American Bar Association Health Law Section

15th Annual Conference on
Emerging Issues in
Healthcare Law

February 26-March 1, 2014
The Wigwam Resort
Litchfield Park, AZ

Program Co-Sponsors:
Section of Science and Technology Law
Young Lawyers Division
EMI 2014 Planning Committee Co-Chairs

Beth Connor Guest  
Cigna HealthSpring  
Nashville, TN

Lisa D. Taylor  
Inglesino Pearlman Wyciskala & Taylor LLC  
Parsippany, NJ

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Washington, DC

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Montgomery & Andrews  
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Columbus, OH

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Huron Consulting  
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Wiley Rein LLP  
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Centers for Medicare & Medicaid Services  
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Tracy Powell  
Sherrard & Roe PLC  
Nashville, TN

Joel Wakefield  
Nelson Law Group, PLLC  
Phoenix, AZ

George Wickhorst  
Young Berman Karpf & Gonzalez PA  
Miami, FL
Schedule At-A-Glance

Wednesday, February 26, 2014

8:30 am – 5:00 pm  Registration
9:00 am – 12:30 pm  Cancer Legal Advocacy Workshop
                   "Sponsored by: Breast Cancer Task Force"
2:30 pm – 5:30 pm  Women in Leadership Workshop: Succeeding as a Woman in the Workplace
3:00 pm – 5:00 pm  Leadership Meeting—Interest Groups and Task Force Leaders
3:00 pm – 6:00 pm  The Real World: Health Law—An Introduction to the Fundamentals of Health Law
                   "Fundamentals Session"
5:00 pm – 6:00 pm  Diversity Substantive Session
6:30 pm – 8:00 pm  Networking Reception
                   "Celebrating Diversity, Young Lawyers and Law Students"
                   "Sponsored by Proskauer"

Thursday, February 27, 2014

6:30 am – 8:00 am  Inaugural EMI Breast Cancer Fun Run/Walk
8:00 am – 5:00 pm  Registration and Information Desk
8:00 am – 9:00 am  Continental Breakfast
                   "Sponsored by: Mintz Levin Cohn Ferris Glovsky and Popeo, PC"
9:00 am – 9:15 am  Welcome to EMI!
9:15 am – 9:30 am  State of the Section Address
9:30 am – 10:45 am A Mid-Course Report Card on Healthcare Reform
11:00 am – 12:15 pm Fraud & Abuse (Enforcement Update)
12:25 pm – 1:50 pm Interest Group Luncheons
2:00 pm – 3:00 pm  Ethics in Interesting Times: Advising Clients in a Shifting Regulatory and Enforcement Environment
                   "Ethics Credit"
3:30 pm – 4:30 pm  It’s Not Too Complicated: Presenting Complex Medical Information to Judges and Juries
                   "Ethics Credit"
3:30 pm – 4:30 pm  Trends in Employer and Provider Obligations: The Demise of DOMA and the Rise of New HIPAA Wellness Programs Rules
3:30 pm – 4:30 pm  Life Science Companies: Navigating Ethical Dilemmas
                   "Ethics Credit"
4:45 pm – 5:45 pm  PODs—What next? The Impact of the OIG’s Special Fraud Alert
4:45 pm – 5:45 pm  Anatomy of a Valuation—A Step-by-Step Examination of Valuation Opinions
4:45 pm – 5:45 pm  The HIPAA Omnibus Rule Turns One: How Are Business Associates Enjoying Being Invited to the Party?
5:15 pm – 6:15 pm  Join the Section Chair and Other Women Leaders for Tea and Conversation
6:30 pm – 8:00 pm  Welcome Reception
                   "Honoring our faculty and planning committee members"
                   "Sponsored by: Bloomberg BNA"
### Schedule At-A-Glance

#### Friday, February 28, 2014

<table>
<thead>
<tr>
<th>Time</th>
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<td>Shedding Some Light: Reporting Obligations and Compliance Implications of the Sunshine Act</td>
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<td>3:45 pm – 4:45 pm</td>
<td>Expanded Liability for Payors under the False Claims Act: Escalating Risk and Response for Managed Care Organizations.</td>
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<td>3:45 pm – 4:45 pm</td>
<td>Responding to a Government Subpoena: Assuring Quality and Avoiding Pitfalls in the Age of E-Discovery</td>
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<td>4:45 pm</td>
<td>CLE Program Adjourns</td>
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#### Saturday, March 1, 2014

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<tr>
<td>8:00 am – 11:30 am</td>
<td>Open Council Meeting</td>
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<td>All are Welcome to Attend the Section Open Council Meeting</td>
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<tr>
<td>12:15 pm – 6:00 pm</td>
<td>15th Annual Margarita Cup Golf Shotgun</td>
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<td>Players of ALL levels are encouraged to play!</td>
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<td>12:15 pm – 4:30 pm</td>
<td>Architects of the Southwest Tour</td>
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<td>12:15 pm – 4:00 pm</td>
<td>Horseback Riding</td>
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<tr>
<td>6:30 pm – 9:00 pm</td>
<td>Saturday Night Mixer Hosted by Section Chair</td>
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<td>All attendees and their guests are welcome!</td>
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#### Sunday, March 2, 2014

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<tr>
<td>8:00 am – 11:00 am</td>
<td>Council Meeting</td>
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Program Agenda

Wednesday, February 26

8:30 am-5:30 pm
Registration and Information Desk Open

9:00 am-12:30 pm
Cancer Legal Advocacy Workshop
Sponsored by: ABA Breast Cancer Task Force

More than one million people in the U.S. are diagnosed with cancer each year. For example, one in eight women will be diagnosed with breast cancer. This means the chances are high that you or someone you know has had or will have direct experience with cancer. Cancer patients face a variety of legal problems related to their illness. These include issues with treatment coverage and payment, employment, family, and end of life arrangements. There are support organizations that use volunteer attorneys to help cancer patients with issues like these. This seminar will review relevant laws, practices, and procedures to help equip you with basic information so you will be aware of the relevant issues and could volunteer to assist cancer patients or members of their support system with legal problems they may face.

Moderator:
Hilary Young, Joy & Young LLP, Austin, TX

Speakers:
Stephanie Fajuri, Cancer Legal Resource Center, A Joint Program of the Disability Rights Legal Center and Loyola Law School, Los Angeles, CA
Coral Quiet, MD, Arizona Breast Cancer Specialists, Scottsdale, AZ
Jason P. Lacey, Foulston Siefkin LLP, Wichita, KS
Michelle Matheson, Matheson & Matheson PLC, Scottsdale, AZ
Kristi M. Morley, The Morley Law Firm, PLC, Phoenix, AZ

2:30 pm-5:30 pm
Women in Leadership Workshop: Succeeding as a Woman in the Workplace

2:30 pm-3:25 pm
Dr. Cindy Pladziewicz, an expert on the professional development of attorneys, will lead an interactive workshop on leadership and career building. Cindy will help distill and make relevant an array of information from the worlds of business, law, psychology and organizational development. In this highly interactive workshop, Cindy will discuss:

• Top mistakes women make and how to avoid them
• Developing your personal brand
• Are you a rainmaker?
• How to avoid career burnout

3:30 pm-4:15 pm
Panel Discussion

Cindy will lead a group of successful women attorneys in a panel discussion on successful career strategies, developing a personal brand, and building a sustainable, satisfying practice.

4:15 pm-4:30 pm
Break

4:30 pm-5:30 pm
Breakout Session—Case Study

Speakers:
Cindy Pladziewicz, PhD., Dallas, TX
Alexandria Hien McCombs, Concentra, Addison, TX
Beth Connor Guest, Cigna HealthSpring, Nashville, TN
Kathleen Scully-Hayes, Associate Chief Administrative Law Judge, Social Security Administration, Baldwin, MD

3:00 pm-5:00 pm
Leadership Meeting—Interest Groups and Task Force Leaders

3:00 pm-6:00 pm
The Real World: Health Law—An Introduction to the Fundamentals of Health Law

This interactive session provides a comprehensive introduction to health law basics (including the Stark Law, Anti-Kickback Statute, False Claims Act and HIPAA) through the use of real-world enforcement and transactional scenarios. These scenarios will expose participants to the ways in which these laws commonly arise for healthcare clients and will offer opportunities to apply this knowledge in a practical way. As an overview of the basics, this session will prepare attendees for sessions at the rest of the conference that will consider these laws from a more nuanced perspective. The presentation will be a good introduction for newer attorneys as well as a useful refresher for more experienced attorneys.

Moderator:
Tracy Powell, Sherrard & Roe, PLC, Nashville, TN

Speakers:
Matthew R. Fisher, Mirick, O’Connell, DeMallie & Lougee LLP, Worcester, MA

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PROGRAM AGENDA

Jonathan E. Anderman, Holland & Knight, Boston, MA
Alexandra Plasencia, MCCI Group Holdings LLC, Miami, FL
Geeta W. Kaveti, HHS Office of Counsel to the Inspector General, Columbus, OH

5:00 pm-6:00 pm
Diversity Substantive Session

Speaker:
Charles Ty Reidhead, MD, MPH
Captain, United States Public Health Service Chief Medical Officer, Phoenix Area of the Indian Health Service

A noted and highly regarded speaker will speak on issues related to cross cultural medicine.

6:30 pm-8:00 pm
Networking Reception – Celebrating Diversity, Young Lawyers and Law Students
Sponsored by: Proskauer

All registered conference attendees are invited to attend the reception to catch up with old friends and meet new ones! We will offer a meet and greet with our Diversity speakers. Strolling dinner stations and cocktails will be open during the reception.

Thursday, February 27

6:30 am-8:00 am
Inaugural EMI Breast Cancer Fun Run/Walk—New This Year! (Ticketed $25)

Join attendees at this inaugural EMI Breast Cancer Fun Run/Walk. Participants can choose between a 4.2 mile or 1.8 mile course. Net proceeds will be donated to the Health Law Section Breast Cancer Initiative 501c3 fund. Support a great cause while doing something healthy and fun!

8:00 am-5:00 pm
Registration and Information Desk Open

8:00 am-9:00 am
Continental Breakfast
Sponsored by: Mintz Levin Cohn Ferris Glovsky and Popeo, PC

9:00 am-9:15 am
Welcome to EMI!

Speakers:
Lisa D. Taylor, Co-Chair, Emerging Issues in Healthcare Law Conference, Inglesino, Pearlman, Wycliskala & Taylor LLC, Parsippany, NJ
Beth Connor Guest, Co-Chair, Emerging Issues in Healthcare Law Conference, Cigna HealthSpring, Nashville, TN

9:15 am-9:30 am
State of the Section Address
2013-2014 American Bar Association Health Law Section Chair

Kathleen Scully-Hayes, Associate Chief Administrative Law Judge, Social Security Administration, Baldwin, MD

9:30 am-10:45 am
A Mid-Course Report Card on Healthcare Reform

This session will assess healthcare reform at the halfway point, focusing on specific key issues including Health Insurance Exchanges, ACOs and alternative payment mechanisms. We will assess how these programs are working, where there is room for improvement and how these developments affect the overall course of healthcare reform.

Moderator:
Kathleen Scully-Hayes, Associate Chief Administrative Law Judge, Social Security Administration, Baldwin, MD

Speakers:
Catherine Sreckovich, Navigant Healthcare, Chicago, IL
Elizabeth Ryan, New Jersey Hospital Association, Princeton, NJ
Michelle Apodaca, Waller, Austin, TX

10:45 am-11:00 am
Break

11:00 am-12:15 pm
Fraud & Abuse (Enforcement Update)

This session will discuss recent trends in federal, criminal, civil, and administrative healthcare fraud enforcement actions. The panel includes both government and defense counsel with years of experience litigating and negotiating healthcare settlements. Topics will include False Claims Act cases, criminal prosecutions, and administrative actions.

Speakers:
Gregory Demske, Chief Counsel, Office of the Inspector General, HHS, Washington, DC
Linda Kontos, United States Attorney’s Office for the Central District of California, Los Angeles, CA
Cathy Ostiller, United States Attorney’s Office for the Central District of California, Los Angeles, CA
Pamela Johnson, Foley & Lardner, Los Angeles, CA

12:15 pm-12:25 pm
Break
**Program Agenda**

**12:25 pm-1:50 pm**  
**IG Luncheons**
- Fraud & Abuse IG Luncheon  
  *Sponsored by Bass, Berry & Sims PLC*
- Employee Benefits & Executive Compensation
- In-House Counsel
- Managed Care & Insurance
- Life Sciences
- Payment & Reimbursement
- Public Health & Policy
- Nursing & Allied Healthcare Professionals
- Healthcare Facility Operations
- ADR & Conflict Management
- Substance Use Disorder

**2:00 pm-3:00 pm**  
**Ethics in Interesting Times: Advising Clients in a Shifting Regulatory and Enforcement Environment**

This session will address how recent activity (and inactivity) by a variety of government, regulatory and enforcement agencies will affect your ethical obligations in counseling clients. Topics will include:
- Compliance with the 60-day overpayment refund requirement in the absence of final regulations—
  - The ethical pitfalls of advising clients on complex draft regulations where the client's actions may result in overpayments
  - Ethical issues in advising clients when the government may later disagree
- Advising clients after *Tuomey* and *Halifax*—
  - How high-profile cases impact regulatory advice to counsel clients when your reasonable interpretation of regulatory parameters differs from DOJ’s position or a court ruling
  - Is there an ethical obligation to reevaluate and amend advice on closed deals?
- Ethics considerations in the advisory opinion process—
  - Counseling clients on certifications in advisory opinion requests where the arrangement is not yet in existence
  - The ethics of requesting and receiving a negative advisory opinion
  - Counseling clients on the impact of third party advisory opinions

**Concurrent Sessions**

**3:30 pm-4:30 pm**  
**It’s Not Too Complicated: Presenting Complex Medical Information to Judges and Juries**

Healthcare litigation matters often involve complex, highly technical medical and/or regulatory issues that are not easily grasped by “lay person” judges, juries, arbitrators and other audiences. Approaches to litigating such matters often involve different strategies from those used in traditional disputes. This panel will present practical, successful strategies and techniques used in pre-litigation planning, selection of experts, drafting of pleadings, motion practice, discovery, and, most importantly, trial.

**Moderator:**  
Gary Keilty, Huron Consulting Group, Washington, DC

**Speakers:**
- Robert Graziano, Roetzel & Andress, Naples, FL
- Suann Ingle, Suann Ingle Associates, New York, NY

**3:30 pm-4:30 pm**  
**Trends in Employer and Provider Obligations: The Demise of DOMA and the Rise of New HIPAA Wellness Programs Rules**

This session will focus on the changes in federal law for employee benefit plans and medical providers resulting from the Supreme Court’s decision in *United States v. Windsor*, holding Section 3 of the Defense of Marriage Act (DOMA) to be unconstitutional. The program will examine various legal issues raised by the federal recognition of same-sex marriages, including which state law determines whether a same-sex couple is married and the retroactive effects of the decision, as well as post-*Windsor* litigation. Also to be discussed are the new HIPAA wellness program rules for group health plans, including changes in the incentive maximums and required alternatives to earn the incentives.

**Moderator:**  
William E. Hopkins, Husch Blackwell LLP, Austin, TX

**Speakers:**
- Howard Bye-Torre, Stoel Rives LLP, Seattle, WA
- Michelle McCarthy, Fox Rothschild, Los Angeles, CA

**3:30 pm-4:30 pm**  
**Life Science Companies: Navigating Ethical Dilemmas**

Representing life science companies can present unique ethical challenges for counsel. Life science companies are regulated by various Federal agencies including the FDA, HHS, DOJ, DEA, FTC and SEC. The regulatory and compliance burdens are numerous, the expectations

**Speakers:**
- Robert G. Homchick, Davis Wright Tremaine, Seattle, WA
- William W. Horton, Johnston Barton Proctor & Rose LLP, Birmingham, AL
of shareholders are high and their investment horizons are short, and the present enforcement environment could keep any general counsel awake at night. Counsel to life science companies have to navigate clients through these conflicting demands, which are oftentimes rife with ethical issues that can create tension with clients, sometimes straining and occasionally terminating the relationship.

Moderator:
Robyn S. Shapiro, Drinker Biddle & Reath LLP, Milwaukee, WI
Speakers:
Michael E. Clark, Duane Morris, Houston, TX
Robert Rhoad, Crowell & Moring LLP, Washington DC

4:30 pm-4:45 pm
Break

Concurrent Sessions
4:45 pm-5:45 pm
PODs – What Next? The Impact of the OIG’s Special Fraud Alert

The OIG’s Special Fraud Alert sent a sharp message to companies and individuals associated with physician-owned distributors (PODs). Although the OIG did not go as far as to state that PODs are per se illegal, it does view PODs as “inherently suspect under the anti-kickback statute.” What does this message from the OIG mean for the future? How can a compliant POD be constructed and how should hospitals take precautions in purchasing from PODs? Our panelists will discuss the impact of this alert as well as the attributes and practices of PODs that produce fraud and abuse risk.

Moderator:
Lisa D. Taylor, Inglesino, Pearlman, Wyciskala & Taylor LLC, Parsippany, NJ
Speakers:
Joseph V. Truhe, Jr., Goodlettsville, TN
Donald H. Romano, Foley & Lardner LLP, Washington, DC

4:45 pm-5:45 pm
Anatomy of a Valuation—A Step-by-Step Examination of Valuation Opinions

This session is intended to teach lawyers how to review valuation opinions and understand the valuation process (but not to perform valuations themselves) and to determine if the valuation opinion is defensible. Discussion will center on review of an actual opinion, and will include:

• When independent valuation is needed, and how to choose the valuator
• Overview of the valuation process
• Maintaining attorney-client privilege with respect to the valuation work

4:45 pm-5:45 pm
The HIPAA Omnibus Rule Turns One: How Are Business Associates Enjoying Being Invited to the Party?

On the first anniversary of the HIPAA/HITECH Omnibus Rule, business associates (including most healthcare lawyers) are now one year into the reality of being directly subject to the privacy, security, and breach notification regulations. This session will look at HIPAA from the perspective of these business associates, including what has changed for them and what has not.

The discussion will include:

• Revisions to the Business Associate Agreement provisions and how those revisions have impacted Business Associate Agreement negotiations
• Risk allocation and mitigation in Business Associate Agreements
• Negotiating a Business Associate Agreement with your own client on a form that you originally drafted (a special section for healthcare lawyers)
• Security assessments and their aftermath—Do Business Associates really have to do all of that stuff?
• OCR enforcement of the HIPAA rules against Business Associates
• Breach notification for Business Associates Agreements—how to instruct Business Associates about their role and new obligations

Moderator:
Joel Wakefield, Nelson Law Group, Phoenix, AZ
Speakers:
Jennifer Rathburn, Quarles and Brady, Milwaukee, WI
Kirk Nahra, Wiley Rein LLP, Washington, DC
5:15 pm-6:15 pm
Join the Section Chair and Other Women Leaders for Tea and Conversation.

Women in the profession today often juggle multiple priorities including career and family responsibilities. What strategies are working for you? Want to find out how others are making it all work? Join us for an informal chat.

Kathleen Scully-Hayes, Associate Chief Administrative Law Judge, Social Security Administration, Baldwin, MD
Alexandria Hien McCombs, Concentra, Addison, TX

6:30 pm-8:00 pm
Welcome Reception
Honouring our faculty and planning committee members
Sponsored by: Bloomberg BNA

All registered conference attendees are invited to attend the best networking reception in the industry! This event receives rave reviews every year, and it's one you don't want to miss. Cocktails and strolling dinner stations will be open during the posted reception hours.

FRIDAY, FEBRUARY 28
7:30 am-5:00 pm
Registration and Information Desk Open
7:30 am-9:00 am
Continental Breakfast
Sponsored by: Barnes & Thornburg
8:30 am-9:45 am
“If you don’t know where you are going, you will probably wind up someplace else.” The Issues That Keep Compliance Officers Awake At Night

Compliance officers face an expanding list of challenges in the healthcare industry. As the first line of defense against scrutiny by regulatory agencies and attacks from whistleblowers, the role of the compliance officer has never been more important. The panelists, each from a different sector of the healthcare industry, will share with the audience the various issues that are keeping them up at night, with a specific focus on the issues most significant and/or requiring the most attention in relation to the compliance program and its resources, as well as the manner in which the panelists respond to those issues. The panel will generate dialogue with the audience and encourage information sharing, both as to challenges and solutions.

Moderator:
John Kelly, Bass Berry & Sims PLC, Washington, DC

Speakers:
Steve Hinkle, Ardent Health Services, Nashville, TN
Gwen Chapman, Alcon Laboratories, Ft. Worth, TX
Vickie L. McCormick, DePuy Synthes West Chester, PA

9:45 am-10:15 am
Break

10:15 am-11:30 am
A Frank Conversation about the Stark Law: The History and Future of Government Regulation of Physician Referrals

The Stark Law has created, and continues to create challenges for those seeking to engage in business relationships with physicians. Those challenges range from the need to comply with the law’s requirements when business relationships are created to monitoring performance of the relationships to ensure ongoing compliance. The law, initially conceived as a payment rule for those seeking reimbursement from government health benefit programs, has evolved into a popular enforcement mechanism for healthcare fraud prosecutors, and has resulted in astronomical recoveries as claims have been asserted under the False Claims Act. As witnessed in recent court decisions, most notably U.S. ex rel. Drakeford v. Tuomey, healthcare providers that run afoul of the law can face potentially crippling civil liability. The panelists will discuss the evolution of the Stark Law from its beginnings to its current state, and how various public policy concerns have been targeted with the stages of regulation and enforcement. Panelists will provide commentary on the current enforcement environment. Finally, the panelists will engage in a frank discussion of the law’s future, potential amendments that might further its purpose and recent calls for the law’s repeal or substantial revision.

Moderator:
Anthony Burba, Barnes & Thornburg, Chicago, IL

Speakers:
Lewis Morris, LeClairRyan, Annapolis, MD
Kirk Ogrosky, Arnold & Porter LLP, Washington, DC
Troy Barsky, Crowell & Moring LLP, Washington, DC

11:30 am-11:45 am
Break
Concurrent Sessions
11:45 am-12:45 pm
There is No Such Thing as a Compounding Manufacturer!

Pharmaceutical manufacturers make drugs. Pharmacies dispense those drugs to patients. In essence, compounding pharmacies do both. The placement of compounding pharmacies within the healthcare continuum, both from a patient care perspective and a legal perspective, is complex and not well understood by healthcare attorneys. During this program, panelists will:

- Educate attendees regarding the differences between compounding pharmacies, pharmaceutical manufacturers, and traditional retail pharmacies through the use of real-world examples encountered by healthcare practitioners;
- Review federal laws and regulations relevant to compounding pharmacies, including the new “Drug Quality and Security Act”;
- Survey important state laws, rules and regulations governing the operation of compounding pharmacies, and a plan for more systematic collaboration between the FDA and state boards of pharmacy.

Speakers:
W. Thomas Smith, University of Florida College of Pharmacy, Gainesville, FL
Jay McEniry, MediStat Specialized Pharmacy Services, Foley, AL

11:45 am-12:45 pm
Recent Antitrust Developments in Healthcare and Hospital Mergers; Lessons Learned and Practical Preparation Techniques to Avoid Roadblocks

Numerous recently decided cases and decisions involving hospital and healthcare mergers, and still others recently filed will impact merger and other consolidation activity in the healthcare arena. All factors seem to indicate that the wave of consolidation will continue, among hospitals, between hospitals and physicians; even among and between other players who traditionally were not part of the same delivery system. What are the lessons learned from these cases? What steps were taken that had positive impact, and what steps should have been taken that might have avoided delays or disruption?


Moderator:
Alicia Batts, Proskauer Rose LLP, Washington, DC

Speakers:
Robert Baudino, Baudino Law Group, Des Moines, IA
Robert Canterman, Bureau of Competition, Federal Trade Commission, Washington, DC

11:45 am-12:45 pm
Deciphering the Self-Disclosure Puzzle

In today’s healthcare enforcement environment, it can be extremely complicated and intimidating to try to figure out the “right” approach to a potential self-disclosure. The 60-day return-of-overpayments rule often means not disclosing is no longer an option. When, where, and how to make a disclosure can be daunting questions. This session will provide straight talk on where and how to make disclosures. We will provide practical advice from both the compliance and legal perspective.

- Practical advice on when, where and how to make self-disclosures, including considerations based on the type of “error” involved (e.g., violation of a billing rule, coding issues, noncompliance with the Stark Law, etc.)
- The new OIG Self-Disclosure Protocol and updates to the Stark Law SRDP
- The implications of self-disclosures on future exposure to RACs, False Claims Act cases and other enforcement activities

Speakers:
Lisa Ohrin, Centers for Medicare & Medicaid Services, Baltimore, MD
William T. Mathias, Ober|Kaler, Baltimore, MD

12:45 pm-12:55 pm
Break

12:55 pm-2:10 pm
IG Lunches

- Business & Transactions
- eHealth, Privacy & Security
- Healthcare Litigation & Risk Management
- Long Term Care
- Physicians Issues
- Tax and Accounting

2:10 pm-2:20 pm
Break

2:15 pm-3:30 pm
Law Student Meet and Greet

2:20 pm-3:35 pm
Healthcare M&A Post-Consolidation Roundtable
In the wake of the Patient Protection and Affordable Care Act of 2010, the United States has experienced the highest level of healthcare consolidation since the turn of the millennium. In this highly-interactive session, a panel representing hospitals, physicians and payers will discuss the impact of recent consolidation in the healthcare industry.

• Quality Initiatives: as catalyst for change and driver of alignment
• Is clinical integration more effective at driving alignment than physician employment?
• Does consolidation actually increase costs and negatively impact consumers?
• Do physician employment compensation models conceived in a fee-for-service environment allow for quality incentives and shared savings?
• Uncertainty around enforcement of physician non-competes and the impact valuation of physician practices.
• Mergers among strange bedfellows: How are these marriages faring and what are the keys for survival?

Moderator:
Christi J. Braun, Mintz Levin Cohn Ferris Glovsky and Popeo PC, Washington, DC

Speakers:
Howard Wall, RegionalCare Hospital Partners, Inc, Brentwood, TN
Denise Hanna, Locke Lord LLP, Washington, DC
Kenneth Goldblum, MD, FACP, Renaissance Health Network, Wayne, PA

3:35 pm-3:45 pm
Break

Concurrent Sessions
3:45 pm-4:45 pm
Shedding Some Light: Reporting Obligations and Compliance Implications of the Sunshine Act

With the Sunshine Act now in full swing, stakeholders in the life sciences and healthcare industries will need to ensure strict compliance with the reporting and tracking obligations. What are the implications of having such data aggregated by the government, shared with other federal and state agencies and published for patients and the media? High-risk disclosure areas, such as promotion related to off-label uses of pharmaceutical products, implications for kickbacks, potential inappropriate relationships and conflicts of interest are all of concern. This presentation will address these areas and the potential for the use of the database to target fraudulent activities.

Moderator:
Abraham Gitterman, Arnold & Porter, LLP

Speakers:
Stefanie Doebler, Covington & Burling LLP, Washington, DC
Anita Griner, Deputy Director, Data Sharing & Partnership Group, Center for Integrity, Centers for Medicare & Medicaid Services, Baltimore, MD

3:45 pm-4:45 pm
Expanded Liability for Payors under the False Claims Act: Escalating Risk and Response for Managed Care Organizations.

The risk of whistleblower False Claims Act liability now extends to managed care organizations, including Medicare Advantage, Prescription Drug and Medicaid plans due to their status as Federal Health Program contractors. Government contractors and subcontractors may be liable for Anti-Kickback Statute violations. The Affordable Care Act also creates an obligation to report identified overpayments tainted by kickbacks. The failure to make a repayment is also actionable under the False Claims Act. This session will discuss contractual arrangements that involve government funds and the following related compliance liabilities:

• Liability for managed care plan operations, including sales & marketing, claims handling and complaints, enrollment and disenrollment, SIU/Anti-Fraud efforts, oversight of downstream providers and entities and repayment of known overpayments
• Certifications and reporting requirements, including community rate, certification to FEHB plans, reporting of member encounter and health status data, medical loss ratio calculations and premium rebating and other data submissions and certifications to the government
• Risks related to kickback arrangements, risk adjustment and medical loss ratio and how managed care organizations are attempting to address these liabilities.

Moderator:
Gabriel L. Imperato, Broad and Cassel, Ft. Lauderdale, FL

Speakers:
Laurence J. Freedman, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC, Washington, DC
Stephen Sullivan, O’Melveny & Myers LLP, Los Angeles, CA
Responding to a Government Subpoena: Assuring Quality and Avoiding Pitfalls in the Age of E-Discovery

In complex healthcare offense investigations, the investigative target is commonly tasked with searching for and delivering the evidence to the government—similar to asking the suspect to collect and deliver the murder weapon to the authorities. As the Sedona Conference has recognized, one must "measure[ ] the likelihood that a particular tool or method has adequately and accurately collected or captured responsive documents and [electronically stored information] … [F]ailure to employ a quality e-discovery process can result in failure to uncover or disclose key evidence."

This diverse, interactive panel of experienced health law practitioners will offer their perspectives about the high stakes and difficult discovery issues that often arise in assuring that a response to an investigative demand is adequate and complete. The panelists will also discuss specific e-discovery methods, metrics, and best practices available to assure both the government and the responding party of the quality of the process.

Moderator:
Carol Poindexter, Fulbright & Jaworski LLP, Washington, DC

Speakers:
Joel M. Androphy, Berg & Androphy LLP, Houston, TX
Ross Goldstein, DOJ Consumer Protection Branch, Washington, DC

4:45 pm
CLE Program Adjourns

Saturday, March 1

8:00 am-11:30 am
Open Council Meeting
All are welcome to attend the Council Meeting

12:15 pm-6:00 pm
15th Annual Margarita Cup Golf Shotgun
Patriot Golf Course - Players of ALL levels are encouraged to play!
Ticketed Event - $185 includes 18 holes, golf cart & lunch

Once known as the Blue course, The Patriot has been described as the “great contradiction” in that it behaves so very differently from front to backside. A Robert Trent Jones, Sr. creation, this 6,000-yard, par-70 course is known to be both technical and challenging yet subtle, as golfers must negotiate a number of perilous bunkers, thirsty ponds and challenging dog-leg fairways.

12:15 pm-4:30 pm
Architects of the Southwest: Tour of Frank Lloyd Wright’s “Taliesin West”
Ticketed Event - $110 includes tour, lunch, and shuttle to and from site.

Arizona is fortunate to have world-class architects. Frank Lloyd Wright began building his desert masterpiece in 1937 as his personal winter home, studio, and architectural campus. Located on the beautiful Sonoran desert in the foothills of the McDowell Mountains in northeast Scottsdale, Taliesin West offers an insight to Wright’s brilliant ability to integrate indoor and outdoor spaces. The living quarters and the dramatic Taliesin West “Garden Room” are the highlights of the tour, which also includes all the elements of the Cabaret and Study. The living room was the social gathering place for Wright and the many famous guests he entertained. You will experience the drama of being a guest in Wright’s famous home.

12:15 pm-4:00 pm
Horseback Riding
Ticketed Event - $175 includes 1.5 hour ride, lunch, and shuttle to and from site.

Real western adventure unfolds with the help of The Stables private collection of beautiful horses and professional personnel. Breathtaking mountain ranges and Estrella valley set the stage for once-in-a-lifetime adventure on board our single horsepower companions. This one and a half hour ride sends riders on a real desert adventure with incredible views for an authentic and exhilarating experience. (Must have a minimum of 20 riders)

6:30 pm-9:00 pm
Saturday Night Mixer Hosted by Section Chair
All attendees and their guests are welcome!

Enjoy cocktails and hors d’oeuvres during this final celebration hosted by the ABA Health Law Section Chair, Kathleen Scully-Hayes. We will recall the highlights of the conference and award the Margarita Cup trophy to this year’s winning golf team.

Sunday, March 2

8:00 am-11:00 am
Council Meeting
CONFERENCE INFORMATION

REGISTRATION:
Register by January 24, 2014, for the early bird registration savings and by February 10, 2014 to be included in the advance registration list. Registration will be accepted only when accompanied by payment.

Online http://ambar.org/EMI2014
Fax: (312) 988-5814
U.S. Mail: American Bar Association
Health Law Section
321 N. Clark St., MS 18.1
Chicago, IL 60654

ONSITE REGISTRATION:
Please call (312) 988-5532 by FEBRUARY 21, 2014 to ensure space availability. On-site registration will only be accepted when accompanied by cash, check, money order, American Express, MasterCard, Visa or MasterCard information.

CANCELLATION POLICY:
Tuition, less a $125 handling charge for each registration, will be refunded upon written cancellation received no later than FEBRUARY 10, 2014. Cancellations received after this date cannot be refunded but substitutions are encouraged. The ABA reserves the right to cancel any program and assumes no responsibility for personal expenses.

REGISTRATION FEE:
Your payment will cover admission to the program, continental breakfasts, coffee breaks, ticket to an Interest Group Lunch each day, receptions, and the program course materials.

INTEREST GROUP LUNCHES:
Registrants are encouraged to attend the Interest Group lunch of their choice on both Thursday and Friday. There is no additional charge for these lunches but registrants must reserve a spot when you register.

HOTEL INFORMATION:
The conference will be the site occupant at the Wigwam Resort in Litchfield Park, AZ located at 300 East Wigwam Boulevard, Litchfield Park, AZ 85340. Please call 1-800-327-0396 for reservations and mention the "15th Annual Conference on Emerging Issues in Healthcare Law" no later than FEBRUARY 2, 2014 to receive the special rate of $212 for a single or double plus $112 Daily Resort Fee. A limited number of government rate rooms have been reserved on a first available basis at the rate of $128 for a single or double and $120 for a single government rate room. ABA airfare discounts may also be obtained by purchasing your tickets under the ABA Discount Codes directly from the airline or through your travel agent. American Airlines 800-433-1790 ABA Discount Code: VXABA312 Discount available at www.virginairamerica.com

GROUND TRANSPORTATION:
The Wigwam Resort is located 30–40 minutes from Phoenix Sky Harbor International (PHX). SuperShuttle Shared-Ride Van Service: American Bar Association online discount! Book online in advance with groups online discount code: KD4RV at www.supershuttle.com and receive a $2.00 off one way or $4.00 off roundtrip. The link below takes you directly to the website with the discount code and hotel name automatically included on the reservation.

Link: http://www.supershuttle.com/?s=KD4RV&port=PHX&IsoProperty=9043&Type=M or call (602) 244-9000 or (800) 258-3826 (BLUE VAN) at least 24 hours in advance. The regular rate is $25.00 per person one way. Drivers take cash and all major credit cards. No checks.

Taxis/Cabs are approximately $60-$65 one way. Discount Cab is the most economical: 602-200-2000 or book online at WWW.DiscountCab.com.

CLE CREDIT:
CLE credit has been requested from most states with general mandatory continuing education requirements for lawyers. For information on the approved number of credit hours to be awarded by each state, please contact the ABA Health Law Section directly at (312) 988-5532 after February 1, 2014.

HEALTH LAW SECTION MEMBERSHIP:
As an added bonus to new members, the member's tuition rate will be available to registrants who become members of the ABA Health Law Section. Membership dues are not deductible as charitable contributions for federal income tax purposes, but such dues may be deductible as a business expense.

TAX DEDUCTION FOR EDUCATIONAL EXPENSES:
An income tax deduction may be allowed for educational expenses undertaken to maintain or improve professional skills. This includes registration fees, travel, meals, and lodging expenses. (see Treas. Reg. 1.162-5) (Coughlin vs. Commissioners, 203 F 2d 307)

SERVICES FOR PERSONS WITH DISABILITIES:
If special arrangements are required for an individual with a disability to attend this program, please contact the ABA Health Law Section at (312) 988-5146.

DRESS CODE:
Resort casual attire is appropriate for all meetings, CLE programs and social events during the program. However, the meeting rooms tend to be cool so be sure to carry a sweater or light jacket.

AIRLINE INFORMATION:
The Wigwam Resort is located 30–40 minutes from Phoenix Sky Harbor International (PHX). Reservations with ABA Orbitz for Business can be made online or offline. For offline reservations, call 877-222-4185. ABA Orbitz for Business is available online at www.ambar.org/annual. ABA airfare discounts may also be obtained by purchasing your tickets under the ABA Discount Code directly from the airline or through your travel agent. United Airlines 800-433-1790 ABA Discount Code: AA8913TT Discount NOT available at www.az.com


EDUCATIONAL EXPENSES:
An income tax deduction may be allowed for educational expenses undertaken to maintain or improve professional skills. This includes registration fees, travel, meals, and lodging expenses. (see Treas. Reg. 1.162-5) (Coughlin vs. Commissioners, 203 F 2d 307)

LAW STUDENT SCHOLARSHIP PROGRAM—NEW!
Five law students will receive financial assistance to attend the 2014 Emerging Issues in Healthcare Law Conference. The application is available on-line at ambar.org/emischolarship and must be submitted by December 31, 2013.

SPECIAL TUITION ASSISTANCE:
A limited number of registration fee reductions are available for government employees, academics, law students, and public interest lawyers employed with nonprofit organizations. No full tuition waivers are available. The fee reductions will be determined on a one-time only, case-by-case, first-come-first-serve basis. To apply, send a letter outlining the basis for your request to Nancy Veepel, Senior Meeting Planner, ABA Health Law Section, 321 N. Clark St., Chicago, IL 60654. Deadline for receipt: January 24, 2014. No cases will be considered after the deadline, and all standard registration fee rates will apply after January 24, 2014.
REGISTRATION
AMERICAN BAR ASSOCIATION HEALTH LAW SECTION
15TH ANNUAL CONFERENCE ON EMERGING ISSUES IN HEALTHCARE LAW
Follow us on Twitter for additional EMI news and updates #EMI2014

3 WAYS TO REGISTER
ONLINE
http://ambar.org/EMI2014
BY MAIL
ABA Health Law Section
321 N. Clark St., MS 18.1
Chicago, IL 60654
BY FAX
(312) 988-5528

Name
First Name for Name Badge
Company/Firm Name

City, State, Zip
Phone
E-Mail Address

☐ Yes, I am bringing a spouse/guest (name)

ABA ID #
State(s) in which you are licensed (please list all)

☐ Please email me regarding hotel room share
☐ I am a first time attendee

Part A
REGISTRATION FEES
Registration fees are all inclusive and include all 3 days of educational programming, CLE, 2 luncheons, 3 receptions and an electronic written course materials.

<table>
<thead>
<tr>
<th>Fees</th>
<th>On or before 1/24/14</th>
<th>After 1/24/14</th>
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<tbody>
<tr>
<td>General Attendees:</td>
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<td>$1295</td>
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<tr>
<td>ABA Member:</td>
<td>$995</td>
<td>$1095</td>
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<tr>
<td>ABA Health Law Member/ Sponsoring Section Member Rate:</td>
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<td>Government/Academic:</td>
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<td>Must be Full time</td>
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<tr>
<td>Law Student:</td>
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<td>$150</td>
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Part B
INTEREST GROUP LUNCHES
Interest Group Lunches are included in your registration fee. Please indicate your attendance to guarantee a boxed lunch.

Thursday Interest Group Lunch
☐ Yes, I will attend

Friday Interest Group Lunch
☐ Yes, I will attend

Please share any dietary restrictions:
☐ Kosher   ☐ Lactose Intolerant   ☐ Vegetarian
☐ Food Allergy:______________________________________________________

Part C
CONFERENCE ACTIVITIES
THURSDAY, FEBRUARY 27
☐ $25 Breast Cancer Fun Run/Walk
   (Net proceeds go to the Breast Cancer 501c 3 Fund)

SATURDAY, MARCH 1
☐ $110 Architects of the Southwest: Tour at Frank Lloyd Wright’s “Taliesin West”
☐ $175 Horseback Riding (minimum of 20)
☐ $185 15th Annual Margarita Cup Golf Tournament

Part D
HEALTH LAW SECTION MEMBERSHIP
☐ Yes, please enroll me in the Section of Health Law. I am a member of the ABA. I understand that by joining, I am entitled to the Section Member Registration fee, a $100 savings!

Dues: $50. ID # ________________

TOTAL FEES
Part A – Registration Fee $                        
Part C – Conference Activities $                        
Donation to Breast Cancer Initiatives 501c 3 Fund $                        
Part D – Section Membership $                        

AMOUNT DUE $                        

METHOD OF PAYMENT
☐ Check enclosed (payable to American Bar Association)
☐ American Express   ☐ MasterCard   ☐ VISA
Card # ________________________________

Exp. Date ________________________________
Cardholder
Signature ________________________________

Follow us on Twitter for additional EMI news and updates #EMI2014
15th Annual Conference on Emerging Issues in Healthcare Law
February 26 - March 1, 2014
The Wigwam Resort, Litchfield, AZ

June 12-13, 2014
Physicians Legal Issues Conference
The Palmer House
Chicago, IL

December 8-9, 2014
12th Annual Washington Health Law Summit
The Ritz-Carlton Washington DC
Washington, DC

March 4-7, 2015
16th Annual Conference on Emerging Issues in Healthcare Law
Disney's Yacht Club Resort
Orlando, FL

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