

Physicians Legal Issues:

Health Care
Delivery & Innovation
Virtual Conference

SEPT
21-25
2020

Presented by:



Physicians Legal Issues: Healthcare Delivery & Innovation Virtual Conference

September 21-25, 2020

Target Audience & Scope of Professional Practice

This joint CLE and CME virtual conference is designed for physicians and attorneys who work in healthcare and closely connected industries. Whether you are just starting your career or have decades of experience, this conference will provide valuable insight and strategies that can improve your practice.

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PROGRAM DETAIL

Description

Economic, political and regulatory forces, coupled with technology innovation, continue to challenge and change the delivery and payment of healthcare. These changes have caused physician practices and community hospitals to consolidate and/or diversify, forming large “super” groups or health systems that are transforming the delivery of care through clinical integration. Additionally, new government payment models, the push by private insurers to share risk, and other market conditions continue to shift physicians, hospitals and other healthcare providers away from traditional fee-for-service reimbursement into value-based payment models. Finally, healthcare delivery is affected by other forces, such as the ongoing COVID-19 pandemic, telemedicine, artificial intelligence (AI), and additional real-world factors. The net result is that physicians and other healthcare providers must navigate an evolving landscape of emerging legal risks and challenges to their business models.

Sessions will cover key topics, including new payment models, compliance issues, enforcement trends, contracting, tips for managing transactions, cybersecurity, the implications of new technologies, payor and medical staff disputes, and workplace issues for physicians. Speakers will share practical, and viable improvement techniques to help you work more efficiently while restoring your sense of purpose.

Global Learning Objectives

The following sessions will address legal and clinical topics of importance to physicians:

- Developments in the use of machine learning and artificial intelligence in healthcare.
- Recent payment models and initiatives in the insurance marketplace and how they affect payor alignment and marketplace strategies.
- Key policies for implementing clinical integration.
- Evaluation of physician and vendor relationships.
- Important workplace issues, including structuring physician compensation arrangements, particularly in the context of value-based arrangements, contract negotiation and compensation, harassment, reputation management and financial planning.
- Arbitration of managed care reimbursement issues and resolving litigated health insurance claims.
- Current trends in False Claims Act cases and practical, real-world ideas for physicians to address and prevent False Claims Act exposure.
- Implementation and compliance challenges related to the use of electronic health records (EHRs).
- Security and privacy of patients’ data.
- Practical implications of healthcare fraud and abuse laws, including Stark Law and the Anti-Kickback Act.
- Challenges presented by advances in technology that may result in professional responsibility concerns for both physicians and attorneys.

Schedule At-a Glance

Monday, September 21, 2020 – Day 1 Innovation in the COVID Era

1:15 – 1:25 pm CT	Welcome Message
2:15 – 3:15 pm CT	Adopting Remote Patient Monitoring: Weighing Legal and Practical Concerns
3:30 – 4:30 pm CT	Digitally Transforming American Healthcare
4:45 – 5:45 pm CT	Virtual Opening Reception

Tuesday, September 22, 2020 – Day 2 Innovation in the COVID Era

9:30 – 10:15 am CT	Keynote: Montrece Ransom, JD, MPH, Contributing Faculty School of Health Sciences, Walden University
10:30 – 11:30 am CT	Don't Just Stand There! Ethical Dilemmas in Managing Medical Resource Supply Shortages
11:45 am – 12:45 pm CT	Does Your Patient Understand?: Healthcare Communication in the 21st Century

Wednesday, September 23, 2020 – Day 3 Physician Practice Issues

2:00 – 3:00 pm CT	First, Do No Harm: Best Practices for Managing Staff Privileges and Discipline
3:15 – 4:15 pm CT	A Growing Dynamic: Private Equity Transactions Pre- and Post-COVID Issues

(Continues)

Schedule At-a Glance (continued)

4:30 – 5:30 pm CT What to Do and What to Expect: Negotiating Physician/Hospital Financial Arrangements

Thursday, September 24, 2020 – Day 4 Physician Practice Issues

10:30 – 11:30 am CT Physician Compensation: Hot Topics, Trends, and Traps

11:45 am – 12:45 pm CT Minimizing Payment Disputes – Contracting and Conflict Resolution Strategies

6:30 – 7:30 pm CT Health Law Section Vinyasa Yoga Class

Friday, September 25, 2020 – Day 5 - Compliance and Enforcement

11:45 am – 12:15 pm Keynote: Alec Alexander, JD, CMS Deputy Administrator & Director

12:30 – 1:30 pm CT Bad Facts and Qui Tam: FMV and CR in the Eye of the Beholder

1:45 – 2:45 pm CT Grab a Seat at the Table: Strategic Planning and Tools for Physicians and Group Practices

3:00 – 4:00 pm CT Is a Bad Yelp Rating Making You Yelp? Management and Response to Patient Online Posts

4:15 – 5:15 pm CT Safety and Medical Legal Liability Risks Resulting from EHR's

PROGRAM AGENDA

Monday, September 21, 2020 – Day 1

2:00 – 2:10 pm CT

Welcome Message

- **Hal Katz, JD**, Husch Blackwell,
Austin, TX
Chair, American Bar Association
Health Law Section
- **Tariq Butt, MD**, Chicago, IL
President, Chicago Medical Society

2:15 – 3:15 pm CT

Adopting Remote Patient Monitoring: Weighing Legal and Practical Concerns

Use of remote patient monitoring and telehealth has accelerated during the COVID-19 pandemic. What compliance issues are revealed when adopting remote patient monitoring into an established physician's practice? Join our presenters as they examine various legal and practical questions involved in adopting remote patient monitoring, including working with a third-party monitoring company as well as billing, licensure, valuation, and privacy concerns.

Speakers:

- **Rachel B. Goodman, JD**
Foley & Lardner, Tampa, FL
- **Richard Romero**
Coker Group, Brentwood, TN

3:30 – 4:30 pm CT

Digitally Transforming American Healthcare

Artificial Intelligence (AI), telehealth, and other new technologies used prior to and developed during the COVID-19 pandemic have the potential to dramatically alter the delivery of healthcare. The legal, ethical, economic, and political implications of this evolution, ranging from digitally augmented to autonomous providers, are significant and demand a reassessment of current medical licensing, scope of practice, liability, training laws, and regulations.

Speakers:

- **Fazal R. Khan, JD**
University of Georgia School of Law,
Athens, GA
- **Baha Zeidan, CEO**
Azalea Health
Atlanta, GA

4:45 – 5:45 pm CT

Virtual Opening Reception

Tuesday, September 22, 2020 – Day 2

9:30 – 10:15 am CT

Keynote: Montrece Ransom, JD, MPH, Contributing Faculty School of Health Sciences, Walden University

10:30 – 11:30 am CT

Don't Just Stand There! Ethical Dilemmas in Managing Medical Resource Supply Shortages

How prepared is your team to make real-life decisions when medical care resources (medications, ventilators, hospital beds), become insufficient to meet demand during a pandemic? Our panel will illustrate how application of healthcare law and principles of medicine can be ethically administered during a public disaster. In addition, this session will demonstrate how pre-existing systemic and structural biases in the healthcare system can become magnified during the construction of policies that ration health resources.

Speakers:

- **David J. Banayan,** MD, MSc, FRCPC
Rush University Medical Center,
Chicago, IL
- **Haavi Morreim,** JD, PhD
College of Medicine
University of Tennessee, Memphis,
TN

Moderator:

- **David H. Ellenbogen,** JD
Scott and White Health Plan, Temple, TX

11:45 am – 12:45 pm CT

Does Your Patient Understand?: Healthcare Communication in the 21st Century

Can your organization and physicians communicate effectively with a diverse populace in this era of electronic medical records and emerging healthcare information technology? Our experts will discuss how medical information technology can aid in assessing patient health literacy and provide tools to bridge possible communication gaps.

Speakers:

- **Cristina Barboi,** MD
Northwestern University,
Evanston, IL
- **Jeffery C. Weisman,** MD, JD
University of Illinois Chicago,
Chicago, IL

(Continues)

Wednesday, September 23, 2020 – Day 3

1:15 – 1:45 pm CT

Keynote: Dr. Omar B. Lateef, President and Chief Executive Officer, Rush University Medical Center

2:00 – 3:00 pm CT

First, Do No Harm: Best Practices for Managing Staff Privileges and Discipline

When physicians or other medical staff are involved in allegations of patient abuse, standardized procedures will protect patients and staff. The complications increase when professional licensed staff are involved and there is a need for discipline or administrative leave. The presenters will help attendees understand how to manage problem physicians and provide guidance on when to terminate a physician relationship, while recognizing the complexity of internal institutional investigations and varying state laws regarding employment relationships and obligations.

Speakers:

- **Terri Keville, JD**
Davis Wright Tremaine LLP,
Los Angeles, CA
- **Rhonda Perna, JD, MBA, CPRHM, RN, BSN**
University of Illinois Hospital & Health Sciences System, Chicago, IL
- **Terry Vanden Hoek, MD, FACEP**
University of Illinois Hospital & Health Sciences System, Chicago, IL

Moderator:

- **David Zarett, JD**
Weiss Zarett Brofman Sonnenklar & Levy, PC, New Hyde Park, NY

3:15 – 4:15 pm CT

A Growing Dynamic: Private Equity Transactions Pre- and Post-COVID Issues

The growth in affiliations between private equity investors and healthcare service entities have skyrocketed in recent years. The volume, size and scale of these transactions have piqued interest, as these deals play a role in the dynamic of many healthcare marketplaces. Our speakers will provide an overview of key legal and valuation concepts in physician to private equity (PE) transactions, including current trends related to different transaction structures and valuations, considerations for various transaction structures, employment agreements, non-compete agreements, equity secession, physician rollover equity, and the inter-workings of complex equity structures.

Wednesday, September 23, 2020 – Day 3 *(continued)*

Speakers:

- **Holly Buckely, JD**
McGuireWoods LLP, Chicago, IL
- **Colin McDermott**
VMG Health, Dallas, TX

4:30 – 5:30 pm CT

What to Do and What to Expect: Negotiating Physician/Hospital Financial Arrangements

What is the next move for a physician and their attorney when hospitals provide marketing spiels, claim Stark and Anti-Kickback prohibitions, and decline to share valuations during contract negotiations?

Our panel will discuss ways to address these issues while successfully coming to terms on real-time financial arrangements including:

- Employment Agreements and prohibitive language on referrals; restrictive covenants; medical staff privileges; outside investments; and useless wRVU bonuses.
- Co-Management/Gainsharing Arrangements that have difficult metrics; valuation challenges; forced participation of physicians due to political pressure from the hospital.
- Joint Ventures with impossible “deliverables” like no employed physician participation; no support for community efforts; forcing long term leases with the hospital not favorable for the Joint venture; or forcing 51% ownership, with no real contract expectation of better reimbursement.

Speakers:

- | | |
|---|---|
| • Kathleen L. DeBruhl, JD
DeBruhl/Pretus - The Health Law
Group, New Orleans, LA | • Edward Linn, MD
Chicago Medical Society,
Chicago, IL |
| • Sidney S. Welch, JD
Akerman LLP, Atlanta, GA | • Tripti C. Kataria, MD, MPH, FASA
Chicago Medical Society, Chicago, IL |

Thursday, September 24, 2020 – Day 4

10:30 – 11:30 am CT

Physician Compensation: Hot Topics, Trends, and Traps

The numerous and sometimes confusing maze of regulations that govern physician compensation can be a source of frustration, particularly when structuring payment arrangements. Our subject matter experts will discuss current trends involving physician compensation, including recent

Thursday, September 24, 2020 – Day 4 *(continued)*

and expected enforcement actions with respect to FMV and commercial reasonableness, proper use of survey data and survey data traps, perspective on valuation and commercial reasonableness, and the evolution of value-based payments.

Speakers:

- **Rud Blumentritt**
Horne LLP, Baton Rouge, LA
- **Lisa Pretus, JD**
DeBruhl/Pretus - The Health Law Group, New Orleans, LA

11:45 am – 12:45 pm CT

Minimizing Payment Disputes – Contracting and Conflict Resolution Strategies

Out of network billing and payor payment requirements are having a significant impact on whether and how much a provider receives in reimbursement for services. Even with the transition to more value-based care, cost pressures in the healthcare industry are contributing to an increased number of disputes for under/over-payments. Regulatory requirements, contract terms, and the dispute resolution process can all impact payment. This session will cover key payment related terms that should be negotiated, methodologies for calculating underpayment damages, and how to ensure the dispute resolution process is fair to the provider.

Speakers:

- **Mark Herbers**
AlixPartners, Chicago, IL
- **Michelle Skipper**
American Arbitration Association, Charlotte, NC
- **Brad Thompson, JD**
Duane Morris LLP, Austin, TX
- **Ryan Downton, JD**
Duane Morris LLP, Austin, TX

6:30 – 7:30 pm CT

Health Law Section Vinyasa Yoga Class

We're happy to invite you to join Gioconda Parker (www.giocondayoga.com) in a complimentary All Levels Vinyasa Yoga Class. The practice will include a focus on breath and movement, helping you to feel vital and aware in both body and mind. No props are required—a yoga mat is recommended but not necessary.

Friday, September 25, 2020 – Day 5

11:45 am – 12:15 pm CT

Keynote: Alec Alexander, JD, CMS Deputy Administrator & Director

Friday, September 25, 2020 – Day 5 (continued)

12:30 – 1:30 pm CT

Bad Facts and Qui Tam: FMV and CR in the Eye of the Beholder

The physician compensation process and general opportunities for improvement in procedures will be reviewed through case studies based on recent litigation and settlements where fair market value and commercial reasonableness were a core issue. Our speakers will discuss their experiences in dealing with valuation reports both generally and in reporting to an OIG monitor, as well as how to analyze a valuation report to verify regulatory compliance.

Speakers:

- **Curtis Bernstein**
Pinnacle Healthcare Consulting,
Centennial, CO
- **Jana Kolarik, JD**
Foley & Lardner LLP,
Jacksonville, FL

1:45 – 2:45 pm CT

Grab a Seat at the Table:

Strategic Planning and Tools for Physicians and Group Practices

Physicians can't afford to 'do nothing' while others in the marketplace secure a seat at the table where healthcare dollars are being split. The rapid increase in physician and medical group transaction activity over the past several years – with hospital systems, larger medical groups, or private equity – is expected to continue and has been deeply attuned with the onset of COVID-19. Our panel will discuss pros and cons and factors to consider so "best fit" decisions can be made, as well as strategies to achieve the provider's goals. Several types of common physician transitions will be examined, including traditional employment models and opportunities presented by newer value-based considerations.

Speakers:

- **Monique A. Anawis, MD, JD**
Physician and Attorney
- **Sarah E. Swank, JD**
Nixon Peabody, Washington, DC
- **Todd Zigrang**
Health Capital Consultants, St. Louis, MO

Moderator:

- **Khaled John Klele, JD**
Riker Danzig Scherer Hyland & Perretti, LLP, Morristown, NJ

(Continues)

Friday, September 25, 2020 – Day 5 (continued)

3:00 – 4:00 pm CT

Is a Bad Yelp Rating Making You Yelp?

Management and Response to Patient Online Posts

The Internet provides a largely unfiltered platform for patients to air their grievances to the world. A patient may identify nurses and physicians by name and even post details about their own perceived medical care across various social media platforms. But how can a physician respond to protect their reputation and dispute allegations under the restrictions of HIPAA? Using Chicago Medical Society (CMS) guidelines for responding to patient grievances, this session will provide participants with the opportunity to formulate appropriate online responses while complying with HIPAA protections.

Speakers:

- **Ravi D. Goel, MD**
Regional Eye Associates,
Cherry Hill, NJ
- **Shannon Hartsfield, JD**
Holland & Knight LLP,
Tallahassee, FL
- **John S. Serpe, JD**
Serpe, Jones, Andrews, Callender & Bell, PLLC, Houston, TX

4:15 – 5:15 pm CT

Safety and Medical Legal Liability Risks Resulting from EHR's

The rapid expansion of information technology in healthcare was expected to improve the quality, safety and efficiency of the industry. Despite initial concerns, rapid deployment continued, and progressive use of electronic health records and other information technology has resulted in a substantial level of harmful events and a surge of medical legal claims.

Our speakers will review the safety issues from EHR's that have been identified, as well as describe methods and strategies for preventing or mitigating those risks. These activities, among others, will be critical in preventing not only poor outcomes, but minimizing malpractice liabilities.

Speakers:

- **Barry Newman**
A.R. Consultants, Portland, OR
- **Jackson “Jack” Willard Snyder,**
MD, JD, PhD, MPH, MFS, MBA,
MSIS
CATO-SMS Research, Rockville,
MD

Faculty

Alec Alexander, JD

CMS Deputy Administrator & Director, Washington, DC

Monique A. Anawis, MD, JD

American College of Legal Medicine, Chicago, IL

David J. Banayan, MD, MSc, FRCPC

Rush University Medical Center, Chicago, IL

Cristina Barboi, MD

Northwestern University, Evanston, IL

Curtis Bernstein

Pinnacle Healthcare Consulting, Centennial, CO

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DeBruhl/Pretus - The Health Law Group, New Orleans, LA

Ryan Downton, JD

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Terri Keville, JD

Davis Wright Tremaine LLP, Los Angeles, CA

Fazal R. Khan, JD

University of Georgia School of Law, Athens, GA

Khaled John Klele, JD

Riker Danzig Scherer Hyland & Perretti, LLP, Morristown, NJ

Jana Kolarik, JD

Foley & Lardner LLP, Jacksonville, FL

Omar Lateef, DO

Rush University Medical Center, Chicago, IL

Edward Linn, MD

Chicago Medical Society, Chicago, IL

Haavi Morreim, JD, PhD

College of Medicine, University of Tennessee, Memphis, TN

Barry Newman

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University of Illinois Hospital & Health Sciences System, Chicago, IL

Lisa Pretus, JD

DeBruhl/Pretus - The Health Law Group, New Orleans, LA

Montrece Ransom, JD, MPH

Contributing Faculty School of Health Sciences, Walden University, Atlanta, GA

Richard Romero

Coker Group, Brentwood, TN

John S. Serpe, JD

Serpe, Jones, Andrews, Callender & Bell, PLLC, Houston, TX

Michelle Skipper

American Arbitration Association, Charlotte, NC

Jackson “Jack” Willard Snyder, MD, JD, PhD, MPH, MFS, MBA, MSIS

CATO-SMS Research, Rockville, MD

Sarah E. Swank, JD

Nixon Peabody, Washington, DC

Brad Thompson, JD

Duane Morris LLP, Austin, TX

Terry Vanden Hoek, MD, FACEP

University of Illinois Hospital & Health Sciences System, Chicago, IL

Jeffery C. Weisman, MD, JD
University of Illinois Chicago, Chicago, IL

Sidney S. Welch, JD
Akerman LLP, Atlanta, GA

David Zarett, JD
Weiss Zarett Brofman Sonnenklar & Levy, PC, New Hyde Park, NY

Baha Zeidan, CEO
Azalea Health, Atlanta, GA

Todd Zigrang
Health Capital Consultants, St. Louis, MO

PLI Planning Committee

The following planning committee members of the Physician Legal Issues: Healthcare Delivery & Innovation Virtual Conference have disclosed that they don't have any relevant financial relationships with commercial interests.

Co-Chairs:

Anthony H. Choe, JD, Co-Chair

Kathleen DeBruhl, JD, Co-Chair

Planning Committee:

Wes Cleveland, JD, AMA Liaison

David Ellenbogen, JD

Jena Grady, JD

Elizabeth Greene, JD

Shannon Hartsfield, JD

Tripti C. Kataria, MD, MPH, FASA

Hal Katz, JD

Edward Linn, MD

ABA Health Law Section Staff

Simeon Carson, Director

Carol Simmons, Associate Director

Daryl C. Taylor, CMP, Senior Meeting Planner

Jason Billups, Program Specialist

Paige Rodenberg, Meetings Assistant

Sara Calvillo, Administrative Assistant

Chicago Medical Society Staff

Ted Kanellakes, Executive Director

Natalee Enyart, Marketing Coordinator

Conference Information

Online registration: ambar.org/PLI2020

Hashtag: #PLI2020

Cancellation Policy

Tuition, less a \$125 handling charge for each registration, will be refunded upon written cancellation received no later than **September 14, 2020**. 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.

CLE Credit

The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, CT, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, ME, MN, MS, MO, MP, MT, NH, NJ, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit until after the program has occurred.

Physicians Legal Issues: Healthcare Delivery & Innovations Conference is expected to qualify for 13 CLE credit hours in 60-minute states, and 15 credit 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. For general information about CLE requirements in your state, visit the ABA Center for Professional Development at www.americanbar.org/cle/mandatory_cle.html or email CLE@americanbar.org.

CME Information

Physicians that attend this conference may earn up to 12.5 CME credits. For additional information about this CME activity, including any updates regarding faculty members and/or commercial support

disclosures, please visit the Chicago Medical Society's (CMS) website at www.cmsdocs.org. You may also contact the CMC Education Department at cms@cmsdocs.org or via phone at 312-670-2550.

The Physicians Legal Issues: Healthcare Delivery & Innovation Conference has been planned and implemented in accordance with the accreditation requirements and policies of the Accreditation Council for Continuing Medical Education (ACCME) through the joint providership of the Chicago Medical Society, the American Bar Association's Health Law Section and the American Association for Physician Leadership. The Chicago Medical Society is accredited by the ACCME to provide continuing medical education for physicians. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

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. ABA membership is required to become a member of the Health Law Section.

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. (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 HLSevents@americanbar.org.

Online: <http://ambar.org/PLI2020>

REGISTRATION FEES	Full Conference Price:	Individual Day Price:
Health Law Member Chicago Medical Society Member American College of Legal Medicine Member	\$295 Special CMS member discounted pricing \$99	\$95
ABA Member, Non-Health Law Section Member	\$395	\$135
ABA Non-Member	\$595	\$365
In-House Counsel / Solo Practitioner	\$95	\$55
Government/Academic (must be full time)	\$95	\$55
Law Student	\$45	\$25
I would like to make a one-time tax-deductible gift to the Health Law Section's Program Support Fund 501(c)3 (visit donate.americanbar.org/healthlaw for details)		
TOTAL FEES ENCLOSED		

METHOD OF PAYMENT

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