

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

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

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

Health Care (Cont.)

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

Health Care (Cont.)

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

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

Health Care (Cont.)

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.