The 30th Annual National Institute on Health and Welfare Benefit Plans

October 28-29, 2019

Ritz-Carlton, Pentagon City Hotel

1250 South Hayes Street, Arlington, VA

Early Bird Registration Deadline: October 1st
Hotel Registration Deadline: October 1st

To Register On-line or For More Information: www.americanbar.org/jceb/ (202) 662-8641

13.33 CLE Credit Hours have been requested from 60-minute states and 16.00 CLE Credit Hours have been requested from 50-minute states INCLUDING 2 HOURS OF ETHICS CREDIT
2019 HEALTH AND WELFARE BENEFIT PLANS
NATIONAL INSTITUTE
AGENDA (As of July 29)

MONDAY • October 28, 2019

7:00
REGISTRATION AND NETWORKING BREAKFAST OPENS

7:10 -9:00
OPTIONAL SESSION
THE NUTS AND BOLTS: AN INTRODUCTION TO ERISA WELFARE PLANS
This optional session is a basic overview of the key legal issues affecting ERISA health and welfare plans. It is designed for people relatively new to the benefits area or for those who simply want a quick refresher on the rules and legal issues.
Speakers: Jason Lacey, Program Co-Chair, Foulston Siefkin LLP
Linda R. Mendel, Program Co-Chair, Vorys Sater Seymour and Pease LLP
Vanessa A. Scott, Program Co-Chair, Eversheds Sutherland (US) LLP
Carolyn M. Trenda, Program Co-Chair, McGuireWoods LLP

9:00 - 9:15
BREAK

9:15 - 9:25
WELCOMING REMARKS FROM CO-CHAIRS
Co-Chairs: Jason Lacey, Program Co-Chair, Foulston Siefkin LLP
Linda R. Mendel, Program Co-Chair, Vorys Sater Seymour and Pease LLP
Vanessa A. Scott, Program Co-Chair, Eversheds Sutherland (US) LLP
Carolyn M. Trenda, Program Co-Chair, McGuireWoods LLP

9:25 - 10:15
A VIEW FROM THE HILL
This panel of health and welfare policy experts will share their insider insights and views on proposed and pending legislation and other happenings on the Hill while providing some thoughts on what may happen next.
Moderator: TBD
Speakers: Veena K. Murthy, Legislation Counsel, Joint Committee on Taxation, U.S. Congress
Others TBD

10:15 - 10:35
BREAK

10:35 - 11:50
TRI-AGENCY COMMENTARY ON HEALTH AND WELFARE UPDATES
This panel of Agency representatives will discuss the latest guidance for health and welfare plans.
Moderator: Jason Lacey, Program Co-Chair, Foulston Siefkin LLP
Speakers: Government Speakers from the U.S. Department of the Treasury, Internal Revenue Service, Department of Health and Human Services, and U.S. Department of Labor

11:50 - 1:30
LUNCHEON ADDRESS

1:30 - 2:00
AFFORDABLE CARE ACT LITIGATION UPDATE
This session will review the action in the Fifth Circuit case, Texas v United States, and discuss the defining arguments and issues such as standing, severability and the survivability of the Affordable Care Act.
Moderator: Carolyn M. Trenda, Program Co-Chair, McGuireWoods LLP
Speaker: Maame Gyamfi, AARP Foundation Litigation
2:00 - 3:00  
**DOL AUDIT AND ENFORCEMENT ACTIVITY**  
This panel will address issues facing health plan sponsors and service providers during Department of Labor (DOL) health investigations and audits. Panelists will discuss current enforcement focus areas for the DOL, navigating the investigation process, and best practices for working with the Employee Benefits Security Administration (EBSA). The panel will also discuss corrective action and the settlement agreement process.  
**Moderator:** Vanessa A. Scott, Program Co-Chair, Eversheds Sutherland (US) LLP  
**Speakers:** Suzanne Bach, USI Insurance  
Others TBD

3:00 - 3:20  
**BREAK**

3:20 - 4:10  
**SPD DRAFTING AND DISTRIBUTION**  
A carefully drafted summary plan description (SPD) can help participants understand their benefits, rights and responsibilities. It can also protect the plan sponsor in the event of a dispute. This session will provide tips on drafting an SPD that clearly and accurately reflects the health coverage that a plan sponsor intends to provide. This session will also discuss best practices for distributing the SPD and avoiding claims of misrepresentation.  
**Moderator/Speaker:** Linda R. Mendel, Vorys Sater Seymour and Pease LLP  
**Speakers:** Kathryn L. Bakich, The Segal Company  
Denise M. Clark, Clark Law Group, PLLC

4:10 - 5:10  
**ETHICAL CONSIDERATIONS FOR HEALTH AND WELFARE BENEFIT PLAN LAWYERS 2.0**  
Employers and plan sponsors face many ethical challenges when designing and maintaining health and welfare plans for their employees, though these are not as well-known as similar considerations affecting retirement plans. This session explores various fiduciary issues including the selection of providers or networks, financial incentives and disclosure, confidentiality of patient information and how both in-house and outside counsel should approach possible conflicts in the representation of health and welfare plans. The panel will discuss the principles and effects of legal ethics and pertinent sections of the Model Rules of Professional Conduct that may apply to these situations, including Rule 1.7 dealing with conflict of interest.  
**Moderator/Speaker:** Carolyn M. Trenda, McGuireWoods LLP  
**Speakers:** Jason Lacey, Foulston Siefkin LLP  
Others TBD

5:10  
**ADJOURN**

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**TUESDAY • October 29, 2019**

7:30 - 8:00  
**REGISTRATION AND NETWORKING BREAKFAST**

8:00 - 8:50  
**HOT TOPICS IN HEALTH AND WELFARE PLAN LITIGATION**  
**Moderator:** Carolyn M. Trenda, McGuireWoods LLP  
**Speakers:** Sara R. Pikofsky, Steptoe & Johnson LLP  
Catha Worthman, Feinberg Jackson Worthman & Wasow LLP

8:50 - 9:50  
**HIPAA, DATA PRIVACY AND BEYOND**  
**Moderator:** Carolyn M. Trenda, McGuireWoods LLP  
**Speakers:** Serena Mosley-Day, Acting Senior Advisor for Compliance and Enforcement, Office for Civil Rights, U.S. Department of Health and Human Services  
Kimberly Wilcoxon, Thompson Hine LLP
BREAK

UNDERSTANDING HEALTH CARE PLAN VENDOR CONTRACTING
Moderator: Vanessa A. Scott, Program Co-Chair, Eversheds Sutherland (US) LLP
Speakers: Brenda M. Ching, The Aerospace Corporation
Others TBD

IRS AND DEPARTMENT OF THE TREASURY UPDATE
Hear about the latest tax guidance from IRS and Treasury on health and welfare plans, including an overview of pending projects.
Moderator: Jason Lacey, Program Co-Chair, Foulston Siefkin LLP
Speakers: Kevin P. Knopf, Senior Technician Reviewer (Tax Exempt and Government Entities Division), Health and Welfare Branch, Internal Revenue Service (Invited)
Carol A. Weiser, Deputy Benefits Tax Counsel, Office of Benefits Tax Counsel, U.S. Department of the Treasury (Invited)

LUNCH (on your own)

CONCURRENT BREAKOUT SESSIONS

HIP, HIP, HRA AND MAKE WAY FOR HSAS: A NEW ENTHUSIASM FOR ACCOUNT BASED HEALTH PLANS?
Moderator: Linda R. Mendel, Program Co-Chair, Vorys Sater Seymour and Pease LLP
Speakers: Rachel Leiser Levy, Groom Law Group, Chartered, Washington, DC
Others TBD

MANAGING YOUR HEALTH AND WELFARE BENEFIT PLANS PRUDENTLY: FIDUCIARY CONCERNS (Ethics Session)
Although most plan sponsors may believe the majority of activities they perform regarding their health plans involve settlor functions, a number of fiduciary activities also may be involved; plan sponsors and their counsel must understand the difference. As a threshold matter, this session will focus on where the line between settlor and fiduciary functions may be drawn and provide an overview of potential fiduciary considerations in connection with outsourcing certain plan-related functions, including the process for selecting the vendor(s) through which health benefits are administered and the responsibility for ongoing monitoring of such vendor(s). In discussing these considerations, the panel will reference the ABA Model Rules of Professional Conduct, including the rules regarding competence and conflict of interest (Rule 1.1 and Rule 1.7).
Moderator: Vanessa A. Scott, Program Co-Chair, Eversheds Sutherland (US) LLP
Speakers: J. Matthew Calloway, Wells Fargo & Company
Jenifer A. Cromwell, Bredhoff & Kaiser PLLC (Invited)

READY FOR 2020? A POTPOURRI OF UNDER THE RADAR ITEMS FOR HEALTH AND WELFARE PLANS
Do you have a nagging feeling that you may be missing something? This session will focus on some issues and updates that may have slipped past even the best group health plan advisors and administrators. Topics include: HHS guidance on prescription drug coupons, updates on State group health plan reporting requirements, an overview of eligibility/benefits issues for transgendered employees, expansion of pre-tax transportation benefits in New Jersey, review of potential plan updates from prior-year guidance and a general review of plan design items that should be considered each year.
Moderator: Carolyn M. Trenda, McGuireWoods LLP
Speakers: Robyn Crosson, ADP
Kimberly Wilcoxson, Thompson Hine LLP
ASSOCIATION HEALTH PLANS – WHAT A DIFFERENCE A YEAR MAKES

In a stunning rebuke, the U.S. District Court for the District of Columbia in New York v. United States Dep’t of Labor, CV 18-1714 (D.D.C. Mar. 28, 2019) invalidated final regulations issued in June 2018 by the U.S. Department Labor purporting to expand access to association health plans (AHPs) to collections of small groups (a/k/a “Pathway 2”). At the same time the Court delivered a ringing endorsement of prior law (a/k/a Pathway 1). While the decision was widely hailed as—and was—a significant victory for the states that challenged the rule, the prior law rules are not universally embraced by the insurance commissioners in every state. Nor are the prior law rules anywhere near as well-settled as the court appeared to believe. The result is a new and largely untested AHP landscape, the contours or which are little understood. In the wake of the decision, the DOL has doubled down on Pathway 1, and organizations that are able to fit under the prior law are now rushing to form new Pathway 1 AHPs. This panel examines and reports on the current state of the regulation of AHPs, whether self-funded, fully-insured, or captive-based, from both the Federal perspective and from the perspective of the states. The panel will also delve into the mechanics of establishing and maintaining an AHP.

**Moderator:** Linda R. Mendel, Program Co-Chair, Vorys Sater Seymour and Pease LLP

**Speaker:** Alden J. Bianchi, Mintz Levin Cohn Ferris Glovsky and Popeo PC

HIP, HIP, HRA AND MAKE WAY FOR HSAS: A NEW ENTHUSIASM FOR ACCOUNT BASED HEALTH PLANS?

**Moderator:** Carolyn M. Trenda, McGuireWoods LLP

**Speakers:***

Rachel Leiser Levy, Groom Law Group, Chartered, Washington, DC

Others TBD

ONSITE HEALTH CLINICS

**Moderator:** Jason Lacey, Program Co-Chair, Foulston Siefkin LLP

**Speaker:** Maya R. Crone, Managing Associate General Counsel, Freddie Mac (Invited)

ADJOURN

NATIONAL INSTITUTE FACULTY

Suzanne Bach, *USI Insurance*, Falls Church, VA

Kathryn L. Bakich, *The Segal Company*, Washington, DC

Alden J. Bianchi, *Mintz Levin Cohn Ferris Glovsky and Popeo PC*, Boston, MA

J. Matthew Calloway, *Wells Fargo & Company*, Charlotte, NC

Brenda M. Ching, *The Aerospace Corporation*, Los Angeles, CA

Denise M. Clark, *Clark Law Group, PLLC*, Washington, DC


Maya R. Crone, *Managing Associate General Counsel, Freddie Mac*, McLean, VA (Invited)

Robyn Crosson, *ADP*, Indianapolis, IN

Maame Gyamfi, *AARP Foundation Litigation*, Washington, DC
Kevin P. Knopf, Senior Technician Reviewer (Tax Exempt and Government Entities Division), Health and Welfare Branch, Internal Revenue Service, Washington, DC (Invited)

Jason P. Lacey, Foulston, Siefkin LLP, Wichita, KS

Rachel Leiser Levy, Groom Law Group, Chartered, Washington, DC

Linda R. Mendel, Program Co-Chair, Vorys Sater Seymour and Pease LLP, Columbus, OH

Serena Mosley-Day, Acting Senior Advisor for Compliance and Enforcement, Office for Civil Rights, U.S. Department of Health and Human Services, Atlanta, GA

Veena K. Murthy, Legislation Counsel, Joint Committee on Taxation, U.S. Congress Washington, DC

Sara R. Pikofsky, Steptoe & Johnson LLP, Washington, DC

Vanessa A. Scott, Program Co-Chair, Eversheds Sutherland (US) LLP, Washington, DC

Carolyn M. Trenda, Program Co-Chair, McGuireWoods LLP, Chicago, IL

Carol A. Weiser, Deputy Benefits Tax Counsel, Office of Benefits Tax Counsel, U.S. Department of the Treasury, Washington, DC (Invited)

Kimberly Wilcoxon, Thompson Hine LLP, Cincinnati, OH

Catha Worthman, Feinberg Jackson Worthman & Wasow LLP, Berkeley, CA

ATTEND THE PROGRAM, AND LEARN WHAT YOU NEED TO KNOW ABOUT:

- The Nuts and Bolts: An Introduction to ERISA Welfare Plans
- A View from the Hill
- Tri-Agency Commentary on Health and Welfare Updates
- Affordable Care Act Litigation Update
- SPD Drafting and Distribution
- Ethical Considerations in Health and Welfare Benefit Plans 2.0
- Hot Topics in Health and Welfare Plan Litigation
- HIPAA, Data Privacy and Beyond
- Understanding Health Care Plan Vendor Contracting
- IRS and Department of the Treasury Update
- Managing Your Health and Welfare Benefit Plans Prudently: Fiduciary Concerns
- Hip, Hip, HRA and Make Way For HSAs: A New Enthusiasm For Account Based Health Plans?
- Association Health Plans – What a Difference a Year Makes
- Onsite Health Clinics

WHO SHOULD ATTEND?

- All lawyers seeking a comprehensive overview of health and welfare benefit plans and health care reform
- Practitioners requiring information directly from the Administration, Capitol Hill, Internal Revenue Service, EEOC, Department of Labor, and Department of Health
- Personnel managers, human resource professionals, accountants, and actuaries involved in the establishment or administration of these plans
- Health care professionals who want timely legislative and litigation updates, and information on current practices and health care reform
TUITION
Attend the entire two-day program, the luncheon, each breakfast, and network with other registrants and faculty. Registrations must be postmarked or e-mailed by Monday, October 1st to receive the Early Bird discount.

**Early Bird Registration — On or Before October 1st**
- **$1181** General Public
- **$1063** ABA Member
- **$945** Sponsoring Section Member

**Full Tuition — After October 1st**
- **$1244** General Public
- **$1120** ABA Member
- **$995** Sponsoring Section Member

**On-Site Tuition**
- **$1306** General Public
- **$1175** ABA Member
- **$1045** Sponsoring Section Member

ADDITIONAL SAVINGS
If three or more register from the same firm, one registrant will receive a $50 reduction in program tuition! Registrants will have access to the program website to download materials prior to the conference. Each registrant will also be eligible for MCLE accreditation within those states that require continuing legal education.

SCHOLARSHIPS
Scholarships to defray tuition expense for this program are available upon application, on a case-by-case basis. Preference will be given to full-time LL.B. candidates, public interest lawyers, government lawyers, full-time law professors, solo or small firm practitioners of limited means, and unemployed attorneys. To request an application or receive additional information, contact Karen Case at Karen.Case@americanbar.org or 202.662.8641. Scholarship applications must be received at least two weeks before the program start date. You will be notified prior to the program if your application is approved. A minimum fee may be charged on all approved scholarship applications to defray expenses. For programs with tuition costs over $500, qualifying attorneys will receive at least a 50% reduction in the course fees(s).

COMPLAINT RESOLUTIONS
Please call Karen Case at 202-662-8641.

CANCELLATIONS AND REFUND INFORMATION
Cancellations will be honored on the following basis:
- Until October 1st – 100% Refund minus $50 administrative fee*
- After October 1st — No Refund

*Day of Cancellation is the day the cancellation is received by the ABA. It is calculated based on the number of ABA business days remaining before the National Institute.

**No refund will be made for cancellations received after October 1st; written confirmation of refund requests must be received within 14 days following the National Institute presentation. Substitute registrants for the Health and Welfare Benefit Plans National Institute are welcome. Please contact Karen Case at 202.662.8641.

MCLE
This course is expected to qualify for 13.33 CLE credit hours (including 2.00 ethics hours) in 60-minute states, and 16.00 CLE credit hours (including 2.4 ethics hours) in 50-minute states. This transitional program is
approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. View MCLE details [https://www.americanbar.org/events-cle/mcle/inpersonevents/](https://www.americanbar.org/events-cle/mcle/inpersonevents/).

For more information about CLE accreditation in your state, visit [http://www.americanbar.org/cle/mandatory_cle.html](http://www.americanbar.org/cle/mandatory_cle.html) or contact Karen Case at karen.case@americanbar.org or 202.662.8641.

**CPE**

The American Bar Association is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: [www.learningmarket.org](http://www.learningmarket.org).

Recommended CPE Credits and Fields of Study: Program attendees can earn up to 16 CPE credits in Specialized Knowledge and Applications and 2 CPE credits in Behavioral Ethics for this in-person meeting.

Prerequisites: None; Advanced Preparation: None; Program Level: Intermediate; Delivery Method: Group-Live.

**HOTEL INFORMATION**

**DEADLINE FOR HOTEL RESERVATIONS:** Tuesday, October 1

You may make hotel reservations at the Ritz-Carlton, Pentagon City, 1250 South Hayes Street, Arlington, Virginia. A limited number of rooms have been set aside for National Institute registrants at **$299** for single or double occupancy. All room rates are subject to city occupancy and sales tax. Unclaimed rooms will be released on Monday, October 1st after which the hotel will accept reservations on a space and rate available basis only. All reservations must be guaranteed with a major credit card.

To register at the hotel, book online [https://book.passkey.com/e/49912468](https://book.passkey.com/e/49912468) or call directly at (703) 415-5000. Be sure to mention the ABA Health and Welfare Benefit Plans National Institute to receive the special discounted rate.

**ABA NEGOTIATED AIRFARE DISCOUNTS – AVAILABLE ONLINE**

With **ABA Egencia**, you can automatically obtain ABA negotiated airfare discounts for travel to the ABA Meetings. ABA Egencia enables you to purchase the best airfare at the time of booking, by providing you with the ability to search for and compare fares from virtually every airline serving the destination.

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Discount available at www.delta.com
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*A Travel Profile is required when booking airline reservations with ABA Egencia, http://www.americanbar.org/travel

UNABLE TO ATTEND? CAN’T DECIDE WHICH SESSIONS TO ATTEND?
Digital Audio sets (course materials and digital audio recordings) will be available for purchase approximately 4-6 weeks after the program. To pre-order your copy, use the order form at on the last page of this brochure. Contact Karen Case karen.case@americanbar.org or call 202.662.8641 for additional information.

SERVICES FOR PERSONS WITH DISABILITIES
If special arrangements are required, please contact Karen Case at 202.662.8641. Reasonable advance notice is requested.

ABA SPONSORING SECTIONS
Join one of these dynamic Sections and become active in one of their employee benefit committees. Join the ABA and one or more of the Sections when registering for this program and save up to $200 on this program tuition.

☐ I am interested in becoming a member of the American Bar Association. Please send me information and membership forms.

☐ I am an ABA member but want a further reduction on my tuition for this program. Please enroll me into the Section(s) listed below; I’ve enclosed a separate check made payable to the ABA.

MARK YOUR CALENDAR AND CHECK OUR WEBSITE FOR UPCOMING PROGRAMS
www.americanbar.org/jceb/

October 16-18, 2019
National Institute on ERISA BASICS, Chicago, IL

October 18, 2019
National Institute on ERISA Litigation, Chicago, IL

November 7-8, 2019
National Institute on EXECUTIVE COMPENSATION, Washington, DC
October 28-29, 2019
Ritz-Carlton, Pentagon City, Arlington, VA

- Two or more people have registered with me; please apply the $50 tuition reduction to the tuition rate indicated.
- Send me the Health and Welfare Benefit Plans Digital Download (Digital recordings and course materials via download) at the special price of $320. Product Code: EB102819HWAUD
- Employee Benefits Passport Holder, apply the 25% tuition reduction to the tuition rate indicated.
- Send me the JCEB calendar for upcoming Employee Benefits Programs.

TO REGISTER:
- Online: http://www.americanbar.org/jceb/ with credit card payment

Mail: American Bar Association
Attn: Service Center—Meeting/Event Registrations Department
Meeting Code: EB102819HW
321 N. Clark Street, Floor 19
Chicago, IL 60654

PAYMENT: Must include one of the following:
- Check made payable to: American Bar Association - JCEB
- Credit Card: MasterCard, VISA or American Express

*Tax: DC residents add 6%. IL residents add 10.25%, before including postage and handling charges. Price is subject to change after 10/30/2019

CANCELLATION POLICY
Cancellations will be honored on the following basis:
- On or before October 1st — 100% Refund minus $50 administrative fee*
- After October 1st — No Refund**

Substitute registrants are welcome. Please email meetingcancellations@americanbar.org and karen.case@americanbar.org.

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Join one of these dynamic Sections, and become active in one of their employee benefit committees. Join the ABA and one or more of the Sections when registering for this program and save on this program tuition.
- I am interested in becoming a member of the American Bar Association. Please send me information and membership forms.
- I am an ABA member, but want a further reduction on my tuition for this program. Please enroll me into the Section listed below; I’ve enclosed a separate check made payable to the ABA.
  - Section of Business Law, $65
  - Section of Labor and Employment Law, $75
  - Section of Taxation, $75
  - Section of Health Law, $50
  - Section of Real Property, Trust and Estate Law, $75
  - Section of Tort Trial and Insurance Practice, $50