

HEALTHCARE



OVERVIEW

Foulston Siefkin offers healthcare providers throughout the nation a high level of expertise and service at Midwestern rates. The members of our healthcare law practice group are prepared to guide your organization through the tangle of legal requirements associated with an increasingly complex maze of federal and state regulations facing healthcare providers. Our attorneys have been recognized by national organizations as among the leading healthcare lawyers in the United States.

We also place a premium on understanding each of our client's unique needs. Like healthcare providers, we understand that an ounce of prevention is worth a pound of cure. Our attorneys are committed to assisting clients with the development of measures to minimize legal exposure. We also appreciate the importance of a quick response to emergency situations. To that end, our attorneys strive to remain readily accessible.

AREAS OF REPRESENTATION

The healthcare industry is one of the most regulated sectors of our economy. Hospitals, physician groups, and other healthcare providers must comply with an increasingly complex maze of federal and state regulations unique to this industry. Foulston Siefkin attorneys work with healthcare providers on a daily basis to address the following challenges:

- Structuring transactions to comply with the Stark law
- Representing healthcare providers in disputes with insurance companies (both private and governmental payors) including out-of-network issues
- Avoiding exposure under the anti-kickback statute
- Complying with Medicare and Medicaid reimbursement rules
- Responding to government investigations and qui tam lawsuits

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- Handling licensing, accreditation, and certification issues
- Developing effective corporate compliance programs
- Addressing peer review and risk management issues
- Defending medical malpractice lawsuits
- Understanding HIPAA Privacy and Security rules
- Meeting EMTALA requirements
- Enforcing non-compete agreements
- Negotiating with private insurance companies
- Providing advice on managed care issues

Additionally, healthcare providers face many of the same legal challenges other businesses must address. Our firm's clients draw upon the wealth of knowledge and experience of attorneys practicing in these areas:

- Labor and employment
- Immigration
- Mergers, acquisitions and joint ventures
- Federal, state, and local taxation
- Intellectual property
- Commercial litigation
- Antitrust
- Negotiate and draft business contracts
- General business counseling
- Estate planning
- Tax exempt organizations

Healthcare Areas of Representation

- Corporate Compliance
- Fraud and Abuse
- Stark Law
- Employment Contracts
- Business Transactions
- Government Investigations
- HIPAA
- Medical Staff Issues
- Litigation
- Medicare & Medicaid Reimbursement
- Ad Valorem Taxation Issues
- Governmental Hospital Issues

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- Kansas Open Meetings/Records
- PRRB Appeals & Reimbursement Matters
- EMTALA
- Regulatory Appeals
- Licensure Matters
- Physician Recruitment
- Professional Liability and Risk Management
- Risk Management
- Managed Care Issues
- Taxation
- Antitrust
- e-Health Law

EXPERIENCE

- Plaintiff's counsel in South Central Kansas Health Insurance Group v. VASA Brougner et al. - lawsuit filed on behalf of group-funded health insurance pool against several defendants, including auditor, plan administrator and stop loss carrier, to recover losses. Significant settlements entered prior to trial.
- Defense counsel in Mitchael et al. v. Intracorp, Inc. et al., class action filed on behalf of Kansas chiropractors against medical review company and various insurers alleging, inter alia, antitrust and RICO violations. Summary judgment for defendants affirmed on appeal at 179 F.3d 847
- Defense counsel in Lawrence v. Bammel, jury verdict in favor of physician in flesh-eating bacteria case.
- Defense counsel in Wheeler v. Shellito, jury verdict in favor of surgeon in post-surgical complication case.
- Defense counsel in Hall v. State Farm, a coverage case in which the jury found plaintiff made a fraudulent insurance claim.
- Successfully implemented all aspects of a Corporate Integrity Agreement for a multispecialty physician practice following resolution of three-year Medicare investigation.
- Representation of a regional referral hospital in an investigation by the U.S. Attorney's Office concerning billing practices in which the government found no fault on the part of the hospital.
- Provided comprehensive legal representation to Heart Hospitals of America L.L.C. in the development of a specialty heart hospital in Wichita, Kansas, and in the ongoing development of heart hospitals in other locations.
- Successfully completed numerous joint venture arrangements for diagnostic facilities, clinical laboratories, and specialty hospitals.
- Developed and implemented comprehensive corporate compliance programs for several hospitals and physician practices.
- Partnered with the Kansas Hospital Association to produce and distribute a training video and related materials for hospital medical staffs concerning the Emergency Medical Treatment and Labor Act (EMTALA).
- Assisted numerous healthcare organizations with the education phase of HIPAA implementation.
- Foulston Siefkin attorneys have brought to successful resolution, without any admission of liability, a

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qui tam case arising out of the False Claims Act; successfully mediated the termination of agreements that allegedly violated the prohibition against the corporate practice of medicine; successfully enforced a number of restrictive covenants imposed on members of medical practices; and assisted in the separation of several physician practices from larger physician groups.

RELATED LINKS

- [Kansas Hospital Human Resources Association](#)
- [Center for Medicare and Medicaid Services \("CMS"\) Publishes 2009 IPPS Rule](#)
- [Phase III of the Final Stark Law Regulations](#)
- [Centers for Medicare & Medicaid Services](#)
- [American Health Lawyers Association](#)
- [Milliman & Robertson \(M&R\)](#)
- [National Association of Insurance Commissioners \(NAIC\)](#)
- [State Insurance Department Contacts](#)
- [State HIPAA Contacts](#)
- [Office of Civil Rights HIPAA website](#)
- [Workgroup for Electronic Data Interchange](#)
- [The American Health Information Management Association](#)
- [HIPAA Summit Conference Series](#)
- [American Hospital Association](#)
- [American Medical Association Publications](#)
- [American Dental Association](#)
- [National Association of Social Worker](#)
- [American Physical Therapy Association](#)
- [CareLearning.com](#)
- [North Carolina Healthcare Information and Communications Alliance, Inc. \(NCHICA\)](#)
- [North Carolina Department of Health and Human Services](#)
- [Health Privacy Project at Georgetown University](#)

PUBLICATIONS

ISSUE ALERTS

2022

Coronavirus: Supreme Court Green Lights Vaccine Mandate for CMS; Stalls OSHA

2021

Coronavirus: Side Effects From OSHA's Withdrawal of COVID-19 Healthcare ETS
Coronavirus: UPDATE: Court Temporarily Blocks CMS Omnibus COVID-19 Healthcare Staff Vaccination Requirements in Kansas, Missouri, and 8 Other States
Coronavirus: Kansas Gov. Kelly Signs Bill Banning Firing Employees Seeking Waivers From Mandatory Vaccine Requirements
Coronavirus: UPDATE: Fifth Circuit Continues Stay of OSHA ETS for Large Employers
Coronavirus: UPDATE: Court Stays OSHA Emergency Temporary Standard for Large Employers
Coronavirus: CMS Releases Omnibus COVID-19 Healthcare Staff Vaccination Interim Final Rule
Coronavirus: OSHA Releases ETS Requiring Large Employers to Mandate Vaccines or Provide Weekly Testing
Coronavirus: HHS To Issue \$25.5 Billion in COVID-19 Provider Relief Funding
Coronavirus: Biden Administration to Require Vaccination of Nursing Home Staff
Coronavirus: CMS Eases Nursing Home Visitation Guidelines to Address COVID-19 Vaccinations and Slowing Infections

2020

Major Changes to Stark Law and Anti-Kickback Statute Regulations Permit 'Value-Based Arrangements' and Clarify Existing Regulatory Requirements
Coronavirus: Year-End Stimulus Legislation Provides PPP Enhancements and Other COVID-19 Relief
Coronavirus UPDATE: CMS Issues New Nursing Home Visitation Guidelines
Coronavirus: DOL Revises Paid Leave Requirements Under FFCRA
Coronavirus: COVID-19 Response and Reopening for Business Liability Protection
Coronavirus: Kansas Governor Issues Executive Order Suspending Supervision Requirements for Physician Assistants and Nurse Practitioners
Coronavirus: Nursing Homes Required to Report COVID-19 Cases to CDC, Residents, and Resident Representatives
Coronavirus: Some Good News (Finally) – CMS Issues Guidance Aimed at Resuming Non-Emergent Healthcare Services
Coronavirus: State of Missouri Issues Stay-at-Home Order
Coronavirus: Key Healthcare Components of the CARES Act
Coronavirus: CMS, Industry and Professional Groups Issue Guidance Regarding Elective Procedures — Emergent and Urgent Elective Procedures Must Continue
Coronavirus: Kansas Gov. Issues Statewide Stay-At-Home Order
Coronavirus: Key Tax and Business Provisions
Coronavirus: HIPAA Privacy Rules and the COVID-19 Pandemic
Coronavirus: Shawnee County Issues Safer at Home Order
Coronavirus: Sedgwick County Issues Stay-at-Home Order
Coronavirus: Telehealth Requirements Relaxed Amid COVID-19 Public Health Emergency
Coronavirus: Tax and Employee Benefit Considerations
Coronavirus: Stay-at-Home Orders
Coronavirus: Essential Services
Coronavirus: Families First Coronavirus Response Act Becomes Law
Coronavirus: COVID-19 and Business Interruption Insurance

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Coronavirus: COVID-19 Guidance for Religious Institutions

Coronavirus: UPDATE CMS Directs Nursing Homes to Restrict Visitation Nationwide

Coronavirus: CMS Orders Significant Monitoring and Restriction of Nursing Home Visitors

Coronavirus: Emergency Preparedness Plans and Operational Guidance for Hospitals and Other Healthcare Facilities in Confronting COVID-19

District Court Strikes Down Office for Civil Rights 2016 HIPAA Right to Access Guidance Application to Third Parties

2019

CMS Eases Supervision Requirements for Outpatient Therapeutic Services Provided in Hospitals and Critical Access Hospitals

CMS Eases ASC Regulations Concerning Patient Transfers, Examinations, and Emergency Preparedness Planning

MO HealthNet OPRA Provider NPI and Enrollment Requirements: Warning Phase Ends November 1, 2019

New DOJ Guidance Takes a Closer Look at Corporate Compliance Programs and Incentivizes Cooperation in False Claims Act Violations

Kansas Supreme Court Ruling Uncaps Damages for "Pain and Suffering"

New "Stop Human Trafficking" Poster Requirements in Missouri

2018

CARE Act Requires Policy Review and Action From Kansas Hospitals Effective July 1

HHS Issues Request for Information Seeking Input on HIPAA Improvements

CMS Says Don't Text Patient Orders

2017

And the Hits Keep Coming: CMS Proposes to Cut Reimbursement Rates for 340B Drugs and Non-Excepted Provider-Based Department Services

Is Your Emergency Preparedness Plan Consistent with CMS Standards?

2016

CMS Clarifies Off-Campus Provider-Based Billing Prohibition

New HIPAA Guidance Removes Roadblocks to Patient Access: But at What Cost to Providers?

CMS Issues Final 60-Day Overpayments Rule: It's All About A Provider's Risk Tolerance

2015

CMS Clarifies "Incident-To" Billing Rules: Billing Physician Must Supervise Incident-To Services

2014

CMS Offers to Settle Appeals of Denied Inpatient Claims for Hospital Stays Beginning Before October 31, 2013

ONC Focuses on HIPAA Security With Release of Security Risk Assessment (SRA) Tool

2013

Critical Access Hospitals Beware - Come January 1, 2014, CMS Will Enforce the Direct Supervision

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Requirements For Outpatient Therapeutic Services
HHS Focuses on Privacy with at long last Final Regulations and New Guidance

2012

Healthcare Providers' Affirmative Action Obligations Take Center Stage
CMS Revises Hospital and CAH Conditions of Participation
New Interpretive Guidelines for Patient Rights Conditions of Participation
CMS Issues Proposed Overpayments Rules

2011

HIPAA Audits Are Here: Can You Satisfy the Auditor of Your Compliance
Skilled Nursing Facilities and Nursing Homes Beware: Health Care Reform Changes How Facilities Approach Compliance
HIPAA: Recent Penalties Make Policy Review a Great Idea
Amendments to the In-Office Ancillary Services Exception to the Stark Law
Red Flags Clarification: Physicians Exempt
The Centers for Medicare and Medicaid Services ("CMS") Modifies the Physician Supervision Requirements for Hospital Outpatient Therapeutic Services

2010

Legal Affairs: Patient Visitation Rights

2009

HHS Issues HITECH Guidance

2008

IRS Again Warns Charities About Political Campaign Activity
CMS Publishes 2009 IPPS Rule with Significant Stark Law Changes

2007

Phase III of the Final Stark Law Regulations Released by Centers for Medicare & Medicaid Services (CMS)

ARTICLES

2015

New ACA FAQs Clarify the Preventive care mandate
-Lexology
Federal legislation would clarify wellness plan treatment under ADA and GINA
-Lexology
New IRS Q&As clarify ACA reporting issues
-Lexology
Supreme Court upholds AVA tax credits in federal exchanges
-Lexology
The Save American Workers Act

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-Lexology

No More inference of contractual right to lifetime retiree health benefits

-Lexology

ACA back in front of the Supreme Court

-Lexology

An ACA anniversary

-Lexology

2014

Considering the scope and impact of the Supreme Court's Hobby Lobby decision

-Lexology

HIPPA settlement highlights focus on security concerns

-Lexology

New 125 plan election change addresses key AVA concern

-Lexology

New ACA FAQ addresses elimination of contraceptive coverage

-Lexology

PCORI fee increases slightly

-Lexology

2015 inflation adjusted amounts for HSAs and HDHPs

-Lexology

HHS addresses same-sex spouses under HIPAA

-Lexology

IRS and HHS rein in minimum value plans

-Lexology

CMS offers to settle appeals of denied inpatient claims for hospital stays beginning before October 31, 2013

-Lexology

ONC focuses on HIPAA Security with release of Security Risk Assessment Tool

-Lexology

CMS FAQ clarify HIPAA health plan identifier (HPID) requirement

-Lexology

CMS indefinitely delays HPID implementation

-Lexology

IRS clarifies impact of health FSA carryover on HSA eligibility

-Lexology

PRESENTATIONS

2019

- Compliance 101: Creating a Culture of Compliance (Missouri Rural Health Conference)
- Practical Approaches to Behavioral Healthcare in Emergency Departments (Missouri Rural Health Conference)

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2013

- Dealing With Fraud and Abuse Issues in Today's Health Care Climate (KAHCE)
- Telemedicine 101 (Foulston Siefkin LLP)
- Are You Packing? Concealed Carry in Healthcare Facilities (Foulston Siefkin LLP)
- Dealing with Difficult Physicians (Foulston Siefkin LLP)
- I'm Conflicted: Handling Conflicts of Interest & Other Governance Issues (Foulston Siefkin LLP)
- CMS Giveth: New Revenue Sources for Physician Practices (Foulston Siefkin LLP)
- CMS Taketh Away: Readmissions & Inpatient Denials (Foulston Siefkin LLP)
- Keep Your Friends Close...Physician-Hospital Collaboration (Foulston Siefkin LLP)
- HIPAA Hostility: Breach Notification, Audits & Enforcement (Foulston Siefkin LLP)
- Overpayments: Risks, Reporting, and Returning (Great Plains)
- Top Ten Reasons to Love the ACA (Foulston Siefkin LLP)
- Who's to Know? Reporting & Repaying Overpayments (Foulston Siefkin)
- EHR Hazards: Personal Mobile Devices, The Cloud, Password Sharing, and More (Foulston Siefkin LLP)
- Employment Law Update (Foulston Siefkin LLP)

2012

- Providers Beware: CMS Issues Proposed Overpayments Rules and They Are Not What We Expected (KMGMA)

2011

- Healthcare Reform and Its Effect on Rural Healthcare Providers (Hays Medical Center)

2010

- Overview of the New Health Care Reform Act: Patient Protection and Affordable Care and Health Care and Education Reconciliation Acts of 2010 ("PPACH") (Wichita Bar Association)

2008

- HIPAA - Anatomy of a Citation (Foulston Siefkin)

2007

- Physician Agreements: Special Concerns (Kansas Bar Association)
- The Specialty Hospital vs. Acute Care Hospital Debate: Where It's Headed (Kansas Bar Association)
- Doctors Are Suppliers, Too: The Impact of Williamson v. Amrani's Ruling That Physicians Are Subject to the Kansas Consumer Protection Act (Kansas Bar Association)

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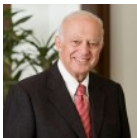


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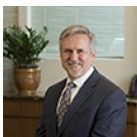
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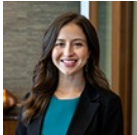
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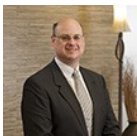
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