

AMERICAN BAR ASSOCIATION HEALTH LAW SECTION

11th Annual Conference on Emerging Issues in Healthcare Law

February 17-19, 2010

Pointe Hilton Squaw Peak Resort
Phoenix, Arizona

11th Annual Conference on Emerging Issues in Healthcare Law



Photo courtesy of the Greater Phoenix CVB

SCHEDULE AT A GLANCE

Wednesday, February 17, 2010

9:00 am – 12:00 pm

PRE-CONFERENCE SESSION

Breast Cancer Legal Advocacy Workshop

12:00 pm – 5:00 pm

Registration and Information Desk Open

1:00 pm – 4:00 pm

PRE-CONFERENCE SESSION

Fundamental Concepts in Health Law—
HIPAA, Stark, and Reimbursement

6:00 pm – 7:00 pm

Reception Honoring Young Lawyers

Thursday, February 18, 2010

7:30 am – 5:00 pm

Registration & Information Desk Open

7:30 am – 9:45 am

Continental Breakfast

8:00 am – 9:30 am

PLENARY SESSION

Fraud and Abuse Enforcement—
Developments and Future Trends

9:30 am – 9:45 am

Break

9:45 am – 11:00 am

CONCURRENT INTEREST GROUP CLE SESSIONS

- Hot Topics in Managed Care Claims Payment Reimbursement
- How Will Investigations and Lawsuits Arising Under the Qui Tam Provisions of the False Claims Act Affect You and Your Company?
- Legal Implications of Employee Wellness Programs

11:00 am – 11:15 am

Break

11:15 am – 12:45 pm

PLENARY SESSION

Medicare and Medicaid Contractors: Inside Out

12:45 pm – 1:00 pm

Break

1:00 pm – 2:30 pm

INTEREST GROUP LUNCHES

- eHealth, Privacy & Security
- Employee Benefits & Executive Compensation
- Healthcare Fraud & Compliance
- Healthcare Litigation & Risk Management
- Physician Issues
- Public Health & Policy

2:30 pm – 2:45 pm

Break

2:45 pm – 4:15 pm

PLENARY SESSION

Making Sense of the New Privacy and Security Rules

4:15 pm – 4:30 pm

Break

4:30 pm – 5:45 pm

CONCURRENT INTEREST GROUP CLE SESSIONS

- Can Apologizing Keep You Out of Court?
- Electronic Health Records and Health Information Exchanges: Can the Future Become Reality?
- Who Lives, Who Dies? Crisis Management During a Disaster

6:00 pm – 8:00 pm

Emerging Issues Conference Reception Honoring Program Faculty and Planning Committee Members

Friday, February 19, 2010

7:15 am – 4:00 pm

Registration & Information Desk Open

7:30 am – 9:30 am

Continental Breakfast

7:30 am – 9:00 am

ETHICS SESSION

Walking the Ethical Tightrope

9:00 am – 9:15 am

Break

9:15 am – 9:30 am

State of the Section Address

9:30 am – 11:00 am

PLENARY SESSION

Healthcare Reform: The Fallout and the Future

11:00 am – 11:15 am

Break

11:15 am – 12:30 pm

CONCURRENT INTEREST GROUP CLE SESSIONS

- Social Media Marketing in Healthcare and the Life Sciences
- Structure and Valuation of Quality Management and Call Coverage Arrangements
- We Thought We Knew How to Get Paid, OR What's Old is New Again!

12:30 pm – 1:45 pm

INTEREST GROUP LUNCHES

- Business & Transactions
- Healthcare Facility Operations
- Managed Care & Insurance
- Medical Research, Biotechnology & Clinical Ethical Issues
- Payment & Reimbursement
- Tax & Accounting

1:45 pm – 2:00 pm

Break

2:00 pm – 3:30 pm

PLENARY SESSION

Rethinking the Physician-Hospital Relationship: Strategic Partnerships and Their Effects on the Delivery of Care

3:30 pm – 3:45 pm

Break

3:45 pm – 5:00 pm

CONCURRENT INTEREST GROUP CLE SESSIONS

- Executive and Physician Compensation: Practical Perspectives on Evolving Pay and Disclosure Practices
- Payment, Quality and Ownership: New Developments in Physician Relationships with Hospitals and Patients
- Quality of Care as an Emerging Legal Risk—What Healthcare Lawyers Need to Know

5:00 pm

CLE Program Adjourns

Saturday, February 20, 2010

8:00 am – 11:30 am

Open Council Meeting

12:30 pm – 6:00 pm

11th Annual Margarita Cup Golf Scramble

7:00 pm – 9:00 pm

Margarita Cup Reception Hosted by Section Chair David Hilgers

The Health Law Section Acknowledges the Generous Support of our Sponsors for their Involvement in the 11th Annual Conference on Emerging Issues In Healthcare Law.

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GOLD SPONSORS



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Williams & Anderson PLC



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.....
2009-2010 AMERICAN BAR ASSOCIATION HEALTH LAW SECTION CHAIR

David W. Hilgers,
Brown McCarroll LLP, Austin, TX

.....
11TH ANNUAL CONFERENCE ON EMERGING ISSUES IN HEALTHCARE LAW PLANNING COMMITTEE

Shannon Hartsfield Salimone, Co-Chair,
Holland & Knight LLP, Tallahassee, FL

Hilary H. Young, Co-Chair,
Joy & Young, L.L.P., Austin, TX

Thomas D. Anthony,
Frost Brown Todd LLC, Cincinnati, OH

Ralph E. DeJong,
McDermott Will & Emery LLP, Chicago, IL

Gregory E. Demske, U.S. Department of Health & Human Services, Washington, DC

Kirk L. Dobbins, CVS Caremark,
Northbrook, IL

Denise Glass, Fulbright & Jaworski LLP,
Dallas, TX

C. Joyce Hall, Watkins & Eager PLLC,
Jackson, MS

Hal S. Katz (*ex-officio*),
Brown McCarroll LLP, Austin, TX

Alexandria Hien McCombs, Pinnacle Partners In Medicine, Dallas, TX

Conrad Meyer, Chaffe McCall,
New Orleans, LA

A. Thomas Pedroni, Ober Kaler Grimes and Shriver, PC, Baltimore, MD

Christopher S. Sears, Ice Miller LLP,
Indianapolis, IN

W. Thomas Smith, University of Florida,
Gainesville, FL

Lisa D. Taylor, Stern & Kilcullen, LLC,
Roseland, NJ

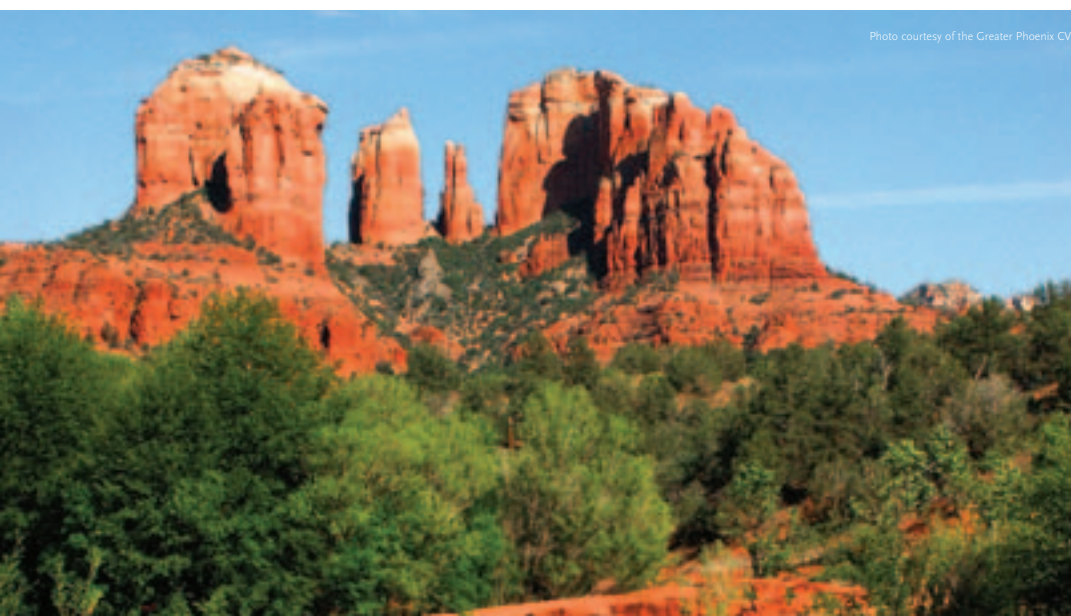


Photo courtesy of the Greater Phoenix CVB

Program Agenda

Photo courtesy of the Greater Phoenix CVB

PROGRAM FACULTY

Barry D. Alexander, Partner, Nelson Mullins Riley & Scarborough LLP, Raleigh, NC

Daniel R. Anderson, Deputy Director, Commercial Litigation Branch, Civil Division, U.S. Department of Justice, Washington, DC

Joel M. Androphy, Partner, Berg & Androphy, Houston, TX

Thomas D. Anthony, Member, Frost Brown Todd LLC, Cincinnati, OH

Michael Barber, MD, Partner, Silverstone Advisors LLC, Cincinnati, OH

Earl J. Barnes, II, Deputy General Counsel, Northwestern Memorial Hospital, Chicago, IL

Michael E. Clark, Partner, Hamel Bowers & Clark LLP, Houston, TX

Melanie Combs-Dyer (Invited), Senior Technical Advisor, CMS, Baltimore, MD

Lisa L. Dahm, JD, LLM-Health, Director of Continuing Legal Education and Adjunct Professor, South Texas College of Law, Houston, TX

Ralph E. DeJong, Partner, McDermott Will & Emery LLP, Chicago, IL

Andrew J. Demetriou, Partner, Fulbright & Jaworski LLP, Los Angeles, CA

Gregory E. Demske, Assistant Inspector General for Legal Affairs, U.S. Department of Health & Human Services, Washington, DC

William P. Dillon, Shareholder, Messer Capareello & Self, P.A., Tallahassee, FL

Kirk L. Dobbins, Vice President, Compliance & Integrity, CVS Caremark, Northbrook, IL

Thomas E. Dowdell, Partner, Fulbright & Jaworski LLP, Washington, DC

Cindy Ehnes, Director, California Department of Managed Health Care, Sacramento, CA

W. Andrew H. Gantt III, Partner, Latham & Watkins LLP, Washington, DC

Roger S. Goldman, Partner, Latham & Watkins LLP, Washington, DC

Faculty continued on next page . . .

11TH ANNUAL CONFERENCE ON EMERGING ISSUES IN HEALTHCARE LAW

Wednesday, February 17, 2010

9:00 am – 12:00 pm

PRE-CONFERENCE SESSION Breast Cancer Legal Advocacy Workshop

The Breast Cancer Legal Advocacy Workshop is a pro bono project of the Health Law Section's Breast Cancer Legal Advocacy Task Force. This special CLE program is free of charge to local attorneys and all EMI attendees.

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 this disease. Cancer patients face a variety of legal problems related to their illness, including issues related to coverage and payment for treatment and to employment. This seminar is geared toward attorneys who do not ordinarily handle cases of this type. In addition to making attendees aware of relevant laws, practices, and procedures, the session will equip them to assist breast cancer patients with legal problems resulting from this illness.

Moderator: Hilary B. Weckstein
MedAssurant Inc.
Bowie, MD

Speakers: Christopher S. Sears
Ice Miller LLP
Indianapolis, IN

Other Speakers TBA

12:00 pm – 5:00 pm

Registration and Information Desk Open

1:00 pm – 4:00 pm

PRE-CONFERENCE SESSION Fundamental Concepts in Health Law—HIPAA, Stark, and Reimbursement

Three experienced panelists will review the basics in three key areas: dealing with protected health information under the HIPAA privacy and security rules; managing transactions in light of the fraud and abuse rules with a focus on the Stark physician self-referral regulations; and obtaining payment from the Medicare program. The session is geared toward attorneys who are new to health law and those who may not practice regularly in these areas and would like a refresher. Although structured as a stand-alone session, the panel will cover issues to be addressed in more detail in subsequent Emerging Issues Conference sessions.

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

Speakers: Barry D. Alexander
Nelson Mullins Riley & Scarborough LLP
Raleigh, NC

Marc D. Goldstone
Community Health Systems
Nashville, TN

William W. Horton
Haskell Slaughter Young & Rediker, LLC
Birmingham, AL

6:00 pm – 7:00 pm

Reception Honoring Young Lawyers
Cosponsored with the ABA Young Lawyers Division
All registrants are welcome to attend and learn about current initiatives with young lawyers and opportunities for young lawyer involvement in the ABA Health Law Section.

Thursday, February 18, 2010

7:30 am – 5:00 pm

Registration & Information Desk Open

7:30 am – 9:45 am

Continental Breakfast

8:00 am – 9:30 am

PLENARY SESSION

Fraud and Abuse Enforcement— Developments and Future Trends

This panel will discuss recent developments and expected future trends in federal civil, criminal, and administrative healthcare fraud enforcement. Topics will include Department of Justice (DOJ) enforcement under the False Claims Act after the amendments in the Fraud Enforcement and Recovery Act of 2009; criminal prosecutions by DOJ's Medicare Fraud Strike Forces; and the joint DOJ/HHS Health Care Fraud Prevention and Enforcement Action Team (HEAT).

Moderator: **Roger S. Goldman**
*Latham & Watkins LLP
 Washington, DC*

Speakers: **Daniel R. Anderson**
*U.S. Department of Justice
 Washington, DC*

Gregory E. Demske
*U.S. Department of Health &
 Human Services
 Washington, DC*

Kirk Ogrosky
*U.S. Department of Justice
 Washington, DC*

9:30 am – 9:45 am

Break

9:45 am – 11:00 am

CONCURRENT INTEREST GROUP CLE SESSIONS

Hot Topics in Managed Care Claims Payment Reimbursement

Managed Care & Insurance Interest Group
 The panel will discuss emerging claims payment and reimbursement issues arising between managed care organizations and healthcare providers. Recent trends related to physician tiering, pay-for-performance, and balance billing will be explored. The session will also review current regulatory, legislative, litigation and other dispute resolution developments affecting these issues and offer strategies for avoiding problems.

Moderator: **Alice L. King**
*ESI
 Dallas, TX*

Speakers: **Cindy Ehnes**
*California Department of
 Managed Health Care
 Sacramento, CA*

E. Paul Herrington III
*Humana Inc.
 Louisville, KY*

How Will Investigations and Lawsuits Arising Under the Qui Tam Provisions of the False Claims Act Affect You and Your Company?

*Healthcare Litigation & Risk Management
 Interest Group*

This interactive panel will discuss the new changes to the FCA and related laws, offer suggestions from the plaintiff and defense perspectives about what proactive measures can be taken to reduce the risks for clients, and analyze the key issues and defenses that remain in FCA litigation after recent Congressional amendments to the FCA.

Moderator: **Carol A. Poindexter**
*Shook, Hardy & Bacon LLP
 Kansas City, MO*

Speakers: **Joel M. Androphy**
*Berg & Androphy
 Houston, TX*

Michael E. Clark
*Hamel Bowers & Clark LLP
 Houston, TX*

Marc D. Goldstone, Vice President and Associate General Counsel (Div II), Community Health Systems, Franklin, TN

Adam H. Greene, Office of the General Counsel, Civil Rights Division, U.S. Department of Health & Human Services, Washington, DC

Denise Hanna, Partner, Locke Lord Bissell & Liddell LLP, Washington, DC

E. Paul Herrington III, Associate General Counsel, Humana Inc., Louisville, KY

William E. Hopkins, Partner, Brown McCarroll LLP, Austin, TX

William W. Horton, Haskell Slaughter Young & Rediker, LLC, Birmingham, AL

Jen Johnson, CFA, Managing Director, VMG Health, Dallas, TX

Larry J. Johnston, President, Heart Center, Inc., Huntsville, AL

Glenn M. Jones, Senior Counsel, Fulbright & Jaworski LLP, Washington, DC

Mitchell Katz, MD, Director of Health, San Francisco Department of Public Health, San Francisco, CA

Judith E. Kindell, Senior Technical Advisor, Tax Exempt and Governmental Entities, Internal Revenue Service, Washington, DC

Alice L. King, Vice President, ESI, Dallas, TX

Jacqueline Klosek, Senior Counsel, Goodwin Procter LLP and Adjunct Professor in Health Privacy, Seton Hall University Law School, New York, NY

Christie Lohkamp, Director of Corporate Tax, Mayo Clinic, Rochester, MN

Holley Thames Lutz, Partner, Sonnenschein Nath & Rosenthal LLP, Washington, DC

Michael R. Manthei, Partner, Holland & Knight LLP, Boston, MA

Alexandria Hien McCombs, Vice President and General Counsel, Pinnacle Partners In Medicine, Dallas, TX

Jeffrey G. Micklos, EVP, Management, Compliance, and General Counsel, Federation of American Hospitals, Washington, DC

Michele M. Molden, President & CEO, Piedmont Heart Institute, Atlanta, GA

Kirk J. Nahra, Partner, Wiley Rein LLP, Washington, DC

Kirk Ogrosky, Deputy Chief for Health Care Fraud, Fraud Section, Criminal Division, U.S. Department of Justice, Washington, DC

James M. Pinna, Associate, Hunton & Williams LLP, Richmond, VA

Carol A. Poindexter, Partner, Shook, Hardy & Bacon LLP, Kansas City, MO

Richard Raysman, Partner, Holland & Knight LLP, New York, NY

Charity Scott, Professor, Georgia State University College of Law, Atlanta, GA

Christopher S. Sears, Partner, Ice Miller LLP, Indianapolis, IN

James G. Sheehan, Medicaid Inspector General, Office of the New York State Medicaid Inspector General, Albany, NY

John Steiner, Chief Compliance Officer, UK HealthCare, Lexington, KY

Lisa D. Taylor, Partner, Stern & Kilcullen, LLC, Roseland, NJ

Cheryl L. Wagonhurst, Partner, Foley & Lardner LLP, Los Angeles, CA

Cmdr. Kathleen Wallace (Invited), Senior Health Insurance Specialist/Nurse Consultant & Region D Lead Project Officer, CMS, Baltimore, MD

Hilary B. Weckstein, Associate Corporate Counsel, MedAssurant Inc., Bowie, MD

Sidney Summers Welch, Partner, Arnall Golden Gregory LLP, Atlanta, GA

Jerry Williamson, MD, FAAP, LHRM, Chief Medical Officer and Medical Director, Collier Health Services, Inc., Immokalee, FL

Doug Wojcieszak, Founder, The Sorry Works! Coalition, Glen Carbon, IL

Leslie E. Wolf, JD, MPH, Associate Professor of Law, Georgia State University College of Law, Atlanta, GA

Hilary H. Young, Partner, Joy & Young, LLP, Austin, TX

Legal Implications of Employee Wellness Programs

Employee Benefits & Executive Compensation Interest Group

Many employers, concerned about the continually increasing costs of healthcare and the productivity losses that result from absenteeism associated with employees who are not well, are exploring a variety of wellness programs. While such programs have a number of important benefits, they also raise considerable legal issues. This panel will explore such issues, with a particular focus on privacy concerns, taxation, and legal compliance. The presenters will also discuss how to develop and implement a wellness program that is legally compliant.

Speakers: **Jacqueline Klosek**
*Goodwin Procter LLP and Seton Hall University Law School
New York, NY*

Christopher S. Sears
*Ice Miller LLP
Indianapolis, IN*

**11:00 am – 11:15 am
Break**

11:15 am – 12:45 pm PLENARY SESSION Medicare and Medicaid Contractors: Inside Out

Government and private sector experts will share their experience and expertise on current and emerging Medicare contractor initiatives involving RACs, MACs, ZPICs and the Medicaid Integrity Program with its new tools for states and Medicaid Integrity contractors. This session will address what is new with Medicare and Medicaid contractors, what are they looking for, what have they found, what are they planning to do, and what should you do.

Moderator: **Kirk L. Dobbins**
*CVS Caremark
Northbrook, IL*

Speakers: **Melanie Combs-Dyer (invited)**
*CMS
Baltimore, MD*

James G. Sheehan
*Office of the New York State
Medicaid Inspector General
Albany, NY*

Cmdr. Kathleen Wallace (invited)
*CMS
Baltimore, MD*

**12:45 pm – 1:00 pm
Break**

1:00 pm – 2:30 pm INTEREST GROUP LUNCHES

- eHealth, Privacy & Security
- Employee Benefits & Executive Compensation
- Healthcare Fraud & Compliance
- Healthcare Litigation & Risk Management
- Physician Issues
- Public Health & Policy

**2:30 pm – 2:45 pm
Break**

2:45 pm – 4:15 pm PLENARY SESSION Making Sense of the New Privacy and Security Rules

The economic stimulus legislation imposes the most significant changes to the healthcare privacy and security environment since the original HIPAA Privacy Rule, along with significantly enhanced enforcement expectations. This session will focus on the primary challenges in meeting these new requirements—the areas where healthcare companies and their business associates face the most risk, the biggest operational change, or the most confusion. The panel will discuss how to evaluate the enormous challenges of these new rules and turn them into realistic compliance approaches. Looking forward, the panel will also identify the primary anticipated effects from these changes and the areas of likely developments for the future.

Speakers: **Adam H. Greene**
*U.S. Department of Health & Human Services
Washington, DC*

Kirk J. Nahra
*Wiley Rein LLP,
Washington, DC*

**4:15 pm – 4:30 pm
Break**

4:30 pm – 5:45 pm CONCURRENT INTEREST GROUP CLE SESSIONS Can Apologizing Keep You Out of Court?

Healthcare Facility Operations Interest Group
Does simply saying “I’m sorry” to a patient or a patient’s family for an adverse outcome keep

a provider from being dragged into court? Research supports the idea that providers who express regret to patients after an unanticipated outcome significantly reduce malpractice suits. Fear of such suits, however, prevents many physicians and hospitals from consoling patients after an unanticipated outcome. Several states have enacted "I'm Sorry Laws" in an attempt to ease fears and promote transparency in healthcare by insulating a provider who apologizes to a family or patient from having such apology used as an admission of liability. This panel will address issues raised in various states by apologizing for adverse outcomes and will discuss how providers may respond to patients and their families when unanticipated events occur.

Moderator: **Alexandria Hien McCombs**
Pinnacle Partners In Medicine
Dallas, TX

Speakers: **Jerry Williamson, MD, FAAP, LHRM**
Collier Health Services, Inc.
Immokalee, FL

Doug Wojcieszak
The Sorry Works! Coalition
Glen Carbon, IL

Electronic Health Records and Health Information Exchanges: Can the Future Become Reality?

eHealth, Privacy & Security Interest Group
The federal government has sounded a clarion call, echoed to an extent by consumers, to revamp, reform, restructure, and revitalize healthcare information technology to improve quality of care and reduce upwardly spiraling costs. The panacea for today's healthcare system, say many, is an interoperable Electronic Health Record (EHR) system. But are EHRs the answer, or are they doomed to fail? As more and more providers adopt and implement EHRs, they will have the opportunity to participate in a multi-party Health Information Exchange (RHIO, E-Gateway). The panel will explore how these HIEs operate and the legal implications of providers' participation in them.

Moderator: **W. Andrew H. Gantt III**
Latham & Watkins LLP
Washington, DC

Speakers: **Lisa L. Dahm, JD, LLM-Health,**
South Texas College of Law
Houston, TX

William P. Dillon
Messer Caparelo & Self, P.A.
Tallahassee, FL

Richard Raysman
Holland & Knight LLP
New York, NY

Who Lives, Who Dies? Crisis Management During a Disaster

Medical Research, Biotechnology & Clinical Ethical Issues Interest Group and Public Health & Policy Interest Group

How can legal counsel help guide healthcare clients through disasters like Hurricane Katrina, a biological attack, or a pandemic flu of catastrophic proportions, when crisis management exposes healthcare providers to the risks of deciding who lives and who dies? This session addresses the complex legal, ethical, and practical issues that healthcare providers face during a disaster when saving all patients may not be possible. The panel will discuss the potential for criminal and civil liability, as well as the implications for the professional licensure of providers, including providers immediately faced with making these decisions and providers not licensed locally who may want to volunteer their professional services. Speakers will also explore the growing adoption by states of legal immunity statutes to address the liability risks raised by healthcare responders and rescuers during a disaster and will cover the ethical ramifications of these life-and-death decisions even when the liability risk has been reduced by immunity statutes. Finally, the panel will offer practical guidance for healthcare attorneys who hope that they never have to face such a situation.

Moderator: **Charity Scott**
Georgia State University College of Law
Atlanta, GA

Speakers: **Mitchell Katz, MD**
San Francisco Department of Public Health
San Francisco, CA

Leslie E. Wolf, JD, MPH
Georgia State University College of Law
Atlanta, GA

6:00 pm – 8:00 pm

Emerging Issues Conference Reception Honoring Program Faculty and Planning Committee Members

Join all conference attendees as the ABA Health Law Section thanks our 2010 Planning Committee and Faculty.





Photo courtesy of the Greater Phoenix CVB


CONFERENCE INFORMATION

REGISTRATION

Register by **FEBRUARY 1, 2010** online, by fax, or U.S. Mail. Registration will be accepted only when accompanied by payment.

 **Online:**
www.abanet.org/health

 **Fax:** 312/988-5814

 **U.S. Mail:**
American Bar Association
Health Law Section
321 North Clark Street
Chicago, IL 60654

Three
Ways to
Register

ON SITE REGISTRATION

Please call 312/988-5532 by **FEBRUARY 10, 2010** to ensure space availability. On site registration will only be accepted when accompanied by check, money order, Visa, American Express, or MasterCard information.

CANCELLATION POLICY

Tuition, less a \$50 handling charge for each registration, will be refunded upon written cancellation received no later than **FEBRUARY 3, 2010**. 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.

Conference information continued on next page

Friday, February 19, 2010

7:15 am – 4:00 pm

Registration & Information Desk Open

7:30 am – 9:30 am

Continental Breakfast

7:30 am – 9:00 am

ETHICS SESSION

Walking the Ethical Tightrope

Panelists will use an interactive case study approach to explore ethical dilemmas faced by inside and outside counsel to healthcare organizations. Topics explored will include: keeping in mind who is the client; conflicts between management and the board; when counsel has to go directly to the board; when management is conflicted (such as on personal compensation, benefit, and severance arrangements); pressures of disclosing potential conflicts of interest and compensation on the Form 990; and using the “advice of counsel” defense and implications for the attorney-client and work product privileges.

Moderator: William E. Hopkins
*Brown McCarroll LLP
Austin, TX*

Speakers: Ralph E. DeJong
*McDermott Will and Emery LLP
Chicago, IL*

Lisa D. Taylor
*Stern & Kilcullen, LLC
Roseland, NJ*

9:00 am – 9:15 am

Break

9:15 am – 9:30 am

State of the Section Address

Section Chair David W. Hilgers will discuss the activities, achievements, and aspirations of the ABA Health Law Section.

9:30 am – 11:00 am

PLENARY SESSION

Healthcare Reform: The Fallout and the Future

Healthcare reform legislation will precipitate significant changes in the health insurance

markets, the design of employee benefit plans, provider reimbursement under federal programs, and the infrastructure for the delivery of care. This panel will discuss the current state of reform legislation and the implications for market participants to assist health lawyers in advising clients concerning the uncharted waters ahead. Physician, Hospital, Health Plan and Pharma interests will participate on this panel.

Moderator: Andrew J. Demetriou
*Fulbright & Jaworski LLP
Los Angeles, CA*

Speakers: Denise Hanna
*Lock Lord Bissell & Liddell LLP
Washington, DC*

Jeffrey G. Micklos
*Federation of American Hospitals
Washington, DC*

Sidney Summers Welch
*Arnall Golden Gregory LLP
Atlanta, GA*

11:00 am – 11:15 am

Break

11:15 am – 12:30 pm

CONCURRENT INTEREST GROUP CLE SESSIONS

Social Media Marketing in Healthcare and the Life Sciences

*Healthcare Fraud & Compliance Interest Group
and Healthcare Litigation and Risk Management
Interest Group*

The explosion of social media (Facebook, Twitter, blogs, microsites, etc.) has created a new platform for marketing healthcare products and services. The panel will discuss some of the legal implications of social media marketing in healthcare and the life sciences, including liability for content, enforcement, compliance pitfalls, and privacy concerns. The panel also will review the status of recent efforts by the FDA to begin addressing industry’s use of social media to market and sell products that the agency regulates.

Speakers: Glenn M. Jones
*Fulbright & Jaworski LLP
Washington, DC*

Michael R. Manthei
*Holland & Knight LLP
Boston, MA*

Structure and Valuation of Quality Management and Call Coverage Arrangements

Business & Transactions Interest Group

Critical success factors for hospitals are trending towards improved quality and transparency, often requiring enhanced participation and cooperation from physician staff. This session will address structures in the marketplace intended to improve the quality of care, including co-management agreements, performance management agreements, quality advisory committees and at-risk call coverage agreements, and the unique challenges involved with structuring and determining Fair Market Value compensation for these evolving arrangements.

Speakers: Jen Johnson, CFA
*VMG Health
Dallas, TX*

James M. Pinna
*Hunton & Williams LLP
Richmond, VA*

We Thought We Knew How to Get Paid, OR What’s Old is New Again!

Payment & Reimbursement Interest Group

A number of Medicare coverage and reimbursement issues that were once considered “old hat” are emerging as recurring major issues for providers and suppliers. This session will review new developments in the requirements for physician supervision of hospital outpatient services; condition code 44; hospital services performed “under arrangement”; potential pitfalls of provider enrollment and accreditation; and transplant services reimbursement issues, including the proper treatment of physician pre-transplant services and other hot coverage/payment issues.

Speakers: Thomas E. Dowdell
*Fulbright & Jaworski LLP
Washington, DC*

Holley Thames Lutz
*Sonnenschein Nath &
Rosenthal LLP
Washington, DC*

12:30 pm – 1:45 pm

INTEREST GROUP LUNCHES

- Business & Transactions
- Healthcare Facility Operations
- Managed Care & Insurance
- Medical Research, Biotechnology & Clinical Ethical Issues
- Payment & Reimbursement
- Tax & Accounting

1:45 pm – 2:00 pm

Break

2:00 pm – 3:30 pm

PLENARY SESSION

Rethinking the Physician-Hospital Relationship: Strategic Partnerships and Their Effects on the Delivery of Care

External factors such as the economic downturn and healthcare reform have impacted the relationships between physicians and hospitals. The panelists will discuss how hospitals and physicians are working together in the current environment, including trends in physician employment, physician contracting, and clinical integration. The session will also explore the effect these external influences have had on transactions between physicians and hospitals, and the implications for the delivery of care.

Moderator: **Sidney Summers Welch**
*Arnall Golden Gregory LLP
 Atlanta, GA*

Speakers: **Larry Johnston**
*Heart Center, Inc.
 Huntsville, AL*

Michele M. Molden
*Piedmont Heart Institute
 Atlanta, GA*

3:30 pm – 3:45 pm

Break

3:45 pm – 5:00 pm

CONCURRENT INTEREST GROUP CLE SESSIONS

Executive and Physician Compensation: Practical Perspectives on Evolving Pay and Disclosure Practices

Tax & Accounting Interest Group
 The spotlight is still trained on executive compensation. The IRS continues its review of college and university executive pay. A Congressional committee is requiring executive pay information from health insurers. Newly filed Form 990s contain more detailed information on executive pay and pay practices. The economic downturn is affecting public perception of nonprofit pay levels. Meanwhile, hospital employment of physicians and hospital-physician deals are on the rise, generating myriad compensation issues. This session will review recent developments affecting executive and

physician pay, and will explore areas of particular vulnerability. The panelists will provide a practical perspective on these developments and how they are influencing the design, approval, oversight, and public perception of executive and physician compensation – including how exempt healthcare organizations are administering and disclosing their pay programs in this economy.

Speakers: **Ralph E. DeJong**
*McDermott Will & Emery LLP
 Chicago, IL*

Judith E. Kindell
*Internal Revenue Service
 Washington, DC*

Christie Lohkamp
*Mayo Clinic
 Rochester, MN*

Payment, Quality and Ownership: New Developments in Physician Relationships with Hospitals and Patients

Physician Issues Interest Group
 The relationships among physicians, hospitals and their patients have taken bold, new evolutionary steps. Many arrangements focus on quality of care, but are directly linked to payment and ownership. The topics to be discussed include physician employment by hospitals, dealing with disruptive physicians in view of the new Joint Commission standards, the ownership of hospitals by physicians, quality issues related to credentialing and ownership of surgical centers and physician owned hospitals, and new physician structures including the development of accountable care organizations, medical home, and Pay for Performance arrangements.

Speakers: **Thomas D. Anthony**
*Frost Brown Todd LLC
 Cincinnati, OH*

Michael Barber, MD
*Silverstone Advisors LLC
 Cincinnati, OH*

Earl J. Barnes, II
*Northwestern Memorial Hospital
 Chicago, IL*

Quality of Care as an Emerging Legal Risk—What Healthcare Lawyers Need to Know

Healthcare Fraud & Compliance Interest Group
 This session will cover quality of care government enforcement actions and what is new on the horizon; the use of data mining by CMS,

REGISTRATION FEE

Your payment will cover admission to the program, continental breakfasts, coffee breaks, tickets to the IG Lunch on each day, receptions, and the program course materials in the format of your choice.

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; however, registrants must pre-register for the lunch meeting to guarantee a reserved boxed lunch.

HOTEL INFORMATION

The conference will be held at the **Pointe Hilton Squaw Peak Resort**, located at 7677 North 16th Street, Phoenix, Arizona 85020. Call 602/997-2626 or 1-800-HILTONS no later than **MONDAY, JANUARY 25, 2010**. Please mention the American Bar Association Health Law Section 11th Annual Conference on Emerging Issues to receive the special rate of \$223 for a single or double suite. A limited number of government rate suites have been reserved on a first available basis at \$140 for a single or double.

AIRLINE INFORMATION

The Pointe Hilton Squaw Peak Resort is located 10 miles/20 minutes from Sky Harbor International Airport (PHX). Taxi fare from Sky Harbor International Airport is approximately \$30-\$35. Discounted airfares are available from ABA Orbitz for Business including ABA negotiated discounts on American and United. To book online, go to www.abanet.org/travel > click under the Orbitz for Business logo at the top of the page > click on the appropriate link in the Self Paid Travel box. For assistance with online or offline reservations, call toll free 1-877-222-4185.

Discounts can also be obtained directly from the carrier: for American Airlines call 1-800-433-1790, discount code A1210SS and for United Airlines call 1-800-521-4041, discount code 578IG.

CLE CREDIT

CLE has been requested from every state 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 Health Law Section directly at 312/988-5532 after **FEBRUARY 1, 2010**.

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 submit your request in writing to Abbey Palagi, American Bar Association Health Law Section, 321 N. Clark St., Chicago, IL 60654, or fax to 312/988-5814.

DRESS CODE

Resort or business 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.

Medicaid and private insurance companies; how health reform and payment reform are affecting enforcement activity in the area of quality of care cases (including discussion of Never Events); practical steps for integrating quality of care into a provider's compliance program; and steps providers can take to mitigate risk.

Speakers: **John Steiner**
UK HealthCare
Lexington, KY

Cheryl L. Wagonhurst
Foley & Lardner LLP
Los Angeles, CA

5:00 pm
CLE Program Adjourns

Saturday, February 20, 2010

8:00 am – 11:30 am
Open Council Meeting

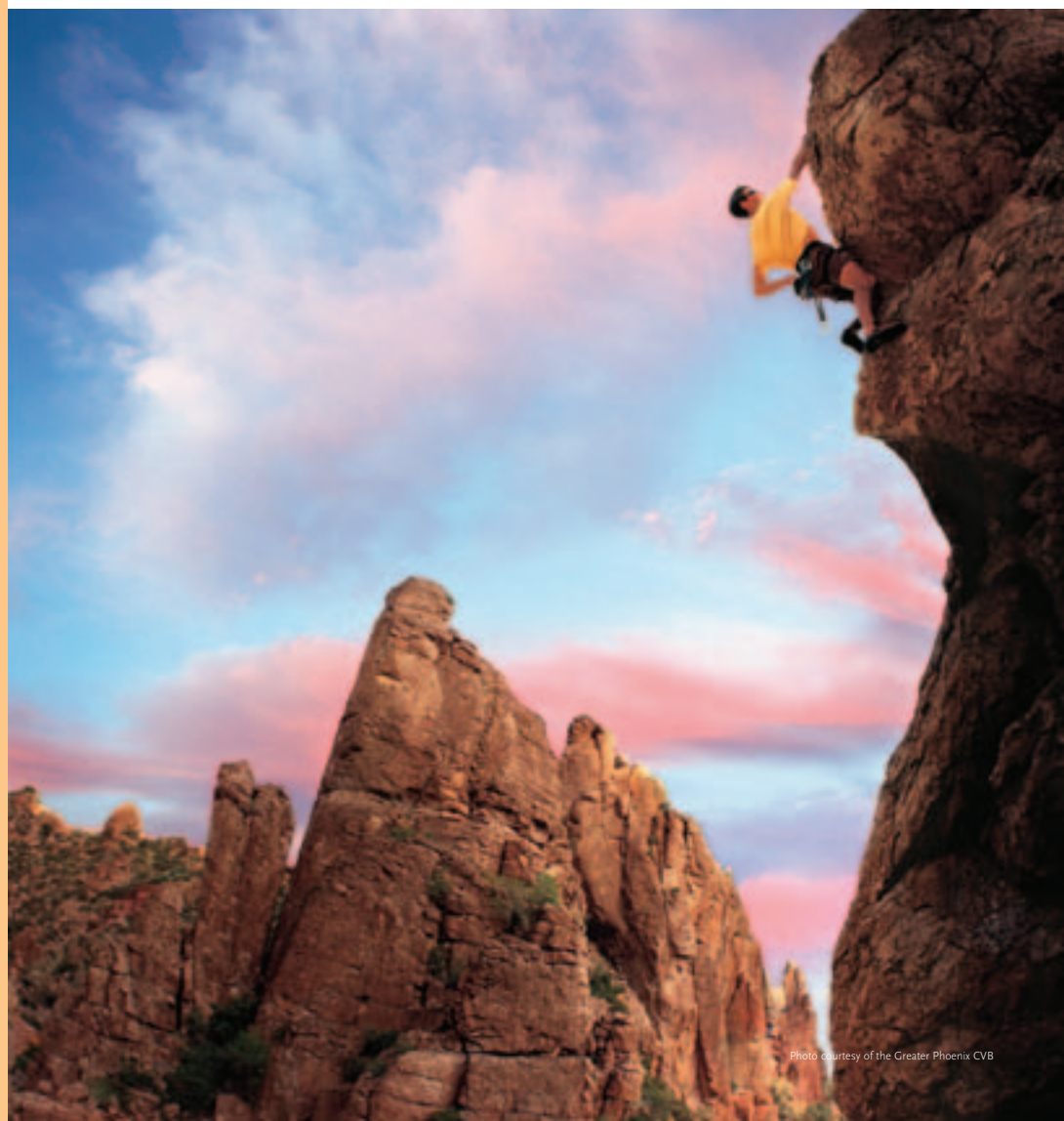
All members are welcome to attend the Section Open Council Meeting.

12:30 pm – 6:00 pm
11th Annual Margarita Cup Golf Scramble

Lookout Mountain Golf Club
All levels of golfers are encouraged to play!

7:00 pm – 9:00 pm
Margarita Cup Reception Hosted by Section Chair David W. Hilgers

All meeting attendees are welcome!



Program Registration

PROGRAM REGISTRATION FORM

Name _____
First Name for Name Badge _____
Company/Firm Name _____
Address _____
City, State, Zip _____
Phone _____ Fax _____
E-mail Address _____
 YES, I am bringing a spouse/guest (name) _____
ABA ID # _____
States in which you are licensed (please list all) _____

Three Ways to Register



Online: www.abanet.org/health



Fax: 312/988-5814



U.S. Mail:
**American Bar Association
Health Law Section
321 North Clark Street
Chicago, IL 60654**

PART A REGISTRATION FEES:

- \$1095 General Attendees (non-ABA Members)
- \$895 ABA Member Non-Health Law Member
- \$745** ABA Health Law Member/ ABA YLD Member Rate
- \$250 Government/Academic
- \$75 Student

**Take advantage of this today when you sign up for ABA Health Law Section membership! See Part B below.

PART B **HEALTH LAW SECTION MEMBERSHIP:

- \$50 Please sign me up for ABA Health Law Section membership (you must be a member of the American Bar Association to join the Health Law Section)

PART C WEDNESDAY, FEBRUARY 17TH PRE-CONFERENCE SESSIONS:

Please Select One or Both Sessions or Indicate "No"

- NO**
I will not attend the Wednesday Pre-Conference Sessions
- Free!**
Yes, I will attend one of the **Wednesday Pre-Conference Sessions**. The fee is waived with my paid Emerging Issues Conference Registration.
 - Breast Cancer Legal Advocacy (morning session)**
 - I will only attend the Breast Cancer Advocacy Program and will **not attend** the Emerging Issues Conference.
 - Fundamental Concepts in Health Law—HIPAA, Stark and Reimbursement**

PART D INTEREST GROUP LUNCHES

There is no additional charge to attend either or both days of Interest Group Lunch Meetings. However, lunches will be ticketed, therefore registrants must indicate which lunch(es) they plan to attend.

THURSDAY LUNCH MEETINGS:

Please choose to attend one of the following:

- eHealth, Privacy & Security
- Employee Benefits & Executive Compensation
- Healthcare Fraud & Compliance
- Healthcare Litigation & Risk Management
- Physician Issues
- Public Health & Policy

FRIDAY LUNCH MEETINGS:

Please choose to attend one of the following:

- Business & Transactions
- Healthcare Facility Operations
- Managed Care & Insurance
- Medical Research, Biotechnology & Clinical Ethical Issues
- Payment & Reimbursement
- Tax & Accounting

Please share any dietary restrictions:

- Kosher
- Lactose Intolerant
- Vegetarian
- (other) _____

PART E 11TH ANNUAL MARGARITA CUP GOLF SCRAMBLE

Tee times begin at 12:30 pm Saturday. Please arrive at the golf course NO LATER than 12:15 pm, depending on your assigned tee time. Don't forget to join us at the reception immediately following the golf event! All are welcome.

- \$180 11th Annual Margarita Cup Golf Scramble

PART F COURSE MATERIALS

One set of course materials (either Paperback Book or CD ROM) is included in the registration fee. Please indicate your preference below. For an additional charge of \$25, attendees can receive both versions of the materials. Please note that those registrants not indicating a preference will receive materials in the CD ROM version only.

- No Additional Charge**
11th Annual Conference on Emerging Issues in Healthcare Law **Paperback Book**
- No Additional Charge**
11th Annual Conference on Emerging Issues in Healthcare Law **CD ROM**
- \$25**
11th Annual Conference on Emerging Issues in Healthcare Law **CD ROM and Book**
- Unable to Attend and Wish to Purchase the Materials?**
Conference materials will be available after March 22, 2010 at the ABA online Bookstore; please visit www.ababooks.org to purchase your conference materials. Upon request, section staff will gladly send you a reminder e-mail when materials are available at the bookstore.

CATEGORY

A: Registration (A): _____ \$ _____
B: Health Law Section Membership (B): _____ \$ _____
C: Wednesday Pre-Conference Session (Please Select in Section C) _____ \$ _____
D: IG Lunches (Please Select in Section D) _____ \$ _____
E: Margarita Cup (E): _____ \$ _____
F: Extra Course Materials (F): _____ \$ _____
TOTAL FEES: _____ \$ _____

METHOD OF PAYMENT

- CHECK enclosed (payable to the American Bar Association)
- American Express Mastercard VISA

Card# _____

Exp. Date _____

Cardholder Signature _____



Photo courtesy of the Greater Phoenix CVB

American Bar Association
Health Law Section
321 North Clark Street
Chicago, IL 60654



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Documentation

**11th Annual Conference on
Emerging Issues in Healthcare Law
Pointe Hilton Squaw Peak Resort
Phoenix, Arizona**

- **Program Date: February 17–19, 2010**
- **Registration Deadline: February 1, 2010**
- **Hotel Room Block Deadline: January 25, 2010**

**UPCOMING EVENTS
ABA HEALTH LAW SECTION**

June 10, 2010

Physician-Legal Issues Conference
American Bar Association Conference Center,
Chicago, IL

December 6-7, 2010

**8th Annual Washington Healthcare
Summit**
Ritz-Carlton, Pentagon City, Arlington, VA

February 23-25, 2011

**12th Annual Conference on Emerging
Issues in Healthcare Law**
Ritz-Carlton, New Orleans, LA

*** Call Abbey Palagi at 312/988-5532 for
information*

FUN TIMES IN PHOENIX

With an average daily February temperature of 70 degrees, the Valley of the Sun is the place to be for the 11th Annual Conference on Emerging Issues in Healthcare Law. From world-class golf to stunning mountain hiking and biking, swimming to shopping, sunning, saguaros and spa treatments, you will not find a better spot for the perfect mid-winter break.

THE POINT HILTON SQUAW PEAK RESORT

Nestled on the slopes of the Phoenix North Mountains, this Spanish-Mediterranean resort features one of the most unique Southwestern experiences in the country. This luxurious all suite property is bordered by 3,000 acres of scenic Sonoran desert in the adjacent mountain preserve providing guests with spectacular views and immediate access to Arizona's natural beauty.

The Resort features eight swimming pools, including a free-form super pool, lazy river and 130-foot winding water slide. Squaw Peak is also home to the Tocasierra Spa and state-of-the-art fitness center. With three on-site restaurants and access to the nearby Lookout Mountain Golf Club the Pointe Hilton Squaw Peak Resort is the perfect destination for Emerging Issues 2010!

CONFERENCE SOCIAL EVENTS

Reception Honoring Young Lawyers –
*Co-sponsored with the ABA Young Lawyers
Division*

Join us Wednesday evening for an entertaining time as we invite local young lawyers to meet colleagues and leaders in the Health Law Section. Everyone is welcome!

**WELCOME RECEPTION HONORING
CONFERENCE FACULTY AND PLANNING
COMMITTEE**

All conference attendees are encouraged to attend this terrific event at the resort immediately following Thursday afternoon's last session.

**THE 11TH ANNUAL MARGARITA CUP GOLF
SCRAMBLE AND RECEPTION**

Join others in the Section for a fun afternoon of golf and play at **Lookout Mountain Golf Club**. Players at **ALL** levels are welcome and fun prizes will be awarded at a **reception** immediately following the event which is open to all registrants and their guests.