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Arthur Lerner



Arthur N. Lerner
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Practice Areas

- Health Care
- Antitrust
- False Claims/Qui Tam
- Pharmaceuticals
- Medical Devices
- Trade Associations

Arthur N. Lerner focuses his practice on antitrust, transactions and fraud and abuse issues for managed care organizations, health care providers, and other health care entities.

Art advises and represents HMOs and other managed care organizations, hospitals, pharmaceutical and medical device and supply companies, professional and trade associations, pharmacy benefit management firms, medical group practices, group purchasing organizations, charitable groups, and other health organizations. He handles mergers and acquisitions, joint ventures, Federal Employees Health Benefit Program compliance and disputes, Medicare Advantage and ERISA matters, antitrust proceedings with the Department of Justice and the Federal Trade Commission, and other complex regulatory and competition law counseling and litigation matters. Art directed the FTC's health care antitrust program from 1982 to 1985. Before that, while at the Commission, he served as attorney advisor to the Chairman of the Federal Trade Commission, assistant to the director of the Bureau of Competition, and as an FTC trial attorney in health care antitrust.

Art is a member of the Board of Directors of the American Health Lawyers Association ("AHLA") and former Chair (2004-2007) of the antitrust practice group of the AHLA. He is also former Chair of the American Bar Association Antitrust Section's Federal Civil Enforcement Committee (2006-2007) and Federal Trade Commission Committee (2004-2006), and a member of the advisory board for the Bureau of National Affairs' Health Plan and Provider Report. Art speaks frequently for the AHLA, the American Bar Association and other professional organizations on antitrust, managed care, fraud and abuse and emerging health law issues.

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Art is recognized in both antitrust and healthcare law by *The Best Lawyers in America* (2008 through 2010 editions). He was named one of the top 25 managed care attorneys in the country by *The National Law Journal*, is listed as a top lawyer in the healthcare field by *Chambers USA*, and is highly recommended in Legal Media's *Guide to the Leading US Healthcare Lawyers*. In addition, Art has been named an "Outstanding Healthcare Antitrust Lawyer" in the 2006 and 2007 editions of *Nightingale's Health Care News*.

Education

University of Michigan, A.B., 1973 - with distinction, high honors
Harvard Law School, J.D., 1976 - *magna cum laude*

Affiliations

Admitted to practice: District of Columbia, Massachusetts, U.S. Supreme Court, U.S. Court of Appeals: Third Circuit, Eighth Circuit, Ninth Circuit & Federal Circuit, U.S. District Court for the District of Columbia, U.S. District Court for the District of Massachusetts, U.S. Court of Federal Claims

Publications

"Federal Health Programs and Managed Care Litigation," *Managed Care Litigation 2010 Cumulative Supplement*, BNA Books (forthcoming publication). Co-Authors: Arthur N. Lerner and Kathryn Almar.

"Federal Health Programs and Managed Care Litigation," *Managed Care Litigation 2009 Cumulative Supplement*, BNA Books (2009). Co-Authors: Arthur N. Lerner and Amy Sandra Lee.

"Killing the Messenger: Is There Continuing Relevance to Messenger Model Contracting," chapter in the 2008 edition of the *Health Law Handbook*, published by Thomson/West (2008). Co-Authors: Arthur N. Lerner and Barbara H. Ryland.

"FTC Finds Evanston Hospital Merger Unlawful, But Refuses To Order Spin-Off," *American Health Lawyers Association Health Lawyers Weekly* (September 2007). Co-Authors: Arthur N. Lerner and Michael W. Paddock.

"The Third Circuit Gives Hospitals An Edge Over Rivals in *Gordon v. Lewistown Hospital*," *ABA's The Health Lawyer*, Vol. 19, No. 2 (December 2006). Co-Authors: Arthur N. Lerner, David Florin and Valerie Hinko O'Such.

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"Federal Health Programs and Managed Care Litigation," *Managed Care Litigation*, BNA Books (2005). Co-Author: Arthur N. Lerner.

"Physicians and Health Plans - Two Views of the Antitrust Future," *Northwestern University*, (November 2, 2000). Author: Arthur N. Lerner.

"Joint Ventures in Health Care: An Antitrust Analysis," *American Bar Association Section of Antitrust Law*, (2000). Co-Editor: Arthur N. Lerner.

"The Practical Implications of the Health Care Quality Improvements Act: An Antitrust Analysis," *American Bar Association, Section of Antitrust Law*, (1994). Co-Editor: Arthur N. Lerner.

Speeches & Presentations

"More Exposure And More Risk: Fraud And Abuse Risks In A 'Health Reform' World," Law and Regulatory Affairs Health Care Compliance Seminar (June 12, 2010). Co-Presenters: Robert T. Rhoad and Arthur N. Lerner.

["Government Changes to the Rules of Competition: McCarran-Ferguson Act - Health Insurance Exemption Repeal, What's It All About?," ABA/AHLA Antitrust in Healthcare Conference 2010](#) (May 24, 2010).
Presenter: Arthur N. Lerner.

["Health Care Reform Law: Implications for Insurers and Health Plans," AHLA Health Care Reform Law conference](#) (May 12, 2010). Presenter: Arthur N. Lerner.

["The Reformed New World of Health Insurance Exchanges," Crowell & Moring's Healthcare Ounce Of Prevention Seminar \(HOOPS\)](#) (April 26-27, 2010). Presenters: Arthur N. Lerner and Barbara H. Ryland.

["Healthcare Power Play: Antitrust Enforcement in the Obama Administration," Crowell & Moring's Healthcare Ounce Of Prevention Seminar \(HOOPS\)](#) (April 26-27, 2010). Presenters: Christine L. White and Arthur N. Lerner.

["The New Reformed World of Health Insurance Exchanges," Society of Professional Benefit Administrators, Washington, D.C.](#) (April 15, 2010).
Speaker: Arthur N. Lerner.

["Government Remedies: Finding the Right Cure - Monetary Remedies in Civil Cases," ABA Antitrust Section Spring Meeting](#) (March 26, 2009).
Presenter: Arthur N. Lerner.

["Antitrust Action: New Enforcement Moves in the Health Care Arena - Recent Government Enforcement Actions and Private Antitrust Litigation," Crowell & Moring's 2008 Healthcare Ounce Of Prevention Seminar \(HOOPS\)](#) (October 2008). Co-Presenters: Arthur N. Lerner and Christine L. White.

["Market Power: Advanced Antitrust Issues for Payors and Providers," AHLA Payors, Plans and Managed Care Law Institute, Boston, Massachusetts](#) (October 13-14, 2008). Presenter: Arthur N. Lerner.

["Medicare Improvements for Patients and Providers Act of 2008: Implications for Medicare Advantage and Prescription Drug Plans," Crowell & Moring Webinar](#) (September 4, 2008). Co-Presenters: Kenneth M. Bruntel, Arthur N. Lerner, Christine C. Rinn, and Bruce O. Tavel.

["Mergers: Antitrust Issues for Hospitals and Health Plans," American Health Lawyers Association Annual Meeting, San Francisco, California](#) (June 30 - July 2, 2008). Presenter: Arthur N. Lerner.

["Legislation, What is Congress Doing?," ABA Antitrust Section Fall Forum](#) (November 16, 2007). Moderator: Arthur N. Lerner.

["Antitrust Issues Affecting Bundling Contracts in Health Care," Crowell & Moring's 2007 Healthcare Ounce of Prevention Seminar \(HOOPS\)](#) (October 2007). Co-Presenters: Arthur N. Lerner and Barbara H. Ryland.

["Keeping Up Your Antitrust Guard," BCBSA 41st Annual Lawyer Conference, Miami, Florida](#) (May 3, 2007). Presenter: Arthur N. Lerner.

["Antitrust Paths and Pitfalls: What's Really the Deal with the 'Messenger Model'?", 13th Annual Health Law Insitute, Pennsylvania Bar Institute - Philadelphia, PA](#) (March 14, 2007). Presenter: Arthur N. Lerner.

["Recent Developments in the Litigation of Nursing Wages Antitrust Class Action Claims," AHLA Antitrust and Hospitals & Health Systems Practice Groups – Mid-Year Meeting](#) (February 6, 2007). Presenter: Arthur N. Lerner.

["Current Fraud and Abuse Issues," Law Conference for Health Plans, Insurers, and Providers, AHLA and America's Health Insurance Plans](#) (May 11, 2006). Presenter: Arthur N. Lerner.

"North Texas Specialty Physicians and Advocate Health System: Do these Two New Antitrust Decisions Clear or Cloud the Air on Provider Networks,"

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AHLA Antitrust Practice Group teleconference (February 14, 2006).
Moderator: Arthur N. Lerner.

["Medicare Safe Harbor and Supplier Business Models," 2006 Health Policy Forum: A Supply Chain Forecast, Washington, D.C.](#) (February 2, 2006).
Presenter: Arthur N. Lerner.

["New Antitrust Developments for Providers and Payors: Views from the Enforcers," AHLA Annual Meeting, San Diego, CA](#) (June 28-29, 2005).
Presenter: Arthur N. Lerner.

["Health Plan Power and Practices," Antitrust in Healthcare Conference, AHLA & ABA Section of Antitrust Law and Health Law](#) (May 12-13, 2005).
Presenter: Arthur N. Lerner.

["Antitrust Duality: Vindicating Rights and Assuring Compliance," BCBS Conference](#) (May 11, 2005). Presenter: Arthur N. Lerner.

["Antitrust Developments to Watch: Messenger Model Gone Astray and What Else is New," 11th Annual Health Law Institute, Pennsylvania Bar Institute](#) (March 15-16, 2005). Presenter: Arthur N. Lerner.

["Avoid Antitrust Enforcement: How to Deal with Private Payers Without Government Crackdowns," Private Payer News Audio Conference](#) (March 1, 2005). Presenter: Arthur N. Lerner.

["Antitrust Issues Related to PHOs and IPAs," Healthcare Financial Management Association, Fourth Annual Tri-State Winter Institute](#) (January 20, 2005). Presenter: Arthur N. Lerner.

["Providers and Health Plans: New Developments in Health Care Antitrust," SCMCA 6th Annual Managed Care Forum, Sea Island, Georgia](#) (November 4, 2004). Presenter: Arthur N. Lerner.

"The FTC/DOJ Health Care Report: How Will the Agencies Administer the 'Dose of Competition' They Have Prescribed for the Industry," American Health Lawyers Association Teleconference (September 8, 2004).
Presenter: Arthur N. Lerner.

["Working with Providers to Achieve MMA Success," Inside Medicare Reform](#) (July 13, 2004). Presenter: Arthur N. Lerner.

"Antitrust Issues in Hospital System Contracting Practices," AHLA Antitrust Practice Group Mid-Year Meeting, at the Institute of Medicare

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and Medicaid Payment Issues (March 31-April 2, 2004). Presenter: Arthur N. Lerner.

["New Developments in Health Care Antitrust," Pennsylvania Bar Institute, Annual Health Law Institute](#) (March 17, 2004). Presenter: Arthur N. Lerner.

["Medicare Prescription Drug, Improvement, and Modernization Act of 2003 -- Managed Care Issues," AHLA Teleconference](#) (December 12, 2003). Presenter: Arthur N. Lerner.

["In the Antitrust Crosshairs: Provider Contracting Networks and Messenger Arrangements," AHLA Teleconference](#) (November 6, 2003). Moderator: Arthur N. Lerner.

"The Next Big Idea in Health Care," Marsh Health Care Forum (September 13, 2003). Presenter: Arthur N. Lerner.

"New Developments in Health Care Antitrust," State Bar of Michigan Annual Meeting (September 11, 2003). Presenter: Arthur N. Lerner.

["Health Insurance Monopoly Issues - Market Definition," Testimony before Joint Federal Trade Commission – Department of Justice Hearings on Health Care and Competition Law and Policy](#) (April 23, 2003). Presenter: Arthur N. Lerner.

["Antitrust in Healthcare - FTC's Retrospective Review of Mergers," ABA Health Law Section/Section of Antitrust Law & AHLA Conference](#) (May 2003). Presenter: Arthur N. Lerner.

"Hospital Contracting Practices," Testimony before Joint Federal Trade Commission - Department of Justice Hearings on Health Care and Competition Law and Policy (March 27, 2003). Presenter: Arthur N. Lerner.

"What's New in Health Care Antitrust," Annual Pennsylvania Bar Institute Health Law Institute (March 13, 2003). Presenter: Arthur N. Lerner.

"Healthcare Antitrust: The Year In Review," American Health Lawyers Association Annual Meeting (June 30-July 3, 2002). Presenter: Arthur N. Lerner.

["Health Antitrust Update: Tax, Antitrust and Fraud and Abuse - Are the Laws Compatible?," Tax Issues for HealthCare Organizations, AHLA](#)

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(October 29-30, 2001). Presenter: Arthur N. Lerner.

"Provider Antitrust Developments: Collective Bargaining and Unions, Single Specialty IPAs and Mega-Groups, 'Messenger Model' misuse, the Labor Exemption, and Antitrust Immunity Legislation," American Association of Health Plans and American Bar Association (May 8, 2001). Presenter: Arthur N. Lerner.

"Providers 'Leveling the Playing Field' -- What's New in Health Care Antitrust," Blue Cross and Blue Shield Association 35th Annual Lawyers' Conference (May 4, 2001). Presenter: Arthur N. Lerner.

"Hospitals and Antitrust: New times, Same Issues?" Washington Campus (March 28, 2001). Presenter: Arthur N. Lerner.

"Health Care Antitrust Developments in 1999-2000," Blue Cross Blue Shield Association Seminar (October 24, 2000). Presenter: Arthur N. Lerner.

"E-health Business and the Fraud and Abuse Laws," Crowell & Moring E-Health and the Law Seminar (September 18, 2000). Presenter: Arthur N. Lerner.

"Testimony before Pennsylvania House of Representatives Insurance Committee concerning Antitrust Exemption for Health Care Professionals' Joint Negotiations with Health Plans," (July 18, 2000). Presenter: Arthur N. Lerner.

"Medicare Pharmacy Fraud and Abuse Initiatives," at annual conference, Tennessee Society of Health System Pharmacists (April 14, 2000). Presenter: Arthur N. Lerner.

"Marketplace: The Impact of e-Commerce on our Industry," (March 23, 2000). Presenter: Arthur N. Lerner.

"Joint Ventures Among Providers - Antitrust Hurdles," American Health Lawyers Association, Antitrust in the Healthcare Field (February 17-19, 2000). Presenter: Arthur N. Lerner.

"Health Antitrust Update," Pennsylvania Bar Institute Fifth Annual Health Law Institute (March 18, 1999). Presenter: Arthur N. Lerner.

"Payor Relationships with Providers: Comments from the Government and the Private Perspective," American Health Lawyers Association, Antitrust

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in the Health Care Field (February 26, 1999). Presenter: Arthur N. Lerner.

"Developments in Health Care Antitrust," 1998 Tennessee Bar Association Health Law Forum (October 8, 1998). Presenter: Arthur N. Lerner.

"Managed Care Antitrust and Labor Law Developments Involving Physician Unions," American Bar Association Health Law Section and American Association of Health Plans 9th Annual Managed Care Law Conference -- Forging New Responses to Today's Managed Care Challenges - St. Petersburg, FL (April 28, 1998). Presenter: Arthur N. Lerner.

"Insurance and Managed Care Organization Relationships with Providers," National Health Lawyers Association/American Academy of Healthcare Attorneys Seminar on Antitrust in the Health Care Field (February 19-20, 1998). Presenter: Arthur N. Lerner.

"Antitrust and Long Term Care," NHLA/AAHA Long Term Care and the Law Conference, (February 4-6, 1998). Presenter: Arthur N. Lerner.

"Rehabilitation Hospital Mergers and Acquisitions: Consumer and Regulatory Perspectives," NRH Research Center Rehab 2000: Expanding Risks, Responsibilities and Rewards Conference (September 25, 1997). Presenter: Arthur N. Lerner.

"ERISA Developments and Other Emerging Sources of MCO Liability," American Managed Health Care Organization 1997 Fall Forum (September 22, 1997). Presenter: Arthur N. Lerner.

"Where They Draw the Line: The Antitrust Environment in Healthcare," 1997 AICPA National Healthcare Industry Conference (July 18, 1997). Presenter: Arthur N. Lerner.

"Mergers of Managed Care Plans," National Health Lawyers Association Seminar on Antitrust in the Healthcare Field (February 12-14, 1997). Presenter: Arthur N. Lerner.

"A Basic Primer on Health Law: Antitrust Concerns," New York State Bar Association Continuing Legal Education Program (October 10, 1996). Presenter: Arthur N. Lerner.

"Antitrust Considerations in Managed Care," American Association of Orthodontists Managed Care Planning Session, St. Louis, Missouri (August 9, 1996). Presenter: Arthur N. Lerner.

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"Health Care Antitrust Safety Zones and New Developments Affecting Managed Care," American Association of Health Plans Seventh Annual Managed Care Law Conference - Washington, DC (April 24, 1996).
Presenter: Arthur N. Lerner.

"ERISA's Impact on State Managed Care Regulation and Judicial Proceedings," American Association of Health Plans Seventh Annual Managed Care Law Conference, Washington, D.C. (April 24, 1996).
Presenter: Arthur N. Lerner.

"Mergers of HMOs and Payors," National Health Lawyers Association Seminar on Antitrust in the Healthcare Field, Washington, D.C. (February 21-23, 1996). Presenter: Arthur N. Lerner.

"Antitrust and Long Term Care," National Health Lawyers Association Seminar on Long Term Care, Orlando, Florida (February 2, 1996).
Presenter: Arthur N. Lerner.

"Obtaining Health Care Antitrust Advisory Opinions and Business Review Letters," National Health Lawyers Association Managed Care Law Institute, Chicago, Illinois (December 6, 1995). Presenter: Arthur N. Lerner.

"New Antitrust Developments in Health Care: Views from the Enforcers," American Health Lawyers Association Annual Meeting (June 28-29, 1995).
Presenter: Arthur N. Lerner.

"Legal and Professional Liability Aspects of Managed Care," American College of Surgeons 19th Annual Chapter Offices Seminar - Chicago, Illinois (June 2, 1995). Presenter: Arthur N. Lerner.

"Antitrust Issues Related to Physician Networks, Mergers and Acquisitions," National Health Lawyers Association Seminar on Consolidations, Mergers and Physician Networks, Los Angeles, Orlando and New York City (January 13, March 3, and April 10, 1995). Presenter: Arthur N. Lerner.

"Protecting the Network from Legal Action: Responding to Any Willing Provider Legislation," The Health Care and Insurance Institute, Third Annual Health Care Payer Forum - Washington, D.C. (February 16-17, 1995). Presenter: Arthur N. Lerner.

"Antitrust Issues in Contractual Arrangements for Networks and Managed Care Plans," National Health Lawyers Association Seminar on Antitrust in

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the Healthcare Field, Washington, D.C. (February 16-17, 1995).
Presenter: Arthur N. Lerner.

"Multi-Provider/Multi-Payor Contracts - Antitrust Focus," National Health Lawyers Association Managed Care Law Institute (December 7, 1994).
Presenter: Arthur N. Lerner.

"Antitrust Issues Affecting the Development of Health Care Networks," InfoLine Conference on Integrated Delivery Systems, Boston, Massachusetts (August 11, 1994). Presenter: Arthur N. Lerner.

"Antitrust Issues in Formation of Integrated Delivery Systems," Practicing Law Institute, New York, New York (July 20, 1994). Presenter: Arthur N. Lerner.

"Antitrust Issues in Integrated Delivery Systems," presented at National Health Lawyers Association conference on Building an Integrated Delivery System, Chicago, Illinois (December 13, 1993). Presenter: Arthur N. Lerner.

"Managed Care Antitrust Issues," presented at Pennsylvania Bar Institute Managed Care Seminar, Philadelphia, Pennsylvania and Pittsburgh, Pennsylvania (September 23, 1993 and October 5, 1993). Presenter: Arthur N. Lerner.

"Benefit Determinations and Claims Payment Disputes," National Health Lawyers Association Conference on Employee Health Benefits: At the Crossroads of Health Reform, Newark, New Jersey (September 13, 1993). Presenter: Arthur N. Lerner.

"Building an Integrated Delivery System: Antitrust Issues in Physician-Hospital Organizations," presented at National Health Lawyers Association Health Law Update, Washington, D.C. (May 20-21, 1993). Presenter: Arthur N. Lerner.

"Implementing a Drug Formulary," presented at Illinois Association of HMOs conference on A New Health Care Order: The Mainstream Moves to Managed Care, Oakbrook Terrace, Illinois (May 6, 1993). Presenter: Arthur N. Lerner.

"Utilization Management and the Prescription Drug Benefit," presented at the National Health Lawyers Association Seminar on The Law of Utilization Management and Quality Assurance - Kansas City, Missouri (April 21, 1993). Presenter: Arthur N. Lerner.

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"Antitrust Issues in Collaborative Activities by Health Care Providers: Hospital and Physician Networks Negotiating with Third Party Payors," presented at American Bar Association Section of Antitrust Law Spring Meeting, Washington, D.C. (March 31, 1993). Presenter: Arthur N. Lerner.

"Legal Aspects of the Prescription Drug Benefit," presented at Blue Cross and Blue Shield Association Conference on Managing the Prescription Drug Benefit, Mesa, Arizona (November 10, 1992). Presenter: Arthur N. Lerner.

"Benefit Determinations and Claims Payment Disputes," presented at National Health Lawyers Association conference on ERISA and the Health Benefits Plan: New Directions in Law, Newark, New Jersey and Los Angeles, California (September 11, 1992 and September 15, 1992). Presenter: Arthur N. Lerner.

"Understanding Safe Harbors: Fraud and Abuse Issues for Consulting Pharmacy," American Society of Consulting Pharmacists Midyear Conference - Tucson, Arizona (May 14, 1992). Presenter: Arthur N. Lerner.

"Changing Legal Considerations in Structuring Prescription Drug Benefits," presented at InfoLine Conference on Managing Prescription Drug Benefits, Philadelphia, Pennsylvania (February 26, 1992). Presenter: Arthur N. Lerner.

"Hospital Peer Review and Quality Assurance," presented at American Academy of Orthopedic Surgeons Annual Meeting, Washington, D.C. (February 1, 1992). Presenter: Arthur N. Lerner.

"Antitrust Issues Relating to Insurance: Selective Contracting," presented at National Health Lawyers Association 1992 Seminar on Antitrust in the Health Care Field, Washington, D.C. (January 31, 1992). Presenter: Arthur N. Lerner.

"Legal Considerations in Physician Credentialing, Compensation, and Evaluation," presented at Group Health Association of America Seminar on Critical Issues for HMO Medical Directors, La Quinta, California (November 19, 1991). Presenter: Arthur N. Lerner.

"Negotiating and Contracting with Managed Health Care Plans: Pitfalls and Opportunities," presented at American Academy of Family Physicians 1991 Scientific Assembly, Washington, D.C. (September 29, 1991). Presenter:

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"Physician Incentives and Their Risks," and "New Medicare Supplement Insurance Regulation and Medicare SELECT," presentations at Group Health Association of America Conference, Managed Care Law: A Growing Body of Legal Challenges - Boca Raton, FL (September 11-12, 1991). Presenter: Arthur N. Lerner.

"Workers Compensation & Managed Care: What Are the Options?," presented at Managed Health Care Congress Midwest conference - Chicago, Illinois (September 5, 1991). Presenter: Arthur N. Lerner.

"Health Care and Criminal Antitrust," presented at Federal Bar Association Antitrust Committee seminar, Washington, D.C. (June 19, 1991). Presenter: Arthur N. Lerner.

"Antitrust and Managed Care," presented at Group Health Association of America conference, Managed Care Law: New Risks, New Solutions, New Orleans, Louisiana (September 17, 1990). Presenter: Arthur N. Lerner.

"New Developments in Managed Care Litigation," presented at Group Health Association of America Conference, HMO Medical Directors: Leading the Way Through Turbulent Times, Washington, D.C. (February 24, 1990). Presenter: Arthur N. Lerner.