

Health Care

The health care industry is heavily regulated, constantly changing and frequently a target of controversy. Andrews Kurth lawyers know how to manage these challenges for our health care clients, while helping them to achieve the financial and market objectives of any successful business. We represent health care entities across the country and understand the unique business, operational and regulatory needs of:

- Hospitals
- Physicians
- Long-term care facilities
- Home health agencies
- Physician groups
- Physician hospital organizations (PHOs)
- Health care clinics
- Ambulatory/outpatient surgery centers
- Provider networks (HMOs, PPOs, MCOs)
- Independent practice associations (IPAs)
- Nursing and assisted living facilities
- Retirement centers
- Psychiatric care centers
- Physical therapy centers
- Chemical treatment centers
- Independent diagnostic testing facilities

Our clients also include many other players in this complex industry, from insurers to ambulance companies to pharmaceutical manufacturers. We advise for-profit and non-profit entities, plan sponsors and payors alike. Each has its own concerns about business, complying with the law and resolving disputes. We have the legal and practical experience to help them manage it all.

An Experienced Transactional Practice

When health care providers need advice on business combinations, finance (including the problems of financially distressed organizations) or contracts, they turn to Andrews Kurth. Our transactional work for clients in the health care industry includes:

- All forms of business combinations—from individual physician practices to health care systems, including mergers, acquisitions, divestitures and joint ventures
- The formation of IPAs, PHOs, 5.01(a) organizations, managed care relationships, professional associations and many for-profit and nonprofit entities
- A full range of capital raising tools, including venture capital, tax-exempt bonds, private placements, credit facilities and public offerings, as well as related issues from securities law compliance to restructurings and workouts
- Any contractual issue, whether it involves the formation of provider groups and delivery systems, billings and collections, administration, outsourcing, employment, insurance, buying and selling real estate, or leasing space and equipment

A Practical Approach to Operations

Health care providers must make operational decisions in the context of conflicting regulatory, staff and ethical concerns. We keep things in balance for our clients, with practical advice on:

Health Care

- Staff relations matters involving peer review (in which our lawyers represent hospitals, committees and physicians or serve as hearing officers), staff bylaws and fair hearing plans, credentialing, physician recruitment and staff development
- Medical ethics and quality assurance concerns that encompass advance directives, decisions about life support, do-not-resuscitate (DNR) orders, consent to treatment (particularly for minors and psychiatric patients), emergency room treatment, and reproductive care and technology issues
- Institutional licensing, accreditation, decertification and compliance matters
- Confidentiality of patient information under the Health Insurance Portability and Accountability Act (HIPAA) and other federal and state privacy and security laws

Detailed Regulatory Knowledge

Our lawyers possess the knowledge and are experienced in the many specialized laws that affect the transactions and operations of health care clients in such areas as:

- **Fraud.** We advise clients daily on physician referral and the Stark law, remuneration issues involving Medicare and Medicaid, alleged violations of anti-kickback laws, wire and mail fraud, and insurance fraud. We represent health care providers in federal investigations and *qui tam* actions under the False Claims Act.
- **Compliance.** We ensure that our clients have compliance programs that conform to the Federal Sentencing Guidelines and other white-collar criminal statutes, perform ongoing program audits, and provide advice on disclosures and settlements.
- **Peer Review.** We help clients balance good faith peer review and critical assessment of staff performance, as required by the Health Care Quality Improvement Act (HCQIA) and other federal and state laws.
- **Emergency Treatment.** We help our clients define appropriate emergency room care, in compliance with the Emergency Medical Treatment and Labor Act (EMTALA).
- **Advocacy.** We are a strong voice for the health care industry in public policy matters involving state, federal and foreign regulatory and legislative bodies.

A Record of Effective Client Defense

Andrews Kurth trial lawyers successfully represent health care providers and provider organizations at trial, on appeal and in administrative and regulatory disputes. We defend our clients in disputes involving:

- Malpractice allegations focusing on such high-risk specialties as obstetrics, neonatology, cardiology, emergency medicine, oncology, anesthesia and surgery
- Product liability lawsuits involving pharmaceuticals and medical devices
- Charges of negligence in hiring or credentialing medical staff
- Regulatory challenges involving alleged violations of antitrust, physician referral, tax-exempt status, EMTALA, the False Claims Act and the Medicare and Medicaid anti-kickback laws
- Disciplinary proceedings with state licensing boards for physicians, nurses, psychologists and other health care professionals

An Industry-Focused Perspective

Few industries match the complexity of health care—in structure (from solo practices to multi-state provider organizations), in regulation (by government and by professional boards), in operations (with interconnected finance, tax, employment and business concerns) and in legal liability (often emotionally charged disputes involving life and death).

Many firms advise providers on health care law, but most clients want a firm that understands the totality of the health care industry.