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**HEALTH LAWYERS**  
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**NEW PROGRAM FEATURE**

**Case Study Sessions on:**

Qui Tam Lawsuits and the False Claims Act

Fair Market Value under Stark and Anti-Kickback Legal and Practical Issues from Artic's High Tech Medical Mall

Multi-Federal District and Multi-State Health Care Fraud & Abuse Investigations: Lessons from HCA applied to Artic Health Care Holdings,

HIPAA and Its Effect on Multi-Federal District & Multi-State Investigations and Prosecutions

Coordination of Multi-State Medicaid Fraud Control Unit Investigations

Medical Necessity and Utilization Review in Compliance

DME Update Fraud & Abuse Investigations and Issues

Neglectful / Harmful Patient Care: Motions in Limine Daubert v. Merrell Dow Inc..

Long Term Care Fraud and Abuse Investigations: Selected Issues

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In cooperation with:

- AIS's Report on Medicare Compliance
- AIS's Report on Patient Privacy
- Briefings on HIPAA
- CCH's Healthcare Compliance Portfolio
- Eli's Health Information Compliance Alert
- Eli's Managed Care Report
- Health Information Compliance Insider
- Millin's Health Fraud Monitor
- Medicine & Health

# FRAUD & COMPLIANCE FORUM

September 21-23, 2003  
Hilton Washington Hotel  
Washington, DC

CONTINUING EDUCATION CREDITS: AAPC • ACHE • ACMPE • AHIMA • ANCC • HCCB • NAB • NASBA • MCLE

## Program Mission

The AHLA/HCCA Fraud and Compliance Forum will provide practical guidance on the pressing legal and compliance issues that have arisen in the last twelve months. For health lawyers, the program will highlight the most important legal developments in areas such as Stark II, the False Claims Act, and the Anti-Kickback Statute. For compliance officers, the conference will cover important issues such as internal investigations, research compliance, and physician recruitment issues. The program's uniqueness stems not only from the important content for health lawyers and compliance officers but also from the additional value of bringing together legal counsel and compliance officers in one educational arena. The networking and the opportunity for synergistic advances in fraud and abuse compliance make this program an essential educational forum for both compliance officers and health lawyers.

## Practical Track

Case Studies and Related Sessions

Consistent with our organizations' missions, the AHLA/HCCA Fraud and Compliance Forum strives to present practical guidance on the latest and most pressing legal and compliance issues. In keeping with that mission, the 2003 program has expanded the case study general session. This year, nine breakout sessions will explore in far greater depth, a variety of the issues and facts presented during the main case study session. It is our hope that this format will provide a practical and relevant factual and legal background setting for the breakout sessions thereby enhancing the attendees learning experience. Each case study breakout session is clearly identified. In order to maximize the learning experience, attendees are encouraged to be completely familiar with the case study, which will be included in the course materials.

## Program Goals and Objectives

Participants at the AHLA/HCCA Fraud and Compliance Forum will...

- Gain a greater understanding of the full nature of the various regulations governing the delivery of healthcare (Stark II, HIPAA, EMTALA, False Claims Act).
- Recognize emerging regulatory trends that will affect legal and compliance practice in healthcare.
- Network with peers and learn from the challenges and risk areas faced by a wide variety of healthcare settings (Hospital, DME, Physician Practice, Long Term Care, Pharmaceuticals).
- Recognize the common issues faced by compliance and legal professionals, the roles each play in ensuring compliance, and ways in which they can effectively work together.

## Who Should Attend:

Compliance Officers	Data Managers
Health Law Attorneys	Ethics Officers
Billing & Coding Professionals	Health Insurance Executives
Third Party Billing Professionals	Consultants
Chief Executive Officers	Government Agency Employees
Chief Operating Officers	Health Administration Faculty
Chief Technology Officers	Risk Managers
Chief Financial Officers	Pharmacists
Medical Directors	Quality Assurance Professionals
Physicians	Registered Nurses
Managed Care Professionals	Long Term Care Professionals
Medical Group Managers	

# PROGRAM AGENDA

## Sunday, September 21, 2003

11:00 am-5:00 pm **Registration and Information**

1:00-2:45 pm **PRE-CONFERENCE SYMPOSIA**

### I. **Compliance 101** (not repeated) *Al Josephs, Debbie Troklus*

This workshop will provide a basic understanding of compliance for the new compliance professional, and is also a good review for those who have been in the field for several years. Discussion will focus on what a compliance plan is and how to implement a compliance plan. Operational techniques that will facilitate a smooth implementation will also be discussed.

### II. **Advanced Compliance 202** (not repeated) *F. Lisa Murtha, Greg Warner*

This session is designed for seasoned compliance professionals who are taking their compliance program to the next level. This session will provide practical advice, case studies, and audit tools for advanced compliance programs looking to address new and substantive areas of risk. Areas of risk that will be covered include: quality and compliance; credentialing issues for the compliance professional; research compliance; HIPAA compliance; and more.

3:00-4:45 pm **PRE-CONFERENCE SYMPOSIA**

### III. **Fraud and Abuse Primer** (not repeated) *S. Craig Holden*

- Fraud and abuse authorities governing referral relationships
  - Anti-kickback issues
  - Stark self-referral prohibitions
- Fraud and Abuse authorities governing the billing process
  - Civil False Claims Act
  - Civil Money Penalties
- OIG exclusion authorities

5:00-6:00 pm **Welcome Reception**

*(attendees, speakers, and registered spouses and guests welcome)*

## Monday, September 22, 2003

7:00 am-5:30 pm **Registration and Information**

7:00-8:00 am **Continental Breakfast**

*(attendees, speakers and registered spouses and guests welcome)*

8:15 -10:30 am **GENERAL SESSION**

8:15-8:30 am **Welcome and Introduction**

*Elizabeth Carder-Thompson, Co-Chair of the Fraud and Compliance Forum Planning Committee  
Al Josephs, HCCA 1st Vice President*

8:30-9:15 am **Keynote Address**

*Dara Corrigan, Acting Principal Deputy Inspector General*

9:15-10:45 am **Case Study**

*James G. Sheehan, Susan Winkler  
With the contribution of Chris McCune  
Information technology provided by CGM Technology*

11:00 am-12:00 noon **CONCURRENT SESSIONS 1**

### 101 **Achieving Best Practices in Teaching Physician Billing and Supervision** (not repeated) *Robert A. Pelaia, Andrew D. Ruskin*

- Review of Medicare, Medicaid and Tricare supervision requirements applicable to teaching physician activities
- Discussion of ACGME/JCAHO supervision requirements and potential conflicts between the standards established for accreditation and the standards established for reimbursement
- Suggestions for complying with the Primary Care Exception

### 102 **Compliance 2003 - Best Practices & "Effective" Outcomes** (not repeated)

*George C. Demos, Allison Maney, Sheryl Vacca*

- Top 10 compliance best practices identified
- How to avoid a corporate integrity agreement
- Case study application for "effective" investigation techniques

### 103 Qui Tam Lawsuits and the False Claims Act

#### CASE STUDY SESSION

*Gregory M. Luce, Marc S. Raspanti*

- Attorneys Luce and Raspanti will present an in-depth discussion of the False Claims Act and Qui Tam lawsuit within the case study focusing on the issue affecting Relator/Mark Jenkins and Artic Health Care
- The speakers will address issues involved in the preliminary investigation of a potential qui tam, due diligence, contacting company employees, obtaining documents, securing the relator's position and percentage, disclosure statements, amending complaints and statements, selection of counsel and representational issues
- Further discussion of the issues will address multi-federal district and multi-state false claims actions within the case study

### 104 Presenting Evidence under Daubert v. Merrell Dow Pharmaceuticals, Inc. (not repeated)

*The Honorable William G. Young, Chief Judge, United States District Court for the District of Massachusetts*

- *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) imposed upon the trial judge the role of "gatekeeper" to make the preliminary assessment of whether the reasoning or methodology underlying proffered testimony is scientifically valid and whether that reasoning or methodology properly can be applied to the facts in issue
- Many of the issues arising in healthcare fraud and abuse cases are properly the subject of such a preliminary assessment of the expert's reasoning by the trial court: average whole sale price; fair market value; quality of care; and injuries and disease as evidence of substandard care are just some of the topics
- The Honorable William G. Young will discuss the requirements of Daubert and its progeny, the effective presentation of motions in limine to exclude expert testimony on these subjects and the quantum and quality of proof a proponent of such testimony is expected to present

### 105 Legal Ethics

*Michael W. Peregrine*

- The professional responsibility implications of Sarbanes-Oxley
- Section 307 of Sarbanes-Oxley and the health care lawyer
- Important professional responsibility-related recommendations from the ABA's "Cheek Report"

### 106 Managed Care Prompt Pay Issues

*Keith J. Halleland, Ann Leopold Kaplan*

- New laws and regulations
- Key compliance strategies
- Analysis of recent case developments

12:00 noon -1:30pm **Lunch on Your Own or Attend Health Lawyers Fraud and Abuse Practice Group Lunch**  
(\$37 additional; limited attendance; pre-registration required — please see registration form on p. 11)

#### 1:45-3:00 pm **CONCURRENT SESSIONS 2 (EXTENDED)**

### 201 Research Compliance (not repeated)

*Jo An Leonce, Juliann Tenney, Robert E. Wanerman*

- Compliance and contracting issues for sponsors of research: getting the data and minimizing risks
- Research Compliance Programs: minimizing risks under the False Claims Act for grant-funded research
- Counting what you don't have: do your researchers and their staff understand the requirements for accounting of disclosures and how do you account for their accounting?
- Federal regulations concerning research integrity and their impact on research administration

### 202 Medicare's National Correct Coding Initiative: Revenue Opportunities and Compliance Traps

*Hugh E. Aaron*

- What is the NCCI?
- Why hospitals and physicians need to take a proactive approach to NCCI
- Special NCCI issues for hospitals

### 203 Best Practices and Their Application to Compliance Program Auditing and Monitoring Plans

*Sheryl Vacca*

- Establishing your auditing and monitoring plan to maximize the return on your investment
- Case scenario applications of auditing techniques and sampling suggestions
- How the Sarbanes Oxley Act - Section 404 can be included in your auditing and monitoring plan (for all institutions

regardless if publicly traded or not)

### 204 Stark Legal and Practical Issues Arising from Artic's High Tech Medical Mall and Other Stark Hot Topics

#### CASE STUDY SESSION

*Joan P. Dailey, Julie E. Kass, Beth Schermer*

- Attorneys Dailey, Kass and Schermer will offer some in-depth insight regarding the "fair market value" issues under Stark and the Anti-Kickback Statute as they apply to Artic HealthCare's High Tech Medical Mall
- The speakers will discuss, square footage rates, fair market value considerations, cross-referral ownership, ownership by executives of referring and non-referring entities and other strategic considerations
- Percentage compensation arrangements
- Dealing with "technical" violations of Stark
- Enforcement and case law developments -- which agencies are enforcing Stark and through what mechanisms

### 205 The PhRMA Code, the OIG Compliance Guidance, and Beyond: Interactions between Drug and Device Manufacturers and Health Care Professionals

*Elizabeth Carder-Thompson, Paul E. Kalb, Mary E. Riordan, Marc B. Wilenzick*

- Impact on providers and manufacturers of recent industry codes on interactions with health care professionals (PhRMA Code, AdvaMed Code)
- New Office of Inspector General Compliance Policy Guidance for Pharmaceutical Manufacturers: inducements, data integrity, samples, and more
- Fraud and abuse issues related to industry funding of continuing medical education and research
- How do the draft standards of the Accreditation Council for Continuing Medical Education (ACCME) fit in?
- In-house counsel perspectives on issues confronting pharmaceutical manufacturers

### 206 Multi-Federal District and Multi-State Health Care Fraud and Abuse Investigations: Lessons from HCA applied to the Artic HealthCare Holdings, Ltd. Case Study

#### CASE STUDY SESSION

*Roger S. Goldman, M. Timothy Renjilian*

*Cathryn Long Sowers*

- The issues involved in multi-federal district and multi-state health care fraud and abuse investigations are numerous and complex.
- The speakers, using lessons learned from the HCA investigation and prosecution, will discuss the strategic and legal issues generally faced by Artic HealthCare Holdings in the case study

#### 3:15-4:15 pm **CONCURRENT SESSIONS 3**

### 301 Fraud and Abuse Issues in Managed Care (not repeated)

*Bruce J. Goldstein, John E. Hartwig*

- Fraud and abuse implications of the tentative Cigna and Aetna class action settlements
- Payor fraud-improper reimbursement methodologies, failing to provide necessary care, failing to pay for necessary care rendered
- Fraud initiatives relating to "lost claims"
- Fraud and credentialing issues

### 302 CMS Outlier Initiative (not repeated)

*Gary W. Eiland, Stephen Phillips*

- Background and genesis of the CMS outlier initiative
- Final outlier rule and program memoranda
- CMS progressive compliance strategy-assessing your risk

### 303 HIPAA and Its Effect on Multi-Federal District and Multi-State Investigations and Prosecutions

#### CASE STUDY SESSION

*Marc D. Goldstone*

- Multi-federal district and multi-state investigations and prosecutions have numerous implications under HIPAA
- In the context of the case study, the speaker will review the multitude of HIPAA issues facing the state and federal prosecutors as well as the various Artic entities and their agents
- Topics will include the various records protected by HIPAA, the exceptions, the sharing of information between the various federal and state prosecutorial units and their agents, Artic's provision of protected information to outside counsel and its agents, correspondence with/and interviews of patients, accessing patients records to counter allegations of substandard or improper care, and other strategic

# PROGRAM AGENDA

considerations

## 304 Stark Overview - How to Educate Physicians and Administrators

*David E. Matyas, Daniel R. Roach*

- This session is intended to help participants understand the complicated Stark and Anti-kickback laws and rules and communicate them to physicians and administrators, focusing on the following relationships:
  - Leases
  - Medical Director/Administrative Services
  - Recruitment
  - Call Coverage
  - De minimus and Incidental Benefit Exceptions
- Brief overview of the relevant law/regulatory provisions as well as a discussion of the steps physicians and hospitals are taking to comply with laws
- The session will focus on helping physicians and administrators deal with day to day issues in the context of these laws. Questions are encouraged. Attendees need a basic understanding of the Stark and Anti-kickback laws.

## 305 Current Cases in Pharmaceutical Enforcement

*John C. Dodds, Virginia Gibson*

- The Prescription Drug Marketing Act as a fraud remedy
- Kickback prosecutions and their defenses; the interaction with safe harbors and the Compliance Guidance for Pharmaceutical Manufacturers
- Fraud theories as applied to pharmaceutical pricing: AWP and best price

## 306 Coordination of Multi-State Medicaid Fraud Control Unit Investigations

**CASE STUDY SESSION**

*David Lunden, Nicholas Messuri*

- When the Attorneys General plan the coordination of state multi-state investigations, the public is never privy. In this session, the Directors of the Medicaid Fraud Control Units for the State of Maryland and the Commonwealth of Massachusetts will discuss the variety of considerations that enter the planning and coordination of these investigations
- Using the case study as a backdrop the speakers will review MFCU jurisdiction, state jurisdiction, state false claims acts, coordination issues, grand jury secrecy, information sharing between states and/or the federal government, subpoenas and other requests for documents and testimony under these circumstances

4:30-5:30 pm **CONCURRENT SESSIONS 4**

## 401 Physician Compliance Strategies

(not repeated)

*Charles I. Artz, Frank Sheeder*

- 2004 OIG fraud and abuse work plan: The physician issues
- OIG Model Compliance Guidelines for Pharmaceutical Manufacturers and their relationships with physicians
- Physician-related fraud and abuse enforcement and case law development
- Practical ways to encourage physician compliance

## 402 Research Misconduct (not repeated)

*Kendra Dimond, Alan Milstein*

- Why private litigation is an increasing concern to clinical trial sponsors, researchers, sites, IRBs, CROs, SMOs
- How human subject protection issues and financial interests held by researchers and institutions become the subject of lawsuits
- Crisis management - actions and reactions of the research community as defendants

## 403 Medical Necessity and Utilization Review in Compliance

**CASE STUDY SESSION**

*Timothy P. Blanchard*

- Speaker Blanchard will discuss the medical necessity and utilization review issues arising from the Arctic HealthCare case study from the perspective of compliance. Focusing on defendable and practical compliance practices, this session is designed for compliance officers and advising counsel. This breakout session of the practical track case study will specifically review:
  - Basic medical necessity concepts for professional, ancillary and facility services
  - Recent case law, false claims allegations and regulatory developments
  - Handling medical necessity issues, allegations and compli-

ance program implications

## 404 Living with Stark and the AKS after Thompson

*Jonathan L. Diesenhaus, Katherine A. Lauer*

- Theories of liability and available defenses in civil False Claims Act cases premised on violations of the Stark Laws and the Anti-kickback Statute
- Calculating False Claims Act damages and penalties in Stark\AKS cases
- Lessons learned from litigating Stark\AKS False Claims Act cases: How to identify and minimize compliance risk

## 405 DME Update: Fraud and Abuse Investigations and Issues

**CASE STUDY SESSION**

*Neil B. Caesar, Paul W. Shaw*

- Speakers Caesar and Shaw will discuss in the context of the case study:
- The legal and factual issues involved in subcontracting for management services and inventory supplies
  - Issues raised by Stark II
  - Compensation programs that offer incentives for items or services rendered providing items to in-patients prior to discharge
  - Medical necessity and documentation requirements, including certificates of medical necessity
  - Other current fraud and abuse topics such as waivers of co-payment and other kickback concerns, and telemarketing efforts

## 406 "Dear OIG": Advisory Opinions and Other Guidance from the OIG

*Kevin G. McAnaney*

- Review of notable OIG advisory opinions in the past year
- The Special Advisory Bulletin on Contractual Joint Ventures
- The solicitation on economic credentialing

5:30-7:00 pm **Reception**  
(attendees, faculty and registered spouses and guests are welcome)

## Tuesday, September 23, 2003

7:30 am-4:00 pm **Registration and Information**

7:30-8:30 am **Continental Breakfast**  
(attendees, speakers and registered spouses and guests are welcome)

8:30-9:45 am **CONCURRENT SESSION 5 (EXTENDED)**

## 501 Neglectful/Harmful Patient Care: Motions in Limine under Daubert v. Merrell Dow Pharmaceuticals, Inc.. Excluding Scientifically Unreliable Evidence (not repeated)

**CASE STUDY SESSION**

*Robert A. Griffith, The Honorable Robert J. Kane, Nicholas Messuri*

- In this case study breakout session, trial attorneys will present arguments before Massachusetts Superior Court Judge Robert Kane on whether expert testimony can be admitted in evidence concerning the cause of injuries to certain patients in Arctic's nursing homes during trial
- Following oral arguments, speakers in panel will discuss the law, evidence and tactical considerations surrounding their strategic choices during litigation

## 502 (repeat 202) Medicare's National Correct Coding Initiative: Revenue Opportunities and Compliance Traps

*Hugh E. Aaron*

## 503 (repeat 203) Best Practices and Their Application to Compliance Program Auditing and Monitoring Plans

*Sheryl Vacca*

## 504 (repeat 204) Stark Legal and Practical Issues Arising from Arctic's High Tech Medical Mall and Other Stark Hot Topics

**CASE STUDY SESSION**

*Joan P. Dailey, Julie E. Kass, Beth Schermer*

## 505 (repeat 205) The PhRMA Code, the OIG Compliance Guidance, and Beyond: Interactions between Drug and Device Manufacturers and Health Care Professionals

*Elizabeth Carder-Thompson, Paul E. Kalb, Mary E. Riordan,*

Marc B. Wilenzick

- 506** (repeat 206) **Multi-Federal District and Multi-State Health Care Fraud and Abuse Investigations: Lessons from HCA Applied to the Artic HealthCare Holdings, Ltd. Case Study**  
**CASE STUDY SESSION**  
Roger S. Goldman, Cathryn Long Sowers,  
M. Timothy Renjilian

10:00 -11:00 am **CONCURRENT SESSIONS 6**

- 601 Long Term Care Fraud and Abuse Investigations: Selected Issues**  
**CASE STUDY SESSION**  
Julia Krebs-Markrich, Harvey M. Tettlebaum
- Attorneys Krebs-Markrich and Tettlebaum will discuss the plethora of issues arising from the multi-federal district and multi-state investigation of Artic's 62 long-term care facilities, 54 home health agencies and 15 assisted living developments
  - The speakers will address selection of counsel and representational issues, publicity, patient care, staffing, quality assurance privilege, patient confidentiality, joint defense agreements, parallel appeals, use of survey results and other strategic considerations
- 602 Fraud and Abuse Issues Associated with Group Purchasing Organizations**  
Thomas E. Bartrum
- An overview of recent scrutiny of GPO arrangements, including the OIG's inspection evaluation of premier's GPO arrangement
  - An overview of the key Anti-Kickback Statute and Stark law issues associated with common GPO arrangements, including the GPO and discount safe harbors
  - Key compliance concerns for hospitals and physician groups contracting with GPOs
- 603 What Do You Do When You Receive an EMTALA Citation**  
Jane Reister Conard, Suzie Draper
- What the citation letter means
  - How to deal with a citation
  - How to prepare the plan of correction
- 604 Internal or Independent Investigations: Challenges and Opportunities**  
James G. Sheehan, Robert A. Wade
- Sources that may prompt internal investigations: Hotlines, audits, exit interviews, etc
  - How to conduct a meaningful internal investigation
  - Risks to outside counsel and accounting/consulting firms in performing "independent investigators"
  - Discussion of privileges related to the conduct of an investigation
  - Interaction with federal investigations after the completion of the investigation
  - What federal investigators and attorneys look for in the conduct of an internal investigation
- 605 Sarbanes-Oxley: For Profit vs. Nonprofit Corporations**  
Jack Spalding Schroder, Jr
- A review of the Sarbanes-Oxley Act and other new governance standards
  - Application of Act's standards to the nonprofit healthcare industry
  - Practical guidelines in this new age of corporate responsibility
- 606** (repeat 305) **Current Cases in Pharmaceutical Enforcement**  
John C. Dodds, Virginia Gibson

11:15 am -12:15 pm **CONCURRENT SESSIONS 7**

- 701 Fraud and Abuse Issues for the Home Health Industry**  
(not repeated)  
Deborah A. Randall
- PPS reimbursement issues affecting compliance
  - Home care collaborations in alternative settings
  - Recent home care fraud cases
- 702** (repeat 103) **Qui Tam Lawsuits and the False Claims Act**  
**CASE STUDY SESSION**  
Gregory M. Luce, Marc S. Raspanti
- 703** (repeat 303) **HIPAA and Its Effect on Multi-Federal District and Multi-State Investigations and Prosecutions**  
**CASE STUDY SESSION**  
Marc D. Goldstone

- 704** (repeat 404) **Living with Stark and the AKS after Thompson**  
Jonathan L. Diesenhaus, Katherine A. Lauer

- 705** (repeat 105) **Legal Ethics**  
Michael W. Peregrine

- 706** (repeat 306) **Coordination of Multi-State Medicaid Fraud Control Unit Investigations**  
**CASE STUDY SESSION**  
David Lunden, Nicholas Messuri

12:15-1:30 pm **Lunch on Your Own or HCCA Membership Meeting and Lunch**  
(HCCA Members: please indicate on the registration form on p.11 if you plan to attend.)

1:45 - 2:45 pm **CONCURRENT SESSIONS 8**

- 801** (repeat 403) **Medical Necessity and Utilization Review in Compliance**  
**CASE STUDY SESSION**  
Timothy P. Blanchard
- 802** (repeat 605) **Sarbanes-Oxley: For Profit vs. Nonprofit Corporations**  
Jack Spalding Schroder, Jr.
- 803** (repeat 304) **Stark Overview - How to Educate Physicians and Administrators**  
David E. Matyas, Daniel R. Roach
- 804** (repeat 603) **What Do You Do When You Receive an EMTALA Citation**  
Jane Reister Conard, Suzie Draper
- 805** (repeat 601) **Long Term Care Fraud and Abuse Investigations: Selected Issues**  
**CASE STUDY SESSION**  
Julia Krebs-Markrich, Harvey M. Tettlebaum

3:00 - 4:00 pm **CONCURRENT SESSION 9**

- 901** (repeat 602) **Fraud and Abuse Issues Associated with Group Purchasing Organizations**  
Thomas E. Bartrum
- 902** (repeat 405) **DME Update: Fraud and Abuse Investigations and Issues**  
**CASE STUDY SESSION**  
Neil B. Caesar, Paul W. Shaw
- 903** (repeat 106) **Managed Care Prompt Pay Issues**  
Keith J. Halleland, Ann Leopold Kaplan
- 904** (repeat 604) **Internal or Independent Investigations: Challenges and Opportunities**  
James G. Sheehan, Robert A. Wade
- 905** (repeat 406) **"Dear OIG": Advisory Opinions and Other Guidance from the OIG**  
Kevin G. McAnaney

## Adjournment

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## FRAUD AND COMPLIANCE FORUM FACULTY

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**THE HONORABLE WILLIAM G. YOUNG**  
CHIEF JUDGE, UNITED STATES  
DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS  
BOSTON, MA

# PROGRAM INFORMATION

**Dates:** September 21–23, 2003

**Place:** Hilton Washington DC • 1919 Connecticut Avenue, NW  
Washington, DC 20009  
Phone: 202/483-3000  
Fax: 202/232-0438

**Registration Fees:**

Postmarked and paid by August 22, 2003  
\$795 AHILA or HCCA members  
\$720 AHILA or HCCA member group rate  
\$970 Non-member

Postmarked and paid after August 22, 2003  
\$870 for the first AHILA or HCCA members  
\$795 AHILA or HCCA member group rate  
\$1045 Non-member

Pre-registration accepted through September 18, 2003. After this date, registrations will be taken on-site on a space available basis, and an on-site fee of \$100 will be added to the applicable registration fee.

If you have indicated an incorrect amount due to errors in addition or are not eligible for a specific rate, AHILA/HCCA will charge the correct amount to the credit card you have supplied.

**Discounted Registration Fees:** When an AHILA or HCCA member registers for this program, each additional AHILA or HCCA member registered from his/her organization at the same time is eligible for a discounted registration fee. Government employees, academicians and students, please call for discounted registration fees.

**Spouse/Guest Fee:** For an additional \$30, spouses and adult guests can register to attend the Sunday and Monday receptions and the continental breakfasts on Monday and Tuesday. Please sign up on the registration form. *(Children are welcome to attend these events at no additional charge.)*

**Hotel Reservations:** Hotel accommodations are not included in the registration fee. Call the Hilton Washington DC (202/483-3000) or use the reservation form found on page 10. **To be eligible for the group rate, reservations must be received by August 22, 2003.**

***Rooms are limited and may sell-out prior to the cut-off date. Please Make your reservations early!***

**Cancellations/Substitutions:** Cancellations must be in writing and must be received no later than September 12. Refunds will not be issued for cancellations received after this date. Registrations, less a \$125 administrative fee, will be refunded following the program. If you wish to send a substitute, please call the Member Service Center at 202/833-0766. Please note that the registration fee will be based on the membership status of the person who actually attends the program.

**Special Needs:** If you need any of the auxiliary aids or services identified in the Americans with Disabilities Act, please call the Member Service Center at 202/833-0766.

**Airline Reservations:** AHILA and HCCA have selected Stellar Access, Inc. (SAI) as the official event travel service. Call 1-866-929-4242 Outside US & Canada: 858-451-8150 FAX: 858-485-7321. Ask for Group #551 to receive the following discounts:

American Airlines - save 5% to 10% on lowest applicable fares. All rules and restrictions apply. Travel between September 18–26, 2003.

A \$30 transaction fee will be applied to all tickets purchased via phone service. Reservation hours: M-F 7:00am - 5:00pm Pacific Time.

**AHLA Membership:** Non-Members wishing to join AHILA for one full year can do so by adding \$100 to the non-member registration fee. Members receive monthly mailings and discounts on AHILA publications and programs.

**HCCA Membership:** Non-Members wishing to join HCCA for one full year can do so by adding \$100 to the non-member registration fee. You will receive benefits at all of HCCA's upcoming conferences and events.

## Continuing Education Credits

**CLE** - Participants will be given continuing education request forms at the program. Forms must be completed and returned to Health Lawyers staff in order to receive credit. American Health Lawyers Association is an approved sponsor of continuing legal education credits in most states. This seminar will be worth approximately 14.5 continuing legal education credits based on a 60-minute hour and 17.5 credits based on a 50-minute hour. There is one hour of ethics.

**CPE** - AHILA is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding sponsors may be addressed to the National Registry of CPE Sponsors, 150 Fourth Avenue North, Nashville, TN 37219-2417; telephone: 615/880-4200. This seminar will be worth approximately 17 CPE credits. The sessions, unless otherwise designated, are intermediate to advanced in level. There are no prerequisites required to register for this program.

**ACHE** - Medical Education Collaborative is authorized to award 17 hours of pre-approved Category II (non-ACHE) continuing education credit for this program toward advancement or re-certification in the American College of Healthcare Executives. Participants in this program wishing to have the continuing education hours applied toward Category II credit should list their attendance when applying for advancement or re-certification in ACHE.

**AAPC** - This program is pending prior approval from the American Academy of Professional Coders (AAPC) for 17 CE credits.

**AHIMA** - This program is pending approval for 16 CE credits for use in fulfilling the continuing education requirements of the American Health Information Management Association (AHIMA).

**ANCC (Nursing Credit)** - This program is pending approval for 21.4 contact hours of continuing education for RNs, LPNs, LVNs, and NPs. This program is cosponsored with Medical Education Collaborative, Inc. (MEC). MEC is accredited as a provider of continuing nursing education by the American Nurses Credentialing Center's Commission on Accreditation. Provider approved by the California BRN provider number: CEP-12990 for 20.2 contact hours.

**NAB** - This program has been submitted (but not yet approved) for 17.0 continuing education clock hours from NAB/NCERS (Long Term Care Administrators). Call MEC (Medical Education Collaborative) at 303/420-3252 for further information.

**ACMPE** - This program may qualify for continuing education credit in the American College of Medical Practice Executives (ACMPE). To apply for ACMPE credit, submit a generic credit hour form with a copy of the brochure. Forms will be available on-site.

**HCCB** - This program has been approved for 18.0 HCCB continuing education credits for compliance certification.

# PROGRAM AT A GLANCE

## Sunday, September 21, 2003

11:00 AM – 5:00 PM Registration and Information

1:00 – 2:45 PM Pre-Conference Symposia  
I. Compliance 101 (not repeated) *Josephs, Troklus*

II. Advanced Compliance 202 (not repeated) *Murtha, Warner*

3:00 – 4:45 PM  
III. Fraud and Abuse Primer (not repeated) *Holden*

5:00 – 6:00 PM Welcome Reception (*attendees, speakers and registered spouses and guests welcome*)

## Monday, September 22, 2003

7:00 AM – 5:30 PM Registration and Information

7:00 – 8:00 AM Continental Breakfast (*attendees, speakers and registered spouses and guests welcome*)

8:15– 10:30 AM GENERAL SESSION  
Welcome and Introduction – *Carder-Thompson, Josephs*  
Keynote Address – *Corrigan*  
**CASE STUDY** – *Sheehan, Winkler*

### 11:00 – 12:00 Noon CONCURRENT SESSIONS 1

101 Achieving Best Practices in Teaching Physician Billing and Supervision (not repeated) <i>Pelaia, Ruskin</i>	102 Compliance 2003 - Best Practices & "Effective" Outcomes (not repeated) <i>Demos, Maney, Vacca</i>	103 Qui Tam Lawsuits and the False Claims Act <b>CASE STUDY</b> <i>Luce, Raspanti</i>	104 Presenting Evidence under Daubert v. Merrell Dow Pharmaceuticals, Inc.(not repeated) <i>Young</i>	105 Legal Ethics <i>Peregrine</i>	106 Managed Care Prompt Pay Issues <i>Halleland, Kaplan</i>
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12:00 Noon – 1:30 PM **Lunch on Your Own or Attend Health Lawyers Fraud and Abuse Practice Group Lunch**  
(*\$37 additional; please register on pg. 11*)

### 1:45 – 3:00 PM CONCURRENT SESSIONS 2 (EXTENDED)

201 Research Compliance (not repeated) <i>Leonce, Tenney, Wanerman</i>	202 Medicare's National Correct Coding Initiative: Revenue Opportunities and Compliance Traps <i>Aaron</i>	203 Best Practices and Their Application to Compliance Program Auditing and Monitoring Plans <i>Vacca</i>	204 Stark Legal and Practical Issues from Artic's High Tech Medical Mall and Other Stark Hot Topics <b>CASE STUDY</b> <i>Dailey, Kass, Schermer</i>	205 The PhRMA Code, the OIG Compliance Guidance, and Beyond <i>Carder-Thompson, Kalb, Riordan, Wilenzick</i>	206 Multi-Federal District and Multi-State Health Care Fraud & Abuse Investigations: Lessons from HCA Applied to Artic Health Care Holdings <b>CASE STUDY</b> <i>Goldman, Renjilian, Sowers</i>
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### 3:15 – 4:15 PM CONCURRENT SESSIONS 3

301 Fraud and Abuse Issues in Managed Care (not repeated) <i>Goldstein, Hartwig</i>	302 CMS Outlier Initiative (not repeated) <i>Eiland, Phillips</i>	303 HIPAA and Its Effect on Multi-Federal District & Multi-State Investigations and Prosecutions <b>CASE STUDY</b> <i>Goldstone</i>	304 Stark Overview - How to Educate Physicians and Administrators <i>Matyas, Roach</i>	305 Current Cases in Pharmaceutical Enforcement <i>Dodds, Gibson</i>	306 Coordination of Multi-State Medicaid Fraud Control Unit Investigations <b>CASE STUDY</b> <i>Lunden, Messuri</i>
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### 4:30 – 5:30 PM CONCURRENT SESSIONS 4

401 Physician Compliance Strategies (not repeated) <i>Artz, Sheeder</i>	402 Research Misconduct (not repeated) <i>Dimond, Milstein</i>	403 Medical Necessity and Utilization Review in Compliance <b>CASE STUDY</b> <i>Blanchard</i>	404 Living with Stark and the AKS after Thompson <i>Diesenhaus, Lauer</i>	405 DME Update: Fraud & Abuse Investigations and Issues <b>CASE STUDY</b> <i>Caesar, Shaw</i>	406 "Dear OIG": Advisory Opinions & Other Guidance from the OIG <i>McAnaney</i>
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5:30 – 7:00 PM Reception (*attendees, faculty and registered spouses and guests are welcome*)

## Tuesday, September 23, 2003

7:30 AM – 4:00 PM Registration and Information

7:30 – 8:30 AM Continental Breakfast (*attendees, speakers and registered spouses and guests welcome*)

### 8:30 - 9:45 AM CONCURRENT SESSIONS 5 (EXTENDED)

<p>501 Neglectful / Harmful Patient Care: Motions in Limine Daubert v. Merrell Dow Inc. (not repeated) <b>CASE STUDY</b> <i>Griffith, Kane, Messuri</i></p>	<p>502 Medicare's National Correct Coding Initiative: Revenue Opportunities and Compliance Traps (repeat 202) <i>Aaron</i></p>	<p>503 Best Practices &amp; Their Application to Compliance Program Auditing and Monitoring Plans (repeat 203) <i>Vacca</i></p>	<p>504 Stark Legal and Practical Issues Arising from Artic's High Tech Medical Mall and Other Stark Hot Topics <b>CASE STUDY</b> (repeat 204) <i>Dailey, Kass, Schermer</i></p>	<p>505 The PhRMA Code, the OIG Compliance Guidance, and Beyond: (repeat 205) <i>Carder-Thompson, Kalb, Riordan, Wilenzick</i></p>	<p>506 Multi-Federal District and Multi-State Health Care Fraud &amp; Abuse Investigations: Lessons from HCA Applied to Artic Health Care Holdings <b>CASE STUDY</b> (repeat 206) <i>Goldman, Renjilian, Sowers</i></p>
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### 10:00 – 11:00 AM CONCURRENT SESSIONS 6

<p>601 Long Term Care Fraud and Abuse Investigations: Selected Issues <b>CASE STUDY</b> <i>Krebs-Markrich, Tettlebaum</i></p>	<p>602 Fraud and Abuse Issues Associated with Group Purchasing Organizations <i>Bartrum</i></p>	<p>603 What Do You Do When You Receive an EMTALA Citation <i>Conard, Draper</i></p>	<p>604 Internal or Independent Investigations: Challenges and Opportunities <i>Sheehan, Wade</i></p>	<p>605 Sarbanes-Oxley: For Profit vs. Nonprofit Corporations <i>Schroder</i></p>	<p>606 Current Cases in Pharmaceutical Enforcement (repeat (305)) <i>Dodds, Gibson</i></p>
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### 11:15 - 12:15 PM CONCURRENT SESSIONS 7

<p>701 Fraud and Abuse Issues for the Home Health Industry (not repeated) <i>Randall</i></p>	<p>702 Qui Tam Lawsuits and the False Claims Act <b>CASE STUDY</b> (repeat 103) <i>Luce, Raspanti</i></p>	<p>703 HIPAA Effects on Multi-Federal District &amp; State Investigations <b>CASE STUDY</b> (repeat 303) <i>Goldstone</i></p>	<p>704 Living with Stark &amp; AKS after Thompson (repeat 404) <i>Diesenhau, Lauer</i></p>	<p>705 Legal Ethics (repeat 105) <i>Peregrine</i></p>	<p>706 Coordination of Multi-State Medicaid Fraud Control Unit Investigations (repeat 306) <i>Lunden, Messuri</i></p>
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12:15 – 1:30 PM Lunch on Your Own or Attend HCCA Membership Meeting Lunch (*Please register on pg. 11*)

### 1:45 - 2:45 PM CONCURRENT SESSIONS 8

<p>801 Medical Necessity and Utilization Review in Compliance <b>CASE STUDY</b> (repeat 403) <i>Blanchard</i></p>	<p>802 Sarbanes-Oxley: For Profit vs. Nonprofit Corporations (repeat 605) <i>Schroder</i></p>	<p>803 Stark Overview - How to Educate Physicians and Administrators (repeat 304) <i>Matyas, Roach</i></p>	<p>804 What Do You Do When You Receive an EMTALA Citation (repeat 603) <i>Conard, Draper</i></p>	<p>805 Long Term Care Fraud and Abuse Investigations: Selected Issues (repeat 601) <b>CASE STUDY</b> <i>Krebs-Markrich, Tettlebaum</i></p>
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### 3:00 - 4:00 PM CONCURRENT SESSIONS 9

<p>901 Fraud and Abuse Issues with Group Purchasing Organizations (repeat 602) <i>Bartrum</i></p>	<p>902 DME Update: Fraud &amp; Abuse Investigations and Issues <b>CASE STUDY</b> (repeat 405) <i>Caesar, Shaw</i></p>	<p>903 Managed Care Prompt Pay Issues (repeat 106) <i>Halleland, Kaplan</i></p>	<p>904 Internal or Independent Investigations: Challenges and Opportunities (repeat 604) <i>Sheehan, Wade</i></p>	<p>905 "Dear OIG": Advisory Opinions &amp; Other Guidance from the OIG (repeat 406) <i>McAnaney</i></p>
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4:15 PM Adjournment

#### Exhibit Hours

Sunday, Sept. 21: 5:00 - 6:00 PM  
Monday, Sept. 22: 7:00 - 11:00 AM and 3:00 - 6:45 PM  
Tuesday, Sept. 23: 7:00 AM - 2:00 PM

# HOTEL RESERVATION FORM

American Health Lawyers Association/Health Care Compliance Association  
Fraud and Compliance Forum • September 21-23, 2003

Complete and send to: Hilton Washington DC • 1919 Connecticut Avenue, NW • Washington, DC 20009  
Attention: Reservations Department • Phone: 202/483-3000 • Reservations Fax: 202/939-3293

\$212 Single     \$212 Double    These rates are exclusive of Washington, DC taxes, which are currently 14.5%.

Arrival time/date \_\_\_\_\_ Departure time/date \_\_\_\_\_

Name \_\_\_\_\_

Sharing with (if applicable) \_\_\_\_\_

Company name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Cardholder's Name \_\_\_\_\_

Cardholder's Signature \_\_\_\_\_

Cardholder's Billing Address \_\_\_\_\_ Zip Code: \_\_\_\_\_

Business Telephone \_\_\_\_\_ Business Fax \_\_\_\_\_

Room Requests:     King Bed     Two Double Beds     Smoking     Non-Smoking

Special Needs Request: \_\_\_\_\_

Check-in: 3:00 pm              Check-out: 12:00 noon

All reservations are held on a tentative basis, and are subject to cancellation unless guaranteed. Please enclose a deposit of one night's room fee plus applicable taxes or use your credit card. If the reservation is not guaranteed with a major credit card at the time it is made or a deposit has not been received within seven (7) days of booking the reservation, the hotel cannot guarantee that the reservation will be held.

Card Type \_\_\_\_\_ Card Number \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Cardholder's Name \_\_\_\_\_

Cardholder's Signature \_\_\_\_\_

Cardholder's Billing Address \_\_\_\_\_ Zip Code: \_\_\_\_\_

**To receive the group rate, reservations must be received by August 22, 2003.** Please make your reservations early. Rooms at the group rate are limited and may be sold out prior to the August 22 cut-off date.

# PROGRAM REGISTRATION — FRAUD AND COMPLIANCE FORUM

## To Register:

Remit payment and completed registration form by mail to: The American Health Lawyers Association, P.O. Box 79340, Baltimore, MD 21279-0340, or fax with credit card information to 202/833-1105. To register by phone call 202/833-0766. If this program is over-subscribed, only AHLA and HCCA members will be placed on a waiting list. On-site registrations will be accepted on a space-available basis only.

Name: \_\_\_\_\_ Member ID #: \_\_\_\_\_  
 First Name for Badge (if different than above): \_\_\_\_\_  
 Title: \_\_\_\_\_ Organization: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP+ 4: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_  
 Spouse/Guest Name: \_\_\_\_\_

## Early Registration Fees (faxed/postmarked and paid on or before August 22, 2003):

AHLA or HCCA Members:  \$795 Non-Members:  \$970  
 AHLA or HCCA member group rate:  \$720

## Registration Fees (faxed/postmarked and paid after August 22, 2003):

AHLA or HCCA Members:  \$870 Non-Members:  \$1045  
 AHLA or HCCA member group rate:  \$795

Please indicate to which organization(s) you belong:  AHLA  HCCA

## Payment Information:

Please fill in applicable amount: (Sorry! Registrations cannot be processed unless accompanied by payment.)

\$ \_\_\_\_\_ Registration Fee \$ \_\_\_\_\_ AHLA Membership Dues (\$100 when paying non-member registration fee)  
 \$ \_\_\_\_\_ Spouse/Guest Fee (\$30) \$ \_\_\_\_\_ HCCA Membership Dues (\$100 when paying non-member registration fee)  
 \$ \_\_\_\_\_ Fraud and Abuse  **Check here** if HCCA member and planning to attend HCCA  
 Practice Group Lunch membership meeting and luncheon on September 23, 2003  
 (\$37; September 22, 2003) \$ \_\_\_\_\_ Total Enclosed

Check enclosed (Make checks payable to American Health Lawyers Association)

Bill my credit card:  Visa  MasterCard  American Express

Billing address zip code: \_\_\_\_\_

Number: \_\_\_\_\_ Exp. Date (MM/YY): \_\_\_\_\_

Name of Cardholder: \_\_\_\_\_

Signature of Cardholder: \_\_\_\_\_

Please Note: Should your credit card total be miscalculated, AHLA/HCCA will charge your card for the correct amount due. To receive a refund of the registration fee paid minus \$125, cancellation notice must be received in writing by September 12, 2003.

## Session Selection: Please indicate below which sessions you plan to attend.

This information will be used in planning, but you will not be obligated to attend the sessions you select.

Sunday, September 21	Monday, September 22	Tuesday, September 23
1:00-2:45 pm <input type="checkbox"/> I. Compliance 101 <input type="checkbox"/> II. Advanced Compliance 202	11:00am - 12:00noon <input type="checkbox"/> 101 <input type="checkbox"/> 102 <input type="checkbox"/> 103 <input type="checkbox"/> 104 <input type="checkbox"/> 105 <input type="checkbox"/> 106 1:45 - 3:00pm <input type="checkbox"/> 201 <input type="checkbox"/> 202 <input type="checkbox"/> 203 <input type="checkbox"/> 204 <input type="checkbox"/> 205 <input type="checkbox"/> 206	8:30-9:45am <input type="checkbox"/> 501 <input type="checkbox"/> 502 <input type="checkbox"/> 503 <input type="checkbox"/> 504 <input type="checkbox"/> 505 <input type="checkbox"/> 506 10:00 - 11:00 am <input type="checkbox"/> 601 <input type="checkbox"/> 602 <input type="checkbox"/> 603 <input type="checkbox"/> 604 <input type="checkbox"/> 605 <input type="checkbox"/> 606
3:00-4:45 pm <input type="checkbox"/> III. Fraud and Abuse Primer	3:15 - 4:15pm <input type="checkbox"/> 301 <input type="checkbox"/> 302 <input type="checkbox"/> 303 <input type="checkbox"/> 304 <input type="checkbox"/> 305 <input type="checkbox"/> 306 4:30 - 5:30pm <input type="checkbox"/> 401 <input type="checkbox"/> 402 <input type="checkbox"/> 403 <input type="checkbox"/> 404 <input type="checkbox"/> 405 <input type="checkbox"/> 406	11:15 am - 12:15pm <input type="checkbox"/> 701 <input type="checkbox"/> 702 <input type="checkbox"/> 703 <input type="checkbox"/> 704 <input type="checkbox"/> 705 <input type="checkbox"/> 706 1:45 - 2:45pm <input type="checkbox"/> 801 <input type="checkbox"/> 802 <input type="checkbox"/> 803 <input type="checkbox"/> 804 <input type="checkbox"/> 805 3:00 - 4:00pm <input type="checkbox"/> 901 <input type="checkbox"/> 902 <input type="checkbox"/> 903 <input type="checkbox"/> 904 <input type="checkbox"/> 905



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ASSOCIATION

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# FRAUD & COMPLIANCE FORUM

*Register by August 22  
and Save!*  
Hilton Washington Hotel  
Washington, DC  
Sept. 21-23, 2003



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**HEALTH LAWYERS**  
ASSOCIATION



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