*The Sunshine Act: How to Avoid Getting Burned by Health Care Reform*, American Bar Association, (Co-Presenter)  
June 4, 2013

*Impact of PPACA on Small Businesses*, Ann Arbor Small Business Association  
May 29, 2013

*Protection and Advocacy Systems: Self-Proclaimed Caped Crusaders or Strategic Allies?* LeadingAge Michigan Annual Meeting, Grand Rapids, Michigan  
May 20, 2013

*Certificate of Need—Understanding your Market*, LeadingAge Michigan  
April 25, 2013

*ZPIC Audits – What You Need to Know in 2013*, Michigan Association of CPAs Annual Health Care Conference  
April 2013

*Electronic Health Record and HIPAA Compliance*, Healthcare Financial Management Association, (Co-Presenter)  
March 12, 2013

*COBRA Audit Guidelines*, Lorman Educational Services  
2013

*Health Care Reform Update: Employer Guidelines for 2014*, Michigan Chambers of Commerce (Troy, Lansing and Novi)  
2013

*Impact of the ACA on Public Employers*, Rehmann Group  
2013

*Clinical Integration: A Vehicle for Hospital Benefits to Physicians? Key Compliance Issues for 2013*  
January 24, 2013 and March 12, 2013

*Purchasing, Handling and Transferring Prescription Drugs and Controlled Substances: Compliance Considerations*, Key Compliance Issues for 2013 Seminar  
January 24, 2013

*Compliance in Mergers and Acquisitions*, Healthcare Financial Management Association  
January 24, 2013

*Legal Overview: Impact of Health Reform on Drugs, Diagnostics and Device Companies*, West Michigan Science & Technology Institute, Grand Rapids, MI,  
December 27, 2012

*501(c) Not (3)*, TE/GE Council  
October 19, 2012

*Stark*, Plante Moran Healthcare Symposium  
October 2012

*Medicare Hot Topics: 3 Day Payment Window and Services Furnished Under Arrangements*, State Bar of Michigan Health Care Law Section Annual Meeting  
September 2012

*EHR Billing Compliance Issues*  
May 31, 2012

*Managed Care Contracting 101: Dissecting the Fundamentals for Litigators*, American Conference Institute  
May 21, 2012

Health Care (Cont.)

*Purchasing Physician Practices: What to Watch For Before and After the Closing*, Healthcare Financial Management Association, Michigan Spring Conference  
May 2012

*Key Compliance Issues for 2012*, 14th Annual Compliance Seminar Co-Sponsored by Dykema and HFMA  
March 28, 2012

*Health Law Fundamentals*, Institute of Continuing Legal Education  
March 2012

*Compliance Issues for Exempt Organizations*, Healthcare Financial Management Association,  
January 23, 2012 and March 24, 2012

*Key Compliance Issues for 2012*  
January 19, 2012

*What Is and Isn't Your Hospital?*, Key Compliance Issues for 2012  
January 19, 2012 and March 28, 2012

*More Hospitals Contemplating Consolidation in Era of Reform: A Case Study on Process and Outcomes*, Michigan Health & Hospital Association (Webinar)  
July 2011

*To Employ or Not to Employ? Lawyers' Perspective on Hospital-Physician Alignment*, Inforum Detroit  
June 2011

*Lessons Learned in Medical Staff Hearings and Appeals*, Michigan Association of Medical Staff Services Annual Meeting  
May 2011

*Healthcare Regulatory Update . . . Are You in Compliance*, Michigan Association of CPAs, Annual Health Care Conference  
April 2011

*Compliance Risks Now That You've Bought the Physician Practice*, Key Compliance Issues for 2011  
January 13, 2011

Key Compliance Issues for 2011

*Regulatory Update*, Michigan Association of Medical Staff Services, Annual Meeting  
April 2010

*FAQ: Hospital – Physician Arrangements*, Key Compliance Issues for 2010  
January 14, 2010

*Physician Alignment - Drug and Supply Resale Issues*, Key Compliance Issues for 2010  
January 14, 2010

Information about pre-2010 presentations is available upon request.