



Health Law

The delivery of healthcare is constantly evolving and changing, and the attorneys in our Health Law Practice Group help clients stay in step with the challenges accompanying those changes.

McGinnis Lochridge assists healthcare clients with regulatory, dispute resolution, transactional and legislative matters. Our clients include integrated health systems, specialty health facilities, physician groups and/or health care ancillary service providers. Our attorneys serve as regulatory counsel before state and federal agencies on rulemaking, licensure and compliance. Where dispute resolution is needed, we provide representation in state and federal courts, as well as alternative dispute resolution forums such as mediation and arbitration. We also assist in the negotiation and documentation of transactions, along with drafting and opposing legislation.

Drawing upon years of experience in the industry, our Health Law Practice Group advises and counsels clients on a broad range of difficult business decisions and strategies, including business combinations, operational and employment matters, regulatory disputes, and malpractice and tort claims. The lawyers of our Health Law Practice Group share a deep understanding with our clients, some having worked directly in the healthcare field.

We represent clients in all parts of the healthcare industry, including hospitals, University Systems, nursing homes, insurance companies and health maintenance organizations (HMOs). We also represent physicians, dentists and other medical providers as individuals and in groups. We have worked with companies that develop, manufacture, market or distribute healthcare-related products, along with manufacturers and distributors of pharmaceuticals, medical devices, equipment and supplies. We have also represented practice management companies, billing providers, information data vendors, professional and trade associations, finance companies, and computer support providers in the healthcare industry.

Complex Healthcare Business Transactions

Our experience in this area includes:

- Representing clients in mergers and acquisitions, asset purchases, the development of integrated delivery systems and provider networks, the development of ambulatory surgery centers, and unwinding of relationships.
- Negotiating and drafting contracts such as management agreements, managed care provider contracts, employment agreements and administrative services agreements.
- Advising institutional clients about how transactional matters may be affected by various state and federal laws, such as covenants not to compete, the corporate practice of medicine, Stark, Medicare fraud and abuse provisions, Medicare and Medicaid reimbursement provisions, and the Emergency Medical Treatment and Active Labor Act (EMTALA).
- Evaluating hospitals' relationships with physicians and recommending changes, if any.
- Drafting and reviewing physician recruitment and service agreements.
- Forming and obtaining approved nonprofit healthcare corporations' regulatory certification.

- Assisting physician and medical groups with practice formation and governance, as well as compliance with state and federal laws and regulations governing the delivery of medical services.
- Drafting and reviewing employment and provider agreements between physicians and medical groups, and advising regarding the termination of such agreements.
- Advising clients concerning the enforcement of non-competition agreements.
- Drafting, reviewing and negotiating emergency room coverage agreements and medical director agreements.
- Advising a large national health maintenance organization and several physician practice management organizations on day-to-day issues.

Regulatory

Our experience in this area includes:

- Advising clients about the effects of state and federal regulation on business operations.
- Assisting with the development of procedures to implement a variety of statutory and regulatory requirements, including Employee Retirement Income Security Act (ERISA) claims and appeals rules, and Health Insurance Portability and Privacy Act (HIPAA) requirements. Experience includes developing procedures to implement insurance laws governing provider credentialing, utilization review, quality assurance, and appeal and complaints.
- Representing managed care companies in negotiating and implementing managed care contracts with the Texas Health and Human Services Commission to participate in the Texas STAR and STAR+PLUS Medicaid programs.
- Counseling healthcare companies regulated by the Texas Department of Insurance (TDI). This work includes the development and implementation of procedures for TDI regulatory compliance, monitoring insurance legislation and advising about its effects and interpretation, and assisting clients in preparing testimony for public hearings before legislative committees and TDI rulemaking.
- Representing institutional and individual clients in investigations as well as contested and uncontested matters before the TDI, Office of the Attorney General, Texas Medical Board, Texas State Board of Pharmacy, Texas Board of Nursing and Texas Department of State Health Services, among others.
- Representing physicians in investigations by the U.S. Department of Justice and the U.S. Attorney's Office.
- Representing insurance companies and agents with TDI regulatory filings for certificates of authority, change of control, mergers and acquisitions, holding company transactions, service area contractions and expansions, health insurance and health maintenance organization certificates and policies, annuities, and healthcare provider contracts.
- Advocating on behalf of clients with TDI regarding the merit and legal authority for product filings.
- Representing insurance companies, health maintenance organizations and agents in compliance matters before the TDI.
- Helping nursing home and long-term acute care facilities obtain licenses to operate, pharmacy licenses and U.S. Drug Enforcement Administration (DEA) and Clinical Laboratory Improvement Amendments (CLIA) approval. Helping such facilities obtain and maintain participation status in the Medicare and Texas Medicaid programs, including obtaining National Provider Identifier (NPI) numbers.

Dispute Resolution

Our experience in healthcare-related litigation and arbitration proceedings includes:

- In a *qui tam* whistleblower suit that a former employee of a service provider brought on behalf of the Federal Government, 22 States and the District of Columbia against the service provider and hundreds of medical practices, alleging fraudulent billing claims under federal and state False Claims Acts, our attorneys obtained a dismissal in favor of our client medical practice, which was terminated as a defendant.
- Representing a managed care company in litigation against several defendants over tortious interference with business relationships and misappropriation of trade secrets.
- Representing a national behavioral health company in litigation over payment under a government healthcare program.
- Representing a Federally Qualified Health Center (FQHC) in pursuing claims for payment against a national Medicaid managed care company.
- Representing several related managed care company defendants in a multi-defendant antitrust action by a physician-owned facility alleging (among other things) that the health plans conspired with a large hospital system to exclude the physician-owned facility from provider networks.
- Defending a managed care organization in arbitration brought by a Medicare Risk Adjustment vendor.
- Defending a health plan against a multi-million dollar claim for payment by a national hospital chain in which the case was removed to federal court, dismissed and ultimately settled on appeal.
- Defending a national provider network against million-dollar claims by an insurance receiver, resulting in a complete dismissal.
- Representing a managed care company in class action litigation by physicians against seven managed care companies, in which the case was removed to federal court, partially dismissed and partially remanded, and ultimately completely dismissed.
- Enjoining 19 independent practice associations from terminating provider agreements with a managed care company and defending the managed care plan in arbitration brought by the independent practice associations related to the failing of their management services organization.
- Defending managed care company against provider claims for payment (several cases).
- Enjoining state agencies from disclosing clients' confidential proprietary information in response to document requests under the Texas Public Information Act.
- Serving as a healthcare ombudsman in Chapter 11 bankruptcy proceeding.
- Serving as an expert witness regarding the corporate practice of medicine for an employer being sued by physicians.

Primary Contact

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